

As Passed by the Senate

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Sub. S. B. No. 281

Senator Roegner

Cosponsors: Senators Cirino, Patton



To amend sections 306.04 and 306.14 of the Revised Code to authorize a board of county commissioners, on its own behalf, to award a franchise for the operation of a public transit system.

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

Section 1. That sections 306.04 and 306.14 of the Revised Code be amended to read as follows:

Sec. 306.04. (A) Except as otherwise provided in division (B) of this section, employees of a county transit board or a board of county commissioners operating a transit system are employees of the county. If the system is operated by the board of county commissioners, the board shall appoint an executive director, who shall be in the unclassified service.

(B) Any county transit board that established its own civil service organization and procedure prior to October 25, 1995, shall continue to operate under that organization. Appointments and promotions in that system shall be made, as far as practicable, by competitive examination.

A board that established its own civil service

organization prior to October 25, 1995, shall establish by rule 20
the seniority provisions relating to street railway and motor 21
bus employees in effect at the time of the acquisition of the 22
transit system by the county. The vacation, holiday, and sick 23
leave privileges shall not be regulated by other provisions of 24
law relating to public employees of the state or county, except 25
that the transit board, its officers and employees, shall be 26
subject to the public employees retirement system of the state 27
and the transit board shall assume any pension obligations which 28
have been assumed by any publicly owned transit system which the 29
county may acquire. 30

(C) A county transit board or board of county 31
commissioners operating a transit system may: 32

(1) Acquire in its name by gift, grant, purchase, or 33
condemnation and hold and operate real estate and interests 34
therein and personal property suitable for its purposes; 35

(2) In its name purchase, acquire, construct, enlarge, 36
improve, equip, repair, maintain, sell, exchange, lease as 37
lessee or lessor, receive a right of use of, and manage, 38
control, and operate, in or out of the county, a county transit 39
system consisting of all real estate and interests therein, 40
personal property, and a combination thereof, for or related to 41
the movement of persons including but not limited to street 42
railway, tramline, subways, rapid transits, monorails, and 43
passenger bus systems but excluding therefrom trucks, the 44
movement of property by truck, and facilities designed for use 45
in the movement of property by truck for hire; 46

(3) Issue, with the approval of the county commissioners 47
when the issuance is made by the transit board, revenue bonds of 48
the county as provided in division (B) of section 306.09 of the 49

Revised Code, to secure funds to accomplish its purposes. The 50
principal of and interest on such bonds, together with all other 51
payments required to be made by the trust agreement or indenture 52
securing such bonds, shall be paid solely from revenues or other 53
income accruing to the board from facilities of the county 54
transit system designated in said agreement or indenture. 55

(4) Enter into contracts in the exercise of the rights, 56
powers, and duties conferred upon it, and execute all 57
instruments necessary in the conduct of its business; 58

(5) Fix, alter, and charge rates and other charges for the 59
use of its real estate and interests therein, personal property, 60
and combinations thereof; 61

(6) Employ such financial consultants, accountants, 62
appraisers, consulting engineers, architects, construction 63
experts, attorneys-at-law, managers and other supervisory 64
personnel, and other officers, employees, and agents as it 65
determines necessary to conduct its business, and fix their 66
compensation and duties; 67

(7) Pledge, hypothecate, or otherwise encumber its 68
revenues and other income as security for its obligations and 69
enter into trust agreements or indentures for the benefit of 70
revenue bondholders; 71

(8) Borrow money or accept or contract to accept advances, 72
loans, gifts, grants, devises, or bequests from and enter into 73
contracts or agreements with any federal, state, or other 74
governmental or private source and hold and apply advances, 75
loans, gifts, grants, devises, or bequests according to the 76
terms thereof including provisions which are required by such 77
federal, state, or other governmental or private source to 78

protect the interest of employees affected by such advances, 79
loans, gifts, grants, devises, or bequests. Such advances, 80
loans, gifts, grants, or devises may be subject to any 81
reasonable reservation and any gift, grant, or devise or real 82
estate may be in fee simple or any lesser estate. Any advances 83
or loans received from any federal, state, or other governmental 84
or private source may be repaid in accordance with the terms of 85
such advance or loan. A loan accepted by a county transit board 86
shall not, in any way, obligate the general fund of a county or 87
a board of county commissioners. 88

(9) Conduct investigations and surveys into the needs of 89
the public within or without the county for transportation 90
services to provide for the movement of persons within, into, or 91
from the area serviced or to be serviced by the county transit 92
system; 93

(10) Enter into lawful arrangements with the appropriate 94
federal or state department or agency, county, township, 95
municipal corporation, or other political subdivision or public 96
agency for the planning and installation of any public 97
facilities which are determined necessary in the conduct of its 98
business; 99

(11) Purchase fire, extended coverage, and liability 100
insurance for the real estate and interests therein, personal 101
property and any combination thereof, used by or in connection 102
with the county transit system and insurance covering the board 103
and the county transit system and its officers and employees for 104
liability for damage or injury to persons or property; 105

(12) Procure and pay all or any part of the cost of group 106
hospitalization, surgical, major medical, or sickness and 107
accident insurance, or a combination thereof, for the officers 108

and employees of the county transit system and their immediate dependents, issued by an insurance company, duly authorized to do business in this state;

(13) Sell, lease, release, or otherwise dispose of real estate or interests therein or personal property owned by it and grant such easements across its real estate and interests therein as will not interfere with its use by the county transit system;

(14) Establish rules for the use and operation of the county transit system including the real estate or interests therein, personal property or a combination of the foregoing used by or in connection with such system;

(15) Exercise the power of eminent domain to appropriate any real estate or interests therein, personal property, franchises, or any combination thereof, within or without the county, necessary or proper in the exercise of its powers provided in sections 306.01 to 306.13 of the Revised Code, as provided in sections 163.01 to 163.22 of the Revised Code, and subject to divisions (15) (a), (b), and (c) of this section, provided that a county transit board or a board of county commissioners operating a transit system shall not proceed to so appropriate real property outside its territorial boundaries, until it has served at the office of the county commissioners of the county in which it is proposed to appropriate real property, a notice describing the real property to be taken and the purpose for which it is proposed to be taken, and such county commissioners have entered on their journal within thirty days after such service a resolution approving such appropriation.

(a) Nothing contained in this division authorizes a county transit board or a board of county commissioners to appropriate

any land, rights, rights-of-way, franchises, or easements 139
belonging to the state or to a municipal corporation without the 140
consent of the state or of the municipal corporation, and no 141
county transit board or board of county commissioners shall 142
exercise the right of eminent domain to acquire any certificate 143
of public convenience and necessity, or any part thereof, issued 144
to a for-hire motor carrier by the public utilities commission 145
of Ohio or by the federal motor carrier safety administration of 146
the United States, or to take or disturb other real estate or 147
interests therein, personal property, or any combination thereof 148
belonging to any municipal corporation without the consent of 149
the legislative authority of such municipal corporation, or take 150
or disturb real estate or interests therein, personal property, 151
or any combination thereof belonging to any other political 152
subdivision, public corporation, public utility, or common 153
carrier, which is necessary and convenient in the operation of 154
such political subdivision, public corporation, public utility, 155
or common carrier unless provision is made for the restoration, 156
relocation, or duplication of that taken or upon the election of 157
such political subdivision, public corporation, public utility, 158
or common carrier for the payment of compensation, if any, at 159
the sole cost of the county transit system. 160

(b) If any restoration or duplication proposed to be made 161
under this division involves a relocation, the new location 162
shall have at least comparable utilitarian value and 163
effectiveness, and such relocation shall not impair the ability 164
of the public utility or common carrier to compete in its 165
original area of operation. 166

(c) If such restoration or duplication proposed to be made 167
under this division involves a relocation, the county transit 168
board or board of county commissioners shall acquire no interest 169

or right in or to the appropriated property or facility until 170
the relocated property or facility is available for use and 171
until marketable title thereto has been transferred to the 172
political subdivision, public corporation, public utility, or 173
common carrier. Nothing in this division shall require any board 174
of county commissioners or county transit board operating a 175
county transit system to so restore, relocate, or duplicate, if 176
all of the real estate and interests therein, personal property, 177
and any combination of the foregoing which is owned by a public 178
utility or common carrier and used by it or in connection with 179
the movement of persons, is acquired by exercise of the power of 180
eminent domain. 181

(16) When real property is acquired that is located 182
outside the county and is removed from the tax duplicate, the 183
county transit board or board of county commissioners operating 184
a transit system shall pay annually to the county treasurer of 185
the county in which that property is located, commencing with 186
the first tax year in which that property is removed from the 187
tax duplicate, an amount of money in lieu of taxes equal to the 188
smaller of the following: 189

(a) The last annual installment of taxes due from the 190
acquired property before removal from the tax duplicate; 191

(b) An amount equal to the difference between the combined 192
revenue from real estate taxes of all the taxing districts in 193
which the property is located in the tax year immediately prior 194
to the removal of the acquired property from the tax duplicate, 195
and either: 196

(i) The total revenue which would be produced by the tax 197
rate of each such taxing district in the tax year immediately 198
prior to the removal of the acquired property from the tax 199

duplicate, applied to the real estate tax duplicate of each of 200
such taxing districts in each tax year subsequent to the year of 201
removal; or 202

(ii) The combined revenue from real estate taxes of all 203
such taxing districts in each tax year subsequent to the year of 204
removal, whichever is the greater. 205

The county transit board or board of county commissioners 206
may be exempted from such payment by agreement of the affected 207
taxing district or districts in the county in which the property 208
is located. 209

The county auditor of the county in which that property is 210
located shall apportion each such annual payment to each taxing 211
district as if the annual payment had been levied and collected 212
as a tax. 213

Those annual payments shall never again be made after they 214
have ceased. 215

(17) Sue or be sued, plead or be impleaded, and be held 216
liable in any court of proper jurisdiction for damages received 217
by reason of negligence, in the same manner and to the same 218
extent as if the county transit system were privately operated, 219
provided, that no funds of a county other than those of the 220
county transit board or, if the transit system is operated by 221
the board of county commissioners, other than those in the 222
account for the county transit system created under division (C) 223
of section 306.01 of the Revised Code, shall be available for 224
the satisfaction of judgments rendered against that system; 225

(18) Annually prepare and make available for public 226
inspection a report in condensed form showing the financial 227
results of the operation of the county transit system. For 228

systems operated by a county transit board, copies of this 229
report shall be furnished to the county commissioners as well as 230
a monthly summary statement of revenues and expenses for the 231
preceding month sufficient to show the exact financial condition 232
of the county transit system as of the last day of the preceding 233
month. 234

(19) With the approval of the county commissioners when 235
the action is taken by the transit board, and without 236
competitive bidding, sell, lease, or grant the right of use of 237
all or a portion of the county transit system to any other 238
political subdivision, taxing district, or other public body or 239
agency having the power to operate a transit system. 240

(D) (1) As used in this division: 241

(a) "Applicant" means any person who responds to a request 242
for proposals and submits an application for a franchise to 243
operate a public transit system or portion of a public transit 244
system; 245

(b) "Application for certification" means the documents 246
that are required to be filed by a franchisee to initiate the 247
proceedings required for certification; 248

(c) "Application for a franchise" means the documents that 249
are required to be filed in response to a request for proposals 250
and that initiate the proceedings required for the award of a 251
franchise; 252

(d) "Certification" means the order issued by a board of 253
county commissioners, after submission of an application for 254
certification, that approves the operation of a public transit 255
system, or a portion of a public transit system, by a 256
franchisee, subject to terms and conditions imposed by the 257

board. 258

(e) "Franchise" means the document and all accompanying 259
rights approved by the board of county commissioners that 260
provides the franchisee with the exclusive right to establish a 261
public transit system and, subject to certification, the right 262
to operate a public transit system. A franchise may include the 263
right of a franchisee to provide transportation services for a 264
county department of job and family services. 265

(f) "Franchisee" means the individual, corporation, or 266
other entity awarded a franchise. 267

(2) A board of county commissioners, on its own behalf, or 268
on behalf of a county transit board, may award a franchise to an 269
applicant subject to such terms and conditions as the board of 270
county commissioners considers appropriate and consistent with 271
applicable laws. If a county transit board exists in the county, 272
a board of county commissioners shall notify the county transit 273
board at least thirty days before the board of county 274
commissioners holds a vote to award a franchise to an applicant 275
on its own behalf. Subsequent to awarding the franchise, the 276
board of county commissioners may issue a certification and, 277
until such issuance, the franchisee has no right to operate a 278
public transit system or part of such a system. The board of 279
county commissioners shall not delete, alter, or amend the terms 280
and conditions of the certification after its issuance. The 281
board shall include in the certification performance targets 282
related to the operation of a public transit system by the 283
franchisee, including cost savings to the county, gains in 284
efficiency, the safety and security of the traveling public and 285
franchise employees, service to the traveling public, return on 286
any investments made by the county, and any other performance 287

targets as determined by the board. All terms and conditions of 288
the order of certification are terms and conditions of the 289
franchise. Unless expressly exempted or granted a waiver in the 290
certification, the franchisee shall comply with all applicable 291
rules, regulations, orders, and ordinances. 292

(3) The award of a franchise by a board of county 293
commissioners to an applicant is the sole license and authority 294
for the franchisee to establish a public transit system and, 295
subject to certification, operate a public transit system. 296

(4) A board of county commissioners shall award a 297
franchise for a period of not less than ten years, as provided 298
in the franchise. 299

(5) A franchise shall not prohibit the franchisee from 300
implementing new or improved services during the term of the 301
franchise. 302

(6) A franchisee shall coordinate its services, as 303
specified in the franchise, with public transit providers to 304
make effective transportation services available to the public 305
and provide access to and from the public transit system. 306

(7) A board of county commissioners shall provide terms 307
and conditions in a franchise to ensure that the franchisee will 308
continue operation of the public transit system for the duration 309
of the term of the franchise or, if the franchise is revoked, 310
suspended, or abandoned, that financial and other necessary 311
resources are available to continue the operation of the system 312
until another franchisee is selected or until the board of 313
county commissioners determines to cease the transit operations 314
governed by the franchise. The franchise shall specifically 315
provide that the board shall have the right to terminate the 316

franchise if the board determines that the franchisee has 317
materially breached the franchise in any manner. The franchisee 318
may appeal such a termination to the board, and, if the board 319
upholds the termination, to the proper court of common pleas. 320

Sec. 306.14. (A) If a board of county commissioners awards 321
a franchise to a franchisee on behalf of a county transit board, 322
the county transit board shall submit an annual written report 323
to the board of county commissioners not later than a date 324
designated by the board of county commissioners and in a form 325
prescribed by that board. The board of county commissioners 326
shall make the report available on the general web site of the 327
county. The county transit board shall include in the report a 328
description in detail of the effects the franchise agreement had 329
during the prior year on all of the following as they relate to 330
the operation of a public transit system by the franchisee in 331
that county: 332

(1) Cost savings to the county; 333

(2) Efficiency; 334

(3) Safety and security of the traveling public and 335
franchise employees; 336

(4) Service to the traveling public; 337

(5) Return on investment by the county; 338

(6) Any other aspects the board of county commissioners 339
determines should be included in the report. 340

(B) A franchisee that is awarded a franchise by a board of 341
county commissioners ~~on behalf of a county transit board~~ shall 342
submit an annual written report to the board of county 343
commissioners ~~or~~ and the county transit board, if one exists, 344

not later than a date designated by the board of county 345
commissioners and in a form prescribed by that board. ~~The board~~ 346
~~of county commissioners also shall direct the franchisee to~~ 347
~~submit the report to the board of county commissioners, the~~ 348
~~county transit board, or both.~~ The board of county commissioners 349
shall establish the issues to be addressed in the report with 350
respect to the public transit system that the franchisee 351
operated during the prior year. The board of county 352
commissioners shall make the report available on the general web 353
site of the county. 354

(C) A board of county commissioners that awards a 355
franchise to a franchisee ~~on behalf of a county transit board~~ 356
shall conduct an annual review of the performance of the 357
franchisee. The board of county commissioners shall include in 358
the review a determination of the number of performance targets 359
the franchisee met during the prior year and an evaluation of 360
the franchisee's compliance with the other terms and conditions 361
of the franchise, including any breaches of the franchise by the 362
franchisee. The board shall issue a written report, and shall 363
make the report available on the general web site of the county. 364

Section 2. That existing sections 306.04 and 306.14 of the 365
Revised Code are hereby repealed. 366