

As Passed by the House

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H. B. No. 370

Representative Edwards

Cosponsors: Representatives McClain, Dobos, Johnson, Rogers, Abrams, Bird, Brennan, Brown, Carruthers, Dell'Aquila, Denson, Gross, Hall, Hoops, John, Jones, King, LaRe, Lear, Mathews, Miller, M., Oelslager, Patton, Pavliga, Peterson, Pizzulli, Plummer, Richardson, Robb Blasdel, Roemer, Schmidt, Seitz, Swearingen, Troy, Upchurch, Williams, Willis

A BILL

To amend sections 5501.31, 5521.01, and 5521.011; 1
to amend, for the purpose of adopting a new 2
section number as indicated in parentheses, 3
section 5521.011 (5521.012); and to enact new 4
section 5521.011 of the Revised Code to clarify 5
and amend the laws related to the Director of 6
Transportation's responsibilities for state 7
highways located in villages and cities. 8

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 5501.31, 5521.01, and 5521.011 be 9
amended; section 5521.011 (5521.012) be amended for the purpose 10
of adopting a new section number as indicated in parentheses; 11
and new section 5521.011 of the Revised Code be enacted to read 12
as follows: 13

Sec. 5501.31. (A) The director of transportation shall 14
have general supervision of all roads comprising the state 15

highway system. The director may ~~alter~~do any of the following: 16

(1) Alter, widen, straighten, realign, relocate, 17
establish, construct, reconstruct, improve, maintain, repair, 18
and preserve any road or highway on the state highway system,~~—~~ 19
~~and, in;~~ 20

(2) In connection therewithwith the state highway system, 21
relocate, alter, widen, deepen, clean out, or straighten the 22
channel of any watercourse as the director considers necessary,~~—~~ 23
~~and purchase;~~ 24

(3) Purchase or appropriate property for the disposal of 25
surplus materials or borrow pits,~~— and, where;~~ 26

(4) Where an established road has been relocated, 27
establish, construct, and maintain such connecting roads between 28
the old and new location as will provide reasonable access 29
thereto. 30

(B) (1) The director may purchase or appropriate property 31
necessary for any of the following: 32

(a) The location or construction of any culvert, bridge, 33
or viaduct, or the approaches thereto,~~— including any property~~ 34
~~needed to;~~ 35

(b) To extend, widen, or alter any feeder or outlet road, 36
street, or way adjacent to or under the bridge or viaduct when 37
~~the extension, widening, or alteration of the feeder road,~~ 38
~~street, or way is necessary~~ for the full utilization of the 39
bridge or viaduct,~~— or for any;~~ 40

(c) The location or construction of any other highway 41
improvement. ~~The~~ 42

(2) Incident to any highway improvement that the director 43

~~is or may be authorized to locate or construct, the director may~~ 44
~~purchase or appropriate, for such length of time as is necessary~~ 45
~~and desirable, any additional property required for the~~ 46
construction and maintenance of slopes, detour roads, sewers, 47
roadside parks, rest areas, recreational park areas, park and 48
ride facilities, ~~and~~ park and carpool or vanpool facilities, 49
scenic view areas, drainage systems, or land to replace 50
wetlands, ~~incident to any highway improvement, that the director~~ 51
~~is or may be authorized to locate or construct. Also incident~~ 52

(3) Incident to any authorized highway improvement, the 53
director may purchase property from a willing seller ~~as required~~ 54
for ~~the~~ either of the following: 55

(a) The construction and maintenance of bikeways and 56
bicycle paths ~~or to;~~ 57

(b) To replace, preserve, or conserve any environmental 58
resource if the replacement, preservation, or conservation is 59
required by state or federal law. 60

(C) Title to property purchased or appropriated by the 61
director shall be taken in the name of the state either in fee 62
simple or in any lesser estate or interest that the director 63
considers necessary or proper, ~~in~~. The title shall be in 64
accordance with forms to be prescribed by the attorney general. 65
The deed shall contain a description of the property and be 66
recorded in the county where the property is situated ~~and, when~~ 67
. When recorded, the deed shall be kept on file in the 68
department of transportation. The property may be described by 69
metes and bounds or by the department of transportation parcel 70
number as shown on a right of way plan recorded in the county 71
where the property is located. 72

~~Provided that when property, other than property used by a~~ 73
~~railroad for operating purposes, is acquired in connection with~~ 74
~~improvements involving projects affecting railroads wherein the~~ 75
~~department is obligated to acquire property under grade~~ 76
~~separation statutes, or on other improvements wherein the~~ 77
~~department is obligated to acquire lands under agreements with~~ 78
~~railroads, or with a public utility, political subdivision,~~ 79
~~public corporation, or private corporation owning transportation~~ 80
~~facilities for the readjustment, relocation, or improvement of~~ 81
~~their facilities,~~ (D) (1) The director may acquire a fee simple 82
title or an easement may be acquired in property by purchase or 83
appropriation in the name of the a railroad, public utility, 84
political subdivision, public corporation, or private 85
corporation in the discretion of the director for any of the 86
following purposes: 87

(a) Improvements for projects affecting railroads when the 88
department is obligated to acquire the property under grade 89
separation statutes; 90

(b) Improvements when the department is obligated to 91
acquire the property under agreements with railroads; 92

(c) The readjustment, relocation or improvement of 93
transportation facilities owned by the railroad, public utility, 94
political subdivision, public corporation, or private 95
corporation. When 96

(2) When the title to lands, which are required to adjust, 97
relocate, or improve such facilities pursuant to agreements with 98
the director, property is taken in the name of the state under 99
division (D) (1) of this section, then, in the discretion of the 100
director, the title to such lands property may be conveyed to 101
the railroad, public utility, political subdivision, or public 102

corporation for which ~~they were~~ it was acquired. The conveyance 103
shall be prepared by the attorney general and executed by the 104
governor and bear the great seal of the state of Ohio. 105

(3) Division (D) of this section does not apply to 106
property used by a railroad for operating purposes. 107

(E) The director, in the maintenance or repair of state 108
highways, is not limited to the use of the materials with which 109
the highways, including the bridges and culverts thereon, were 110
originally constructed, but may use any material that is proper 111
or suitable. The director may aid any board of county 112
commissioners in establishing, creating, and repairing suitable 113
systems of drainage for all highways within the jurisdiction or 114
control of the board ~~and~~. The director may advise with it the 115
board and the county engineer as to the establishment, 116
construction, improvement, maintenance, and repair of the 117
highways. 118

(F) Chapters 4561., 5501., 5503., 5511., 5513., 5515., 119
5516., 5517., 5519., 5521., 5523., 5525., 5527., 5528., 5529., 120
5531., 5533., and 5535. of the Revised Code do not prohibit the 121
federal government, any government agency, or any individual or 122
corporation, from contributing a portion of the cost of the 123
establishment, construction, reconstruction, relocating, 124
widening, resurfacing, maintenance, and repair of the highways 125
or transportation facilities. 126

~~Except in the case of maintaining, repairing, erecting~~ 127
~~traffic signs on, or pavement marking of state highways within~~ 128
~~villages, which is mandatory as required by section 5521.01 of~~ 129
~~the Revised Code, and except as provided in section 5501.49 of~~ 130
~~the Revised Code, no duty of constructing, reconstructing,~~ 131
~~widening, resurfacing, maintaining, or repairing state highways~~ 132

~~within municipal corporations, or the culverts thereon, shall~~ 133
~~attach to or rest upon the director, but the director may~~ 134
~~construct, reconstruct, widen, resurface, maintain, and repair~~ 135
~~the same with or without the cooperation of any municipal~~ 136
~~corporation, or with or without the cooperation of boards of~~ 137
~~county commissioners upon each municipal corporation consenting~~ 138
~~thereto.~~ 139

Sec. 5521.01. (A) Except as provided in division (B) of 140
this section, the director has no duty to construct, 141
reconstruct, widen, resurface, maintain, or repair a state 142
highway or a culvert thereon within a municipal corporation. 143

(B) The director of transportation, upon the request by 144
and the approval of in consultation with the legislative 145
authority of a village, shall maintain, repair, and apply do 146
both of the following: 147

(1) Maintain and repair any section of a state highway 148
within the limits of the village; 149

(2) Apply standard longitudinal pavement marking lines as 150
the director considers appropriate, or on any section of a state 151
highway within the limits of the village. 152

(C) The director, upon the request by and the approval of 153
the legislative authority of a village, may establish, do both of 154
the following: 155

(1) Establish, construct, reconstruct, improve, or widen 156
any section of a state highway within the limits of a the 157
village. The director also may erect, including the elimination 158
of railway grade crossings; 159

(2) Erect regulatory and warning signs, as defined in the 160
manual adopted under section 4511.09 of the Revised Code, on any 161

section of a state highway within the limits of ~~a~~ the village. 162

~~The~~ 163

(D) The director, upon the approval of the legislative 164
authority of a city, may ~~establish~~do either of the following: 165

(1) Establish, construct, reconstruct, improve, widen, 166
maintain, or repair any section of state highway within the 167
limits of ~~a~~ the city, including the elimination of railway grade 168
crossings, ~~and;~~ 169

(2) Erect regulatory and warning signs, as defined in the 170
manual adopted under section 4511.09 of the Revised Code, on any 171
section of a state highway within the limits of the city. 172

(E) The director may pay the entire or any part of the 173
cost and expense ~~thereof~~ incurred from any activity described in 174
divisions (B) to (D) of this section from state funds, ~~but in~~ 175
all cases the director first shall obtain the consent of the 176
legislative authority of the municipal corporation, except that 177
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(F) Notwithstanding any other provision of this section to 179
the contrary, the director need not obtain the consent of ~~the~~ a 180
municipal corporation if ~~the~~ either of the following apply: 181

(1) The existing highway being changed or the location of 182
an additional highway being established was not within the 183
corporate limits of the municipal corporation at the time the 184
director determines the establishment or change should be made, ~~or~~ 185
~~or if the;~~ 186

(2) The director is acting pursuant to section 5501.49 of 187
the Revised Code or any other provision that expressly gives the 188
director such authority. 189

~~Except as provided in section 5501.49 of the Revised Code,~~ 190
~~when in the opinion of the director there is urgent need to~~ 191
~~establish a state highway, which is to be designated a federal~~ 192
~~aid highway, or a federal aid interstate highway within a~~ 193
~~municipal corporation or, in the opinion of the director, any~~ 194
~~federal aid highway or interstate federal aid highway is in~~ 195
~~urgent need of repair, reconstruction, widening, improvement, or~~ 196
~~relocation, so as to accommodate the traveling public, the~~ 197
~~director shall submit a written request to the legislative~~ 198
~~authority of the municipal corporation for its consent to the~~ 199
~~desired establishment or improvement. The legislative authority,~~ 200
~~within sixty days after the written request has been received~~ 201
~~from the director, either shall grant its consent to the~~ 202
~~establishment or improvement or refuse consent by filing in~~ 203
~~writing with the director a statement of its reasons for~~ 204
~~refusing consent and any alternate proposals it considers~~ 205
~~reasonable. If the legislative authority fails to act or refuses~~ 206
~~consent, the director, upon consideration of the reasons for~~ 207
~~rejection, may make a resolution declaring the necessity of the~~ 208
~~establishment or improvement, and then proceed in the same~~ 209
~~manner as if consent had been given. A certified copy of the~~ 210
~~resolution shall be served upon the municipal legislative~~ 211
~~authority, which, within twenty days from the date of service,~~ 212
~~may appeal to the court of common pleas of the county in which~~ 213
~~the municipal corporation is situated, upon the reasonableness~~ 214
~~and necessity of the action provided for in the resolution. In~~ 215
~~the hearing upon appeal, the director shall introduce the record~~ 216
~~of the director's proceedings, including the director's findings~~ 217
~~with respect to factors referred to in section 5521.011 of the~~ 218
~~Revised Code, and such other competent evidence as the director~~ 219
~~desires in support of the director's resolution, and the~~ 220
~~municipality likewise may introduce competent evidence opposing~~ 221

~~the resolution, and findings. The court may affirm or revoke the~~ 222
~~resolution. The decision of the common pleas court may be~~ 223
~~appealed to the court of appeals and the supreme court as in~~ 224
~~other cases. If the court affirms the resolution, the director~~ 225
~~may proceed with the establishment or improvement with or~~ 226
~~without the cooperation of the municipal corporation. Any such~~ 227
~~municipal corporation may cooperate with the director in the~~ 228
~~work and pay such portion of the cost as is agreed upon between~~ 229
~~the municipal corporation and the director. The legislative~~ 230
~~authority of any municipal corporation desiring to cooperate, by~~ 231
~~resolution, may propose such cooperation to the director, and a~~ 232
~~copy of the resolution, which shall set forth the proportion of~~ 233
~~the cost and expense to be contributed by the municipal~~ 234
~~corporation, shall be filed with the director. The director~~ 235
~~shall cause to be prepared the necessary surveys, plans,~~ 236
~~profiles, cross sections, estimates, and specifications and~~ 237
~~shall file copies of them with the legislative authority of the~~ 238
~~municipal corporation. After the legislative authority has~~ 239
~~approved the surveys, plans, profiles, cross sections,~~ 240
~~estimates, and specifications, and after the municipal~~ 241
~~corporation has provided the funds necessary to meet the portion~~ 242
~~of the cost of the work assumed by it, the municipal corporation~~ 243
~~shall enter into a contract with the state providing for payment~~ 244
~~by the municipal corporation of the agreed portion of the cost.~~ 245
~~The form of the contract shall be prescribed by the attorney~~ 246
~~general, and such contracts shall be submitted to the director~~ 247
~~and approved before the receipt of bids. Section 5705.41 of the~~ 248
~~Revised Code applies to such contract to be made by the~~ 249
~~municipal corporation, and a duplicate of the certificate of the~~ 250
~~chief fiscal officer of the municipal corporation shall be filed~~ 251
~~in the office of the director. That part of the cost of the work~~ 252
~~assumed by the municipal corporation shall be paid from the~~ 253

~~proceeds of taxes or special assessments, or both, or from the~~ 254
~~proceeds of notes or bonds issued and sold in anticipation of~~ 255
~~the collection of the taxes and assessments. For the purpose of~~ 256
~~providing funds for the payment of that part of the cost of the~~ 257
~~work assumed by the municipal corporation, the municipal~~ 258
~~corporation has the same authority to make special assessments,~~ 259
~~levy taxes, and issue bonds or notes, in anticipation of the~~ 260
~~collection of the same, as it has with respect to improvements~~ 261
~~constructed under the sole supervision and control of the~~ 262
~~municipal corporation. All such assessments shall be made, taxes~~ 263
~~levied, and bonds or notes issued and sold under such conditions~~ 264
~~and restrictions as may be provided with respect to assessments,~~ 265
~~taxes, bonds, or notes made, levied, issued, or sold in~~ 266
~~connection with improvements of the same class and character~~ 267
~~constructed under the sole supervision and control of the~~ 268
~~municipal corporation. The improvement shall be constructed~~ 269
~~under the sole supervision of the director. The proportion of~~ 270
~~the cost and expense payable by the municipal corporation shall~~ 271
~~be paid by the proper officers thereof, upon the requisition of~~ 272
~~the director, and at times during the progress of the work as~~ 273
~~may be determined by the director or as may be otherwise~~ 274
~~provided by law.~~ 275

Sec. 5521.011. (A) (1) Except as otherwise provided by law, 276
when there is an urgent need to accommodate the traveling 277
public, the director of transportation shall submit a written 278
request to the legislative authority of a municipal corporation 279
for its consent to either of the following: 280

(a) The establishment of a state highway within a 281
municipal corporation that will be designated a federal aid 282
highway or federal aid interstate highway; 283

(b) The repair, reconstruction, widening, improvement, or relocation of a federal aid highway or interstate federal aid highway. 284
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(2) The legislative authority, within sixty days after receiving the written request from the director, shall do one of the following: 287
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(a) Grant its consent to the request; 290

(b) Refuse its consent by filing, in writing with the director, a statement of its reasons for refusing consent and any alternate proposals it considers reasonable. 291
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(B)(1) If the legislative authority refuses consent under division (A)(2) of this section, or fails to act, the director, upon consideration of any reasons for the refusal to consent, may adopt a resolution declaring the necessity of the actions specified in the request for consent. The director may then proceed in the same manner as if consent had been given. A certified copy of the resolution shall be served upon the legislative authority. 294
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(2) Within twenty days from the date of service, the legislative authority may appeal to the court of common pleas of the county in which the municipal corporation is located. The legislative authority, in the appeal, shall address the reasonableness and necessity of the action provided for in the director's resolution. 302
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(3) In the hearing upon appeal, the director shall introduce all of the following: 308
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(a) The record of the director's proceedings; 310

(b) The director's findings with respect to factors 311

referred to in section 5521.012 of the Revised Code; 312

(c) Any other competent evidence in support of the 313
director's resolution. 314

(4) The legislative authority likewise may introduce 315
competent evidence opposing the resolution and the director's 316
findings. 317

(5) The court may affirm or revoke the resolution. The 318
decision of the common pleas court may be appealed to the court 319
of appeals and the supreme court as in other cases. If the court 320
affirms the resolution, the director may proceed with the 321
actions specified in the resolution with or without the 322
cooperation of the municipal corporation. 323

(C) A municipal corporation may cooperate with the 324
director in the work authorized by this section and pay such 325
portion of the cost as is agreed upon between the municipal 326
corporation and the director. The legislative authority of the 327
municipal corporation, by resolution, shall set forth the 328
proportion of the cost and expense to be contributed by the 329
municipal corporation, and shall file a copy of the resolution 330
with the director. 331

(D) (1) The director shall have the necessary surveys, 332
plans, profiles, cross sections, estimates, and specifications 333
prepared and shall file copies of them with the legislative 334
authority of the municipal corporation. 335

(2) The municipal corporation and the state shall enter 336
into a contract after both of the following occur: 337

(a) The legislative authority approves the surveys, plans, 338
profiles, cross sections, estimates, and specifications. 339

(b) The municipal corporation provides the funds necessary 340
to meet its portion of the cost of the work assumed by it. 341

(3) The attorney general shall prescribe the form of the 342
contract and the contract shall be submitted to the director and 343
approved before the receipt of bids. 344

(4) Section 5705.41 of the Revised Code applies to all 345
such contracts. A duplicate of the certificate of the chief 346
fiscal officer of the municipal corporation shall be filed in 347
the director's office. 348

(E) (1) The municipal corporation shall pay its portion of 349
the costs from either of the following: 350

(a) The proceeds of taxes or special assessments, or both; 351

(b) The proceeds of notes or bonds issued and sold in 352
anticipation of the collection of the taxes and assessments. 353

(2) For the purpose of providing funds for its share of 354
the cost, the municipal corporation may make special 355
assessments, levy taxes, and issue bonds or notes, in 356
anticipation of the collection of the same, as it would for 357
improvements constructed under the sole supervision and control 358
of the municipal corporation. All such assessments shall be 359
made, taxes levied, and bonds or notes issued and sold under 360
such conditions and restrictions as though the improvements 361
where of the same class and character and constructed under the 362
sole supervision and control of the municipal corporation. 363

(F) The improvement shall be constructed under the sole 364
supervision of the director. The proper officers of the 365
municipal corporation shall pay the proportion of the municipal 366
corporation's cost and expense upon the requisition of the 367
director and at times during the progress of the work as the 368

<u>director determines or as otherwise provided by law.</u>	369
<u>(G) Section 5521.01 of the Revised Code governs the</u>	370
<u>responsibility for the ongoing maintenance or repair of any</u>	371
<u>improvement constructed under this section.</u>	372
Sec. 5521.011 <u>5521.012</u>. (A) In determining new highway	373
locations the director shall consider the following factors,	374
wherever applicable, and include such considerations in the	375
record of his <u>the director's</u> proceedings: national	376
<u>(1) National</u> defense; economic	377
<u>(2) Economic</u> activity; employment	378
<u>(3) Employment</u> ; open	379
<u>(4) Open</u> spaces; existing	380
<u>(5) Existing</u> park lands; recreation	381
<u>(6) Recreation</u> ; fire	382
<u>(7) Fire</u> protection; esthetics	383
<u>(8) Esthetics</u> ; public	384
<u>(9) Public</u> utilities; safety	385
<u>(10) Safety</u> ; residential	386
<u>(11) Residential</u> character and location; religious	387
<u>(12) Religious</u> institutions and practices; rights	388
<u>(13) Rights</u> and freedoms of individuals; conduct	389
<u>(14) Conduct</u> and financing of government; conservation	390
<u>(15) Conservation</u> ; property	391
<u>(16) Property</u> values; replacement	392

<u>(17) Replacement housing; education</u>	393
<u>(18) Education and disruption of school district operations; specific</u>	394 395
<u>(19) Specific numbers of families and businesses displaced; engineering</u>	396 397
<u>(20) Engineering, right-of-way, and construction costs for proposed highway facilities and related transportation facilities; maintenance</u>	398 399 400
<u>(21) Maintenance of highway facilities and other transportation facilities; use</u>	401 402
<u>(22) Use of highways and other transportation facilities, and user costs; and operation</u>	403 404
<u>(23) Operation of highway facilities and other transportation facilities during construction and following completion.</u>	405 406 407
<u>(B) Documentation should cover the consideration given to each determinant, including a statement as to which were not considered significant as between alternatives.</u>	408 409 410
Section 2. That existing sections 5501.31, 5521.01, and 5521.011 of the Revised Code are hereby repealed.	411 412