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135<sup>th</sup> General Assembly

## Bill Analysis

[Click here for H.B. 23's Fiscal Note](#)

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Margaret E. Marcy and other LSC Staff

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## **PUBLIC UTILITIES COMMISSION**

### **Railroads**

#### **Wayside detector systems**

- Requires a person who receives a message regarding a defect detected by a wayside detector system (a system that detects defects on moving trains, rolling stock, and on-track equipment) to immediately notify the operator of the applicable train, rolling stock, or on-track equipment if the receiver of the message is not the operator.
- Requires all wayside detector systems installed in Ohio to be within ten to 15 miles from the adjacent system, depending on the natural terrain surrounding the system.
- Requires the Public Utilities Commission (PUCO) and Ohio Department of Transportation (ODOT) to work with each railroad company that does business in Ohio to ensure that wayside detector systems used by those companies are operational, effective, and current.
- In accordance with federal regulations, requires the PUCO and ODOT to investigate the safety practices of any railroad company that does not work with them in good faith related to the use of the wayside detector systems.
- Requires the PUCO and ODOT to issue a report to the Federal Railroad Administration (FRA) recommending enforcement action against the railroad company if the results of an investigation show that the company does not appear to be in compliance with federal safety standards.
- Requires the PUCO and ODOT to issue a copy of that report to the Governor, the Senate President, the Speaker of the House, and the Minority Leaders of both the Senate and the House of Representatives.

#### **Two-person freight train crews**

- Requires a train or light engine used in connection with the movement of freight to have at least a two-person crew.
- Specifies that the two-person crew requirement is solely related to safety.
- Permits the PUCO to assess a civil penalty against a person who violates the two-person crew requirement.
- Requires the Attorney General to bring a civil action to collect the civil penalty for violating the two-person crew requirement upon request to do so from PUCO.
- Provides that the above provisions no longer apply if the federal government adopts a two-person crew requirement for trains or light engines in Ohio.

## **Hazardous waste transportation report**

- Requires the PUCO and Ohio Environmental Protection Agency (OEPA) to prepare and submit a written report to the General Assembly, within 90 days of the bill's effective date, pertaining to the transportation of hazardous materials and hazardous waste.

## **Railroad technology report**

- Requires the PUCO to examine and compile information regarding current and best practices use of certain railroad technologies and submit a report to specified legislative committees within 90 days of the bill's effective date.

## **Wayside detector systems**

(R.C. 4955.50 and 4955.51)

The bill requires the Public Utilities Commission (PUCO) and the Ohio Department of Transportation (ODOT) to work with each railroad company that does business in Ohio to ensure that their wayside detector systems are installed and are operational. Wayside detector systems are the electronic devices or series of connected devices that scan passing trains, rolling stock, on-track equipment, and their component equipment and parts for defects. Defects include hot wheel bearings, hot wheels, defective bearings, dragging equipment, excessive height or weight, shifted loads, low hoses, rail temperature, and wheel condition. Given the size and speed of trains, the wayside detector systems often are crucial for detecting and warning operators about defects that may result in an accident.

In examining the wayside detector systems, the PUCO, ODOT, and railroads must ensure that the systems meet all of the following standards:

1. The systems are properly installed, maintained, repaired, and operational in accordance with the U.S. Department of Transportation, Federal Railroad Administration (FRA), state, and Association of American Railroads standards;
2. Any expired, nonworking, or outdated systems or component parts are removed and replaced with new parts or an entirely new system that reflects the current best practices and industry standards;
3. That the distance between the systems is appropriate when accounting for the state requirements, natural terrain, safety considerations, and sufficient response time in managing any defect alerts; and
4. That each railroad company has defined, written standards and training for employees relating to the systems, their defect alerts, the course of action that employees are required to take to respond to an alert, and appropriate monitoring and responses by the company if employees fail to take the required course of action.

The bill requires any person responsible for installing wayside detector systems alongside or on a railroad to ensure that the systems are no less than ten miles away from the adjacent system location. The systems may be up to 15 miles away, if the natural terrain does

not allow for placement within ten miles. Additionally, all wayside detector systems installed and operating in Ohio must either send their emergency alerts to the operator of the train, rolling stock, or on-track equipment, or to have the person who receives the emergency alert immediately notify the operator of the defect. The PUCO and ODOT must ensure the systems meet the installation and notification requirements as part of their consideration of wayside detector systems in Ohio.

### **Investigation**

If a railroad company refuses to work or otherwise cooperate with the PUCO and ODOT in good faith, the bill requires the PUCO and ODOT to investigate that railroad company's safety practices and standards. The investigation must be in accordance with the federal regulations that authorize state investigations (49 C.F.R. Part 212). If the railroad company does not appear to be in compliance with the federal railroad safety laws, the PUCO and ODOT must report the noncompliance to the FRA and recommend that the FRA take enforcement action against the railroad company. The PUCO and ODOT must send a copy of that report to the Governor, the President of the Senate, the Speaker of the House, and the Minority Leader of both the Senate and the House of Representatives.

In the case of laws related to railroad safety and security, the federal government has expressly preempted state laws on the subject, with certain narrow exceptions.<sup>1</sup> As part of that preemption, Ohio cannot directly regulate or impose penalties on a railroad company for failure to comply with state or federal regulations. However, FRA regulations authorize state participation in investigative and surveillance activities related to federal railroad safety, such as the investigative activities authorized by the bill.<sup>2</sup> Also, if the FRA does not act on a state's request for FRA action within a certain time period, a state may bring an action in federal court for assessment of federally authorized civil penalties or may bring an action for injunctive relief.<sup>3</sup>

### **Two-person freight train crews**

(R.C. 4999.09)

The bill requires a train or light engine that moves freight to have a crew that consists of at least two individuals. No railroad superintendent, trainmaster, or other railroad employee can order or "otherwise require" a train or light engine used in connection with the movement of

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<sup>1</sup> 49 United States Code (U.S.C.) § 20106.

<sup>2</sup> 49 Code of Federal Regulations (C.F.R.) Part 212.

<sup>3</sup> 49 C.F.R. 212.115.

freight to be operated unless it has at least a two-person crew. (Hostler service<sup>4</sup> and utility employees<sup>5</sup> are not subject to the minimum crew requirement; neither term is defined in the bill.)

The bill specifies that the two-person crew requirement is solely related to safety, including ensuring that no train or light engine used in connection with the movement of freight in Ohio is left without a functional crew person as a result of a medical emergency. Despite the safety requirement clarification, it is unclear what the medical emergency language means with regard to a two-person crew.

### **Civil penalties**

Under the bill, the PUCO may assess a civil penalty against a person who has willfully violated the minimum crew requirement as follows:

Violation	Penalty Range
If, within three years of the violation, PUCO has not assessed a civil penalty	\$250 – \$1,000
If, within three years of the violation, PUCO has assessed one civil penalty	\$1,000 – \$5,000
If, within three years of the violation, PUCO has assessed two or more civil penalties	\$5,000 – \$10,000

The bill requires the Attorney General, upon PUCO’s request, to bring a civil action to collect these penalties. Penalties collected under the bill are deposited to the credit of the Public Utilities Fund. The fund is used for PUCO’s administration and its supervision and jurisdiction over the state’s railroads and public utilities.<sup>6</sup>

### **Provisions not applicable if federal requirements imposed**

The bill provides that all of the provisions discussed above no longer apply on and after a federal law or regulation takes effect requiring a train or light engine used in connection with the movement of freight in Ohio to have a crew of at least two individuals. If Ohio enacts a two-person

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<sup>4</sup> According to railroad industry usage, “hostler service” involves moving locomotives within a railroad yard to various locations for fuel, cleaning, service, and repair.

<sup>5</sup> Federal regulations define “utility employees” as railroad employees that are temporarily part of a train or yard crew to help the crew assemble, disassemble, or classify rail cars or operate trains. C.F.R. 218.5.

<sup>6</sup> R.C. 4905.10, not in the bill.

crew requirement that conflicts with federal rulemaking on the matter, a court could find that the requirement is unconstitutional under the Supremacy Clause of the U.S. Constitution.<sup>7</sup>

## **Hazardous waste transportation report**

(Section 749.10)

The bill requires the PUCO and Ohio Environmental Protection Agency (OEPA) to prepare and submit a written report to the General Assembly regarding the transportation of hazardous materials and hazardous waste. The report must examine current federal and state laws specific to both of the following:

1. The regulations and protocols pertaining to the transportation of hazardous materials and hazardous waste; and
2. Any requirements pertaining to when, how, and to whom the transportation of hazardous materials and hazardous waste must be disclosed.

The written report also must include recommendations for (1) strengthening Ohio's safety requirements for hazardous materials and waste transportation, and (2) appropriate enhancements to current civil and criminal penalties related to the mishandling of hazardous materials or waste and the failure to meet disclosure requirements. The PUCO and OEPA must submit the report to the General Assembly within 90 days of the bill's effective date.

## **Railroad technology report**

(Section 749.20)

The bill requires the PUCO to examine both the current use and the best practices for use of hot boxes and hot bearing detectors, acoustic bearing detectors, and cameras installed on or alongside railroad tracks or wayside detector systems. The PUCO may consult with technical experts, railroad companies, the FRA, professional railroad associations, and the companies that manufacture and install such technology. Within 90 days of the bill's effective date, the PUCO must compile the information into a written report and submit it to the chairperson and ranking member of the following legislative committees:

- The Senate Transportation Committee;
- The Senate Finance Committee;
- The House Transportation Committee;
- The House Homeland Security Committee; and
- The House Finance Committee.

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<sup>7</sup> [Govinfo.gov/content/pkg/FR-2022-07-28/pdf/2022-15540.pdf](https://govinfo.gov/content/pkg/FR-2022-07-28/pdf/2022-15540.pdf). See United States Constitution, Article VI, Cl. 2.

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## DEPARTMENT OF TRANSPORTATION

### Ohio Rail Development Commission

#### Composition of the Commission

- Specifies that the Director of Transportation or the Director's designee must serve as the chairperson of the Ohio Rail Development Commission beginning on October 21, 2025 (or at an earlier date if the current chairperson vacates their position).
- Specifies that when the Director or designee begins serving as the chairperson both of the following occur:
  - The Governor will no longer appoint one member to be the chairperson; but
  - The number of commission members appointed by the Governor to represent the general public increases from one to two, thereby maintaining the current number of members on the Commission.

#### Passenger rail

- Allows the Commission to utilize a designee to construct and operate an intercity conventional or high speed passenger transportation system.
- Specifies that the plan for the system must provide for the connection of any points in Ohio and nearby states, rather than providing for the connection of Cleveland, Columbus, and Cincinnati and any points in between only, as in current law.

#### Regional Transit Authority (RTA) audits

- Eliminates a requirement that the State Auditor annually conduct an audit of the accounts and transactions of one large and two small RTAs.
- Eliminates the associated requirement that the Auditor send a copy of that audit report to the Senate President, Speaker of the House, and Director of Budget Management within 90 days of completion.
- Retains the general requirement that the Auditor audit all RTAs pursuant to the law governing the audit of public agencies.

#### ODOT expense reports

- Requires ODOT to submit regular expense reports to the Senate President and the Speaker of the House related to the use of the loans and grants that ODOT issues through its transportation programs.

#### ODOT design-build authority

- Expands the type of ODOT projects that may be bid as a design-build contract to include projects pertaining to all transportation facilities, which involve all modes of transportation and related facilities, not just highways or bridges as in current law.

- Allows the ODOT Director to reject a best-value bidder for a design-build contract if the Director determines that it is not in the state's best interests.
- After rejecting the best-value bidder, authorizes the Director to accept another bid or to reject all bids and rebid the contract.

### **ODOT contract performance and payment bonds**

- Establishes requirements and procedures regarding performance and payment bonds for ODOT contracts that address the following circumstances:
  - When a contract amount increases or decreases during the term of the contract;
  - When the surety can no longer meet its obligations as a surety; and
  - When the contract is of a size larger (\$500 million or more) than can be covered by a single surety.

### **Oversize/overweight limits and permits**

- Authorizes a vehicle powered primarily by electric battery power to exceed the statutory gross vehicle weight and axle load limits by up to 2,000 pounds.
- Requires the ODOT Director and every county to issue an annual permit for both of the following:
  - The vehicles that haul farm machinery, when the farm machinery otherwise qualifies for the ODOT "Farm Equipment Permit" or a similar county permit for farm machinery and equipment; and
  - The vehicles that haul agricultural produce or agricultural production materials that otherwise could be hauled by farm machinery under the ODOT "Farm Equipment Permit" or a similar county permit for farm machinery and equipment.

### **Ohio Workforce Mobility Partnership Program**

- Creates the two year Ohio Workforce Mobility Partnership Program administered by ODOT.
- Authorizes the boards of trustees of one or more RTAs, from either urban or rural locations, to singularly or jointly apply for grant funding under the program.
- Requires RTAs to use grant funding for specified purposes related to supporting workforce transit, such as supporting the employment needs of economically significant employers.
- Requires the ODOT Director to manage the program by establishing any necessary procedures and requirements, such as establishing grant application and evaluation processes.
- Earmarks \$15 million in each fiscal year for ODOT to administer the program.

## **Wrong-way driving study**

- Requires ODOT to contract with a third party to conduct a wrong-way driving study in order to determine the reasons for incorrect driving patterns and other factors that lead to wrong-way driving.

## **Strategic transportation and development analysis**

- Requires ODOT, in collaboration with the Department of Development and the Governor's Office of Workforce Transportation, to conduct a statewide study of the Ohio transportation system by December 31, 2024.
- Specifies that the study analyze various aspects of Ohio's current transportation systems and capacities and forecast future needs and how those needs may be met.

## **Brent Spence Bridge Corridor Project**

- Specifies that all spending related to the Brent Spence Bridge Corridor Project be documented in the Ohio Administrative Knowledge System (OAKS) and visible in the Ohio State and Local Government Expenditure Database.

## **Commercial motor vehicle parking**

- For the next two fiscal years, permits ODOT to close a rest area only if the parking lot remains available for commercial motor vehicles.

## **Indefinite delivery indefinite quantity (IDIQ) contracts**

- Authorizes the ODOT Director to enter into indefinite delivery indefinite quality (IDIQ) contracts for up to two projects in FYs 2024 and 2025.
- For IDIQ contracts, requires the Director to prepare bidding documents, establish contract forms, determine contract terms and conditions, develop and implement a work order process, and take any other action necessary to fulfill the Director's duties and obligations related to IDIQ contracts.

## **Ohio Rail Development Commission**

### **Composition of the Commission**

(R.C. 4981.02)

The bill modifies the makeup of the Ohio Rail Development Commission by specifying that on October 21, 2025, or when the current chairperson of the Commission vacates their position before that date, the Director of Transportation or the Director's designee must serve as the chairperson of the Commission. The Director currently serves as a voting member of the Commission, but current law requires the Governor (with the advice and consent of the Senate) to appoint a chairperson. Under the bill, once the Director or the Director's designee becomes chairperson, the Governor must appoint another member of the Commission who represents the general public.

The Commission currently is comprised of 15 members – four nonvoting members from the legislature; two voting members, one appointed by the Senate President and one appointed by the Speaker of the House; the Director of Transportation and the Director of Development Services, both voting members; and seven voting members appointed (with the advice and consent of the Senate) by the Governor. The seven members appointed by the Governor are: (1) a chairperson, (2) a person who represents the interests of a freight rail company, (3) a person who represents the interests of passenger rail service, (4) a person who has expertise in infrastructure financing, (5) a person who represents the interests of organized labor, (6) a person who represents the interests of manufacturers, and (7) a person who represents the general public.

Under the bill, the Governor still will appoint seven members after October 21, 2025 (or on the date that the current chairperson vacates their position), but will appoint two general public members instead of one general public member and one chairperson.

### **Passenger rail**

(R.C. 4981.04)

The bill allows the Ohio Rail Development Commission to utilize a designee to construct and operate an intercity conventional or high speed passenger transportation system. Current law requires the Commission to develop a plan for the construction and operation of that type of system. It also limits the authority for construction and operation of the system to the Commission.

The bill further specifies that the plan must provide for the connection of any points in Ohio and nearby states, as determined by the Commission. Current law limits the plan to providing for the connection of Cleveland, Columbus, and Cincinnati and any points in between those cities only.

### **Regional Transit Authority (RTA) audits**

(Repealed R.C. 5501.09; R.C. 117.11, not in the bill)

The bill eliminates a requirement that the State Auditor annually conduct an audit of the accounts and transactions of one large and two small RTAs. Accordingly, the bill eliminates the associated requirement that the Auditor send a copy of that audit report to the Senate President, Speaker of the House, and Director of Budget Management within 90 days of completion. Under current law retained by the bill, the Auditor must audit all RTAs pursuant to the law governing the audit of public agencies. However, a copy of that report is not required to be sent to the President, Speaker, and Director.

### **ODOT expense reports**

(R.C. 5501.521)

The bill requires ODOT to prepare and submit regular expense reports related to grants and loans issued by ODOT through its various transportation programs. ODOT must submit the reports to the Senate President and the Speaker of the House at the earliest of the following periods:

1. The conclusion of the term of the loan;
2. The conclusion of the project funded by the grant; or
3. The end of the fiscal year for each fiscal year that the loan or project is still pending.

The loan or grant recipient must assist ODOT by itemizing its use of the loan or grant money to include that information in the expense report. ODOT also must include its administrative expenses in managing the loan or grant program in the report. However, if any of the content of the expense report is the same content that ODOT submits to the Ohio State and Local Government Expenditure Database (the Ohio Checkbook), ODOT may submit copies of that content in lieu of including it within the expense report. The Ohio Checkbook is maintained by the State Treasurer and the Directors of Budget and Management and Administrative Services and is accessible on their websites. It is designed to track state expenditures and create greater transparency with the public.<sup>8</sup>

## **ODOT design-build authority**

(R.C. 5517.011)

The bill expands the type of ODOT projects that can be bid as a design-build contract. A design-build contract combines the design and construction phases of a project under one contract. Generally, the design phase and the construction phase are bid as two separate contracts.

Under current law, the ODOT Director may only use design-build contracts for highway or bridge projects. The bill allows ODOT to enter into design-build contracts for the design and construction of all transportation facilities. Transportation facilities include all publicly owned modes and means of transporting people and goods, including highway, aviation, rail, and port facilities. Transportation facilities also include physical buildings and infrastructure such as garages, district offices, rest areas, and roadside parks.

Regarding competitive bidding for projects, the bill allows the Director to reject a best-value bidder for a design-build contract on the grounds that the contract would not be in the state's best interest. After rejection of the bid, the Director may accept another bid or reject all bids and rebid the contract.

## **ODOT contract performance and payment bonds**

(R.C. 5525.16)

The bill alters the requirements governing performance and payment bonds required to be secured by ODOT contractors. Under current law, before entering into a contract with ODOT, a contractor must obtain a performance bond in an amount equal to 100% of the

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<sup>8</sup> For additional information regarding the Ohio State and Local Government Expenditure Database, see the LSC [Final Analysis for H.B. 110 of the 134<sup>th</sup> General Assembly \(PDF\)](#), which is available on the General Assembly's website: [legislature.ohio.gov](http://legislature.ohio.gov).

contract amount, generally conditioned that the contractor will perform the work on the terms, and within the time prescribed in, the contract. A contractor also must secure a payment bond in an amount equal to 100% of the contract, conditioned on the payment by the contractor and all subcontractors for labor, work, and materials related to the contract.

The bill establishes requirements and procedures that address circumstances when the contract amount increases or decreases during the term of the contract, when the surety can no longer meet its obligations as a surety, and when the contract is of a size larger than can be covered by a single surety.

### **Contract amount changes**

Under the bill, if the contract amount increases or decreases by \$40,000 or more during the term of the contract, the final bond amount must be adjusted to account for the change from the original contract value to the actual final contract value. To accomplish this, the ODOT Director must do the following:

1. Determine the final bond premium amount for the contract performance bond and payment bond based on the actual final contract value;
2. Finalize any bond premium adjustments after receiving written consent from the affected sureties confirming that the sureties increased or decreased the penal sum, whichever applies; and
3. Determine what, if any, additional payments or refunds are necessary under the contract as a result of the adjusted final bond premium amount.

Under the bill, the actual final contract value is the final sum of money, excluding any bond premium adjustments, that is paid by ODOT to the contractor as a result of the contractor completing the agreed-upon work.

### **Inability of surety to meet obligations**

The bill also requires the contractor to provide the ODOT Director with new surety bonds, within 21 days of any of the following occurring to a surety providing a surety bond for the project:

1. It is adjudged bankrupt or has made a general assignment for the benefit of its creditors;
2. It has liquidated all assets or has made a general assignment for the benefit of its creditors;
3. It is placed in receivership;
4. It petitions a state or federal court for protection from its creditors; or
5. It allows its license to do business in Ohio to lapse or to be revoked.

### **Large contracts**

Under the bill, when the total contract amount is greater than \$500 million, the Director may authorize either of the following for purposes of meeting the surety bonding requirements:

1. The issuance of multiple contract performance bonds or multiple contract payment bonds to meet the requirement that the bonding amount equals 100% of the contract amount; or
2. The issuance of contract performance bonds and contract payment bonds in succession to align with the phases of the contract to meet the requirement that the bonding amount equals 100% of the contract amount.

## **Oversize/overweight limits and permits**

(R.C. 4513.34 and 5577.044)

Current law prohibits a person from operating a vehicle on highways and bridges if the size or weight of the vehicle exceeds certain statutory limitations, unless the vehicle qualifies for an exemption or the owner has a special permit. Currently, a vehicle fueled solely by compressed natural gas (CNG) or liquid natural gas (LNG) may exceed the gross vehicle weight and axle load limits by up to 2,000 pounds. The bill extends this same exemption to a vehicle powered primarily by electric battery power. Similar to the CNG or LNG vehicle, the battery-powered vehicle may not exceed the weight and load limits on a highway, road, or bridge that is subject to reduced maximum weights.

Current law also provides for a general size exemption for farm machinery and an additional allowance for farm machinery to exceed the weight limits up to 7.5% while transporting farm commodities. Farm machinery includes all of the machines and tools used in the production, harvesting, and care of farm products (e.g., trailers used for agricultural produce, agricultural tractors, threshing machinery, hay-baling machinery, corn shellers, hammermills, etc.) Generally, the owner of farm machinery must obtain a farm equipment permit to cover weight above the 7.5% allowance and for other use of that machinery on the roads and highways beyond farm commodity transportation.<sup>9</sup>

The farm equipment permit issued by ODOT is a one-year permit. However, if the same farm machinery or the agricultural products hauled by that farm machinery is loaded onto a commercial trailer or semitrailer, the ODOT permit is a 90-day permit.<sup>10</sup> The bill thus requires ODOT and every county to issue an annual permit for both of the following:

1. The vehicles that haul farm machinery, when the farm machinery otherwise qualifies for the ODOT “Farm Equipment Permit” or a similar county permit for farm machinery and equipment; and
2. The vehicles that haul agricultural produce or agricultural production materials that otherwise could be hauled by farm machinery under the ODOT “Farm Equipment Permit” or a similar county permit for farm machinery and equipment.

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<sup>9</sup> R.C. 4501.01(U), 5577.042, and 5577.05, not in the bill.

<sup>10</sup> Ohio Administrative Code (O.A.C.) 5501:2-1.

The bill allows the ODOT Director and the counties to continue to issue permits for those vehicles for less than a year in addition to the annual permit. Additionally, the Director and counties may establish the fees for the permits. The fees are designed to compensate for damages caused to the road, highway, or bridges over which the overweight vehicle travels.

## **Ohio Workforce Mobility Partnership Program**

(Sections 203.45 and 755.20)

The bill establishes a two year Ohio Workforce Mobility Partnership Program and requires ODOT to administer it. Under the program, the board of trustees of any regional transit authority (RTA) (urban or rural) may singularly or jointly apply for grant funding for individual or collaborative projects. The grant funding must be used to support the transportation of resident workforce members between the service territories of the RTAs. An economically significant employment center is a single site, multiple adjoining sites, or a business park where the employers located at the site or park employ at least 250 full-time onsite employees.

The boards also must use the money to focus on transportation that supports the employment needs of economically significant employment centers located within or near the service territories of RTAs. Specifically, that support must include easy, efficient, and economical transportation for a resident workforce that:

1. Lives in an RTA service territory with little or no public transit access to an economically significant employment center; or
2. Lives within one RTA's service territory, but are employed full-time within another RTA's service territory.

The ODOT Director must manage the program by establishing any necessary procedures and requirements to administer it. Those may include grant application procedures, application evaluation criteria, award processes, and any conditions for spending grant money awarded under the program. The bill earmarks \$15 million in each fiscal year from Highway Operating Fund (Fund 7002) appropriation item 772422, Highway Construction – Federal for ODOT to administer the program.

## **Wrong-way driving study**

(Section 203.25)

The bill requires ODOT to contract with a third party, through a request for proposal process and in coordination with DAS, to conduct a wrong-way driving study across Ohio. For purposes of the study, the third party must collect data at specific locations, as determined by the ODOT Director, to understand incorrect driving patterns and other factors that lead to wrong-way driving. The data may be used to propose safety interventions that mitigate the hazards of wrong-way driving or prevent its occurrence. The bill earmarks \$50,000 for the study.

## **Strategic transportation and development analysis**

(Section 203.47)

The bill requires ODOT, in collaboration with the Department of Development and the Governor's Office of Workforce Transformation, to conduct a statewide study of the Ohio transportation system. The study, which must be completed by December 31, 2024, must do all of the following:

1. Analyze statewide and regional demographics;
2. Investigate economic development growth opportunities;
3. Examine current transportation systems and capacities;
4. Forecast passenger and freight travel needs over a 10-, 20-, and 30-year timeframe;
5. Identify current and future transportation links;
6. Evaluate and rank current and potential risks of future system congestion; and
7. Make actionable recommendations for transportation system projects to support statewide economic growth, especially in improving the links between Toledo and Columbus and Sandusky and Columbus.

ODOT may contract with third parties, as necessary, to execute the study. The bill appropriates \$10 million in FY 2024 for the study.

## **Brent Spence Bridge Corridor Project**

(Section 203.47)

The bill requires ODOT to document all spending related to the Brent Spence Bridge Corridor Project in the Ohio Administrative Knowledge System (OAKS) and made visible in the Ohio State and Local Government Expenditure Database (the Ohio Checkbook).

## **Commercial motor vehicle parking**

(Section 755.40)

The bill stipulates that, during FYs 2024 and 2025, ODOT may close a rest area under its jurisdiction only if it keeps the parking lot open for use by commercial motor vehicles. This is a continuation of the same stipulation previously established for FYs 2020 through 2023.

## **Indefinite delivery indefinite quantity (IDIQ) contracts**

(Section 203.100)

The bill requires the ODOT Director to advertise, seek bids for, and award indefinite delivery indefinite quantity (IDIQ) contracts for up to two projects in FYs 2024 and 2025. An IDIQ contract is a contract for an indefinite quantity, within stated limits, of supplies or services that will be delivered by the awarded bidder over a defined contract period. When entering into IDIQ contracts, the Director must prepare bidding documents, establish contract forms, determine contract terms and conditions, develop and implement a work order process, and take any other action necessary to fulfill the Director's duties and obligations related to IDIQ

contracts. The Director must ensure that an IDIQ contract includes the maximum overall value of the contract, which may include an allowable increase of \$100,000 or 5% of the advertised contract value, whichever is less, and the duration of the contract, including a time extension of up to one year if determined appropriate by the Director. The requirements pertaining to IDIQ contracts are an extension of the requirements from previous transportation budgets.

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## DEPARTMENT OF PUBLIC SAFETY

### Pay ranges for Highway Patrol officers and other employees

- Establishes pay range 19 and step value seven in pay range 17 in salary schedule E-1 for exempt state employees and repeals a requirement that the Director of Administrative Services adopt rules establishing pay range 19 and step value seven in pay range 17.
- Prohibits all employees except Highway Patrol captains from being assigned to step value seven in pay range 17 of schedule E-1.
- Beginning July 1, 2023, assigns exempt sergeants and lieutenant colonels in the Ohio State Highway Patrol, or their equivalents, to pay ranges 14 and 19, respectively, in salary schedule E-1.

### Noncommercial trailer registration

- Requires the Registrar of Motor Vehicles to authorize an owner or a lessee of a noncommercial trailer to register the trailer permanently.
- Specifies that the one-time cost of a permanent registration is:
  - Eight times the annual registration tax for a noncommercial trailer (which is determined by the weight of the trailer);
  - Eight times the annual \$11 Bureau of Motor Vehicles (BMV) fee;
  - Eight times the amount of any local motor vehicle taxes (if applicable); and
  - Eight times the \$5 deputy registrar/BMV service fee.
- Specifies that a permanent registration is not transferable to any other trailer and is nonrefundable.

### Military license plate program documentation

- Requires the Registrar to accept a county issued veteran identification card in lieu of an applicant's DD-214 as documentary evidence of service from a person who applies for a military license plate.

### Removable windshield placard expiration

- Extends the maximum validity period from five years to ten years for a removable windshield placard issued to a person with a disability that limits or impairs the ability to walk.

### Motor vehicle certificate title

- Requires the purchaser of a financed motor vehicle to affirmatively choose between receiving a physical certificate of title or having the title remain electronic upon completion of all payments financing the motor vehicle.

- Requires the lender to have a physical certificate of title delivered to the purchaser, without any additional fee, if the purchaser elects to have a physical certificate of title.

### **Third-party motor vehicle history reports**

- Specifies that a motor vehicle dealer is not liable for the accuracy of the information contained in a third-party motor vehicle history report that was provided by another entity.

### **Daily pre-trip school bus inspections**

- Requires the Superintendent of Public Instruction and the Director of Public Safety to modify their rules related to daily pre-trip school bus inspections by removing checks of specified equipment.
- Specifies that the State Highway Patrol must still check that equipment in their regular school bus equipment inspections.

### **Pay ranges for Highway Patrol lieutenants and other employees**

(R.C. 124.152 and 5503.031; Section 812.15)

The bill establishes pay range 19, which applies to exempt state employees beginning July 1, 2023. An employee assigned to pay range 19 must be paid between \$120,286 annually (\$57.83 per hour) and \$157,643 annually (\$75.79 per hour), depending on the assigned step value (the bill establishes six step values for pay range 19).

The bill also establishes step seven in pay range 17, to begin July 1, 2023. An employee assigned to step value seven in pay range 17 of schedule E-1 must be paid an annual salary of \$137,217 (approximately \$65.97 per hour). However, only a captain in the Highway Patrol may be assigned to step value seven in pay range 17. While other employees paid in accordance with schedule E-1 may be assigned to pay range 17, step values one through six, no other employee paid in accordance with the schedule may be assigned to step value seven.

The bill repeals a requirement established in H.B. 462 of the 134<sup>th</sup> General Assembly, effective April 3, 2023, that the Director of Administrative Services adopt rules establishing pay range 19 and step value seven in pay range 17. Under current law, the rules adopted by the DAS Director must identify the hourly and annual pay for step value seven in range 17, which must be proportionally higher than the hourly and annual pay for step value six. The rules establishing pay range 19 must require an individual be paid a minimum annual salary of \$101,935 up to a maximum annual salary of \$122,465. The rules also must create step values within the range and determine the hourly and annual pay for each step.

The bill prohibits the DAS Director from taking any action with respect to the rule adoption requirements repealed by the bill. It also specifies that the elimination of the rule adoption requirement takes effect July 1, 2023.

The requirement for the DAS Administrator to adopt the pay schedule rules takes effect April 3, 2023, which is before the date the repeal of that requirement and the prohibition

against taking action are to take effect (July 1, 2023). Therefore, the effect of the prohibition against the DAS Director adopting the rules is unclear.

Beginning July 1, 2023, the bill also requires sergeants in the Ohio State Highway Patrol who are paid in accordance with the exempt employee salary schedules, to be paid in accordance with pay range 14 in schedule E-1. Under continuing law, lieutenants, staff lieutenants, captains, majors, and lieutenant colonels in the Highway Patrol, or their equivalents, must be paid in accordance with the following pay ranges from schedule E-1:

- Lieutenant or equivalent officer, pay range 15;
- Staff lieutenant or equivalent officer, pay range 16;
- Captain or equivalent officer, pay range 17;
- Major or equivalent officer, pay range 18;
- Lieutenant colonel or equivalent officer, pay range 19.

Under continuing law, schedule E-1 generally applies to employees who are part of the state job classification plan and who are not considered public employees for purposes of the Public Employees' Collective Bargaining Law.

## **Noncommercial trailer registration**

(R.C. 4503.10, 4503.103, 4503.107, 4503.11, and 4503.191)

The bill requires the Registrar of Motor Vehicles to authorize an owner or a lessee of a noncommercial trailer to register that trailer permanently. Under current law, the owner or lessee of a noncommercial trailer may only register the trailer annually or for up to five years under the multi-year registration program available to most motor vehicles. The owner or lessee of a commercial trailer or semitrailer, however, has a permanent registration option. The bill creates a similar process for noncommercial trailers.

### **Permanent registration costs**

The bill specifies that the one-time cost of a permanent noncommercial trailer registration is:

1. Eight times the annual registration tax for a noncommercial trailer (the annual tax ranges from \$16 to \$140, depending on the unladen weight of the trailer up to 10,000 pounds);<sup>11</sup>
2. Eight times the annual Bureau of Motor Vehicles fee (the annual fee is currently \$11);
3. Eight times the amount of any local motor vehicle taxes (the annual taxes range from \$0 to \$30, depending on the taxes levied in the registrant's jurisdiction);<sup>12</sup> and

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<sup>11</sup> R.C. 4503.04(E), not in the bill.

<sup>12</sup> R.C. Chapter 4504. A local jurisdiction may exempt noncommercial trailers weighing 1,000 pounds or less, at the discretion of the local jurisdiction. R.C. 4504.20, not in the bill.

4. Eight times the deputy registrar/BMV service fee (the fee is currently \$5).

Thus, for example a 5,000-pound trailer with a base annual registration cost of \$70 (\$59 for the annual registration tax plus \$11 for the additional annual BMV fee), plus the maximum amount of local motor vehicle taxes (\$30), plus the \$5 service fee, multiplied by eight, equals \$840 for a permanent registration. If the registrant registers in a jurisdiction without a local motor vehicle tax, the cost for permanent registration would be \$600.

The cost structure is similar to the current law permanent registration for a commercial trailer or semitrailer. By registering the commercial trailer permanently, the owner or lessee of the trailer pays in advance for eight years of registration, but then pays nothing in registration taxes and fees for the rest of the lifetime of the trailer beyond the eight years.

### **Permanent registration requirements**

In addition to paying all required taxes and fees, an owner or lessee must submit a completed application for registration and comply with all other motor vehicle registration requirements. At that point, the Registrar or deputy registrar must issue to the applicant a permanent license plate and a permanent validation sticker. The noncommercial trailer permanent registration is exclusive to the trailer that is registered, and is not transferable to any other trailer. Additionally, the applicant is not entitled to any refund of any taxes or fees that are paid for the permanent registration (e.g., if the noncommercial trailer only lasts for five years, the applicant cannot get a refund for the additional three years of taxes and fees that were paid on it).

### **Military license plate program documentation**

(R.C. 4503.29)

The bill requires the Registrar to accept a county-issued veteran identification card, from a person applying for a military license plate, as documentary evidence of service. Under continuing law, the Director of Veterans Services and the Registrar must: (1) maintain a program to issue specialty license plates recognizing military service and military honors pertaining to valor and service, and (2) jointly adopt rules under the Administrative Procedure Act<sup>13</sup> for the program. Those rules include requirements governing any necessary documentary evidence an applicant must present for a specialty license plate.

The bill specifically requires that the adopted rules, with respect to documentary evidence, must allow an applicant to present a county-issued veteran identification card in lieu of a copy of the applicant's DD-214 or equivalent document. (The DD-214 is the standard armed forces discharge record issued by the U.S. Department of Defense). Under the bill, an applicant still may be required to present additional evidence if the veteran identification card does not show all of the information needed for issuance of the specific specialty license plate requested by the applicant.

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<sup>13</sup> Chapter 119 of the Revised Code.

Continuing law authorizes a board of county commissioners to authorize a county recorder or County Veterans Service Office to issue Ohio veteran identification cards to qualifying individuals. Presentation of an individual's armed forces discharge record is one of the requirements for obtaining the county-issued veteran identification card.<sup>14</sup>

## **Removable windshield placard expiration**

(R.C. 4503.44)

The bill extends the maximum validity period from five years to ten years for a removable windshield placard issued by the BMV to a person with a disability that limits or impairs the ability to walk. Under current law, the BMV issues two types of removable windshield placards: a standard placard that expires up to five years after the date of issuance and a temporary placard that expires within six months. When an applicant applies for a placard, the applicant must turn in a prescription from an authorized health care provider specifying how long the disability is expected to last. The temporary placard is issued to a person whose disability is expected to last for less than six months (for example, a broken leg). The standard placard is issued to a person with a disability that is expected to last longer than six months. Those with either a disability lasting longer than five years or a permanent disability must renew the standard placard every five years.

## **Motor vehicle certificate of title**

(R.C. 4505.131)

Motor vehicles are often purchased through a financing agreement between a purchaser, motor vehicle dealer, and a lender. When a purchaser finances a motor vehicle, the certificate of title for the motor vehicle is recorded electronically into the Automated Title Processing System (ATPS), with the lien for the financing noted on the electronic title. The certificate of title for that motor vehicle remains an electronic document by default, even after the purchaser has paid off the motor vehicle loan in full. A purchaser may request a physical certificate of title in the name of the purchaser from the clerk of court. However, the purchaser must pay an additional \$15 to obtain the physical certificate of title, having paid \$15 previously at the point of sale for the electronic certificate of title.

Under the bill, a purchaser may request a physical certificate of title when the loan obtained to purchase the motor vehicle is paid in full. The lender must send a form to the purchaser upon completion of payments allowing the purchaser to affirmatively choose between receiving a physical title or having the title remain electronic. If the purchaser wishes to have a physical title, the lender must obtain and deliver to the purchaser a physical certificate of title at no extra cost to the purchaser.

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<sup>14</sup> R.C. 317.241, not in the bill.

The process specified above does not apply, however, if the completion of payments is because the purchaser has sold, traded, or otherwise no longer has an ownership interest in the motor vehicle.

## **Third-party motor vehicle history reports**

(R.C. 4517.262)

The bill specifies that a motor vehicle dealer is not liable for the accuracy of information provided by another entity that is contained in a third-party motor vehicle history report (e.g., [Carfax report](#)). This immunity applies when the dealer (including the dealer's agents and employees) provides the report to a purchaser, lessee, or any other third party, in conjunction with a sale, lease, or potential sale or lease of a motor vehicle.

Under the bill, a third-party motor vehicle history report is any formal or informal report prepared by a person other than a motor vehicle dealer that relates to one or more of the following:

- A motor vehicle's current ownership or a motor vehicle's certificate of title transfer history;
- A brand on a motor vehicle's certificate of title;
- A lien on a motor vehicle;
- A motor vehicle's service, maintenance, or repair history;
- A motor vehicle's condition;
- A motor vehicle's accident or collision history; and
- A motor vehicle's mileage.

Current law, unchanged by the bill, requires a person who is selling a motor vehicle at retail or wholesale to execute a contract with the buyer that includes a written description of the motor vehicle, the vehicle identification number, the mileage on the motor vehicle's odometer, a statement declaring the odometer's accuracy, and other terms pertaining to the sale.<sup>15</sup>

## **Daily pre-trip school bus inspections**

(R.C. 4511.765)

The bill requires the Superintendent of Public Instruction, with the advice of the Director of Public Safety, to modify their rules relating to daily pre-trip school bus inspections. The modification must remove the daily check of all of the following equipment before the school bus driver departs to pick up students for the day:

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<sup>15</sup> R.C. 4517.26(A), not in the bill.

1. The turbo charger;
2. The alternator;
3. The belts;
4. The water pump;
5. The power steering pump;
6. The air pump;
7. Any part of the steering system;
8. Any part of the suspension;
9. Any part of the air brakes;
10. Any part of the brake equipment, including drums or rotors;
11. The springs and spring mounts; and
12. The air bags.

The bill specifies that while daily checks are eliminated, the State Highway Patrol must still check all of the above equipment in their regular school bus equipment inspections.

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## LOCAL GOVERNMENT

### Force accounts

- Authorizes a board of county commissioners, a board of township trustees, and the legislative authority of an unchartered municipal corporation (“local authority”) to establish its own force account threshold limits by resolution or ordinance.
- Establishes statutory default force account limits (increased from the limits in current law) for each local authority that apply if the local authority does not establish its own limits.
- Annually increases the statutory force account limits based on the National Highway Construction Cost Index.
- Requires the local authority to report any locally established force account limits to the State Auditor in order to make that limit effective.
- Reduces a local authority’s force account limits to one-third of the local authority’s established limits for one year if that local authority violates those limits, rather than specifying dollar amount reductions as under current law.

### Traffic cameras

- Requires a county or township to only use handheld traffic cameras for civil enforcement of red light or speeding offenses.

### Transportation improvement districts

#### Agreement with a RTA

- Authorizes a transportation improvement district (TID) to enter into an agreement (including a multi-year agreement) with a regional transit authority (RTA) in Hamilton County regarding road and bridge projects in the same manner that counties, municipal corporations, or townships may enter into an agreement with a TID under current law.
- Stipulates that under the agreement:
  - The TID, along with any participating county, municipal corporation, or township, may fund and finance qualifying projects, which are projects involving the construction or maintenance of roads or bridges related to the provision of service by the RTA;
  - The TID may issue bonds to assist in its provision of funding and financing; and
  - The RTA may levy, pledge, and assign sales and use taxes to reimburse the TID for the debt service on qualifying bonds issued by the TID.
- Applies the current law authority, immunity, and responsibilities granted to a TID for other projects to a qualifying project.

- Authorizes a TID to fund and finance projects, in addition to its current law authorization to manage projects directly.
- Authorizes a TID to employ, hire, or otherwise retain the services of auditors.
- Authorizes the qualifying RTA to pledge its sales and use tax revenue to pay debt service on county, municipal, and township bonds to fund qualifying projects.

### **Local government spending**

- Authorizes any county, municipal corporation, or township to make appropriations to pay costs incurred by a TID, rather than only the county, municipal corporations, and townships that are part of the TID as in current law.

### **County cooperation**

- Authorizes a TID to enter into an agreement with the board of county commissioners that created the TID and with the boards of county commissioners of any contiguous group of counties to exercise all powers of the TID with respect to a project that is both of the following:
  - Located partially or wholly within any county that is a party to the agreement; and
  - Partially funded with federal money.

### **TID board of trustees**

- Eliminates the authorization for the Senate President to appoint a nonvoting member to a TID's board of trustees.

### **Regional transportation improvement projects (RTIPs)**

- Authorizes an existing RTIP to enter into a memorandum of understanding with the Department of Transportation concerning improvements within 2,500 feet of the RTIP's right-of-way.
- Allows such an RTIP to exercise certain powers pursuant to that memorandum related to project funding, economic development, the operations of businesses, public-private partnerships, and the acquisition of property by appropriation or otherwise.
- Makes several changes to the procedures and requirements for the creation of a transportation financing district by an RTIP.

### **Aggregate minerals mining zoning**

- Requires a county or township to allow aggregate mineral surface mining activities in any zoning district (i.e., residential, commercial, industrial) as either a permitted use or conditional use when those activities are to be added to an existing mineral mining operation as authorized by a permit issued by the Department of Natural Resources.

## Force accounts

(R.C. 117.16, 723.52, 723.53, 5543.19, and 5575.01)

The bill alters the existing force account laws concerning road, highway, bridge, and culvert construction and repair projects undertaken by a board of county commissioners, a board of township trustees, and the legislative authority of an unchartered municipal corporation (local authority). “Force account” is a term used to establish whether a governmental agency may use its own labor force to complete a project or whether it must use competitive bidding. Otherwise put, a force account threshold is a threshold amount that, once exceeded, a governmental agency must use competitive bidding.

The bill authorizes a local authority to either (1) establish its own force account threshold limits, or (2) to continue to act under statutory force account threshold limits. If the local authority establishes its own limits, it must do so by ordinance or resolution. The local authority may later amend those limits. In order to make those limits effective, the local authority must report the established (or amended) limits to the State Auditor.

If a local authority does not establish its own limits, it must act under the statutory force account threshold limits. However, the bill increases those current statutory limits as follows:

- From \$30,000 per project to \$75,840 per project for an unchartered municipal corporation’s highway projects.
- From \$30,000 per mile to \$78,840 per mile for a county’s highway construction and reconstruction projects.
- From \$100,000 per project to \$252,800 per project for a county’s bridge and culvert construction and reconstruction projects.
- From \$45,000 per project to \$113,760 per project for a township’s road maintenance and repair projects.
- From \$15,000 per mile to \$37,920 per mile for a township’s road construction or reconstruction projects.

The bill automatically increases the statutory limits annually by the percentage amount of any increase in the National Highway Construction Cost Index for the previous calendar year. The ODOT Director must notify each appropriate engineer of the increased amount. Under current law, statutory force account limits are increased biennially by the lesser of 3%, or the percentage amount of any increase in ODOT’s construction cost index as annualized and totaled for the prior two calendar years.

As under current law, a local authority must use the State Auditor force account project assessment form when it undertakes a project by force account. If the State Auditor finds a local authority violated its force account threshold limit, the State Auditor must reduce the force account threshold limits for that local authority for one to two years (based on the number of violations). Under current law, those reductions are specified dollar amounts. The bill instead reduces a local authority’s limits to one-third of its established limits to account for the potential variations between the local limits.

## **Traffic cameras**

(R.C. 4511.093)

The bill restricts the authority of a county or township to operate a traffic law photo-monitoring device (“traffic camera”) for civil enforcement of red light or speeding offenses. Under continuing law, a county or township may operate a civil enforcement program, provided the county or township abides by the statutory regulations and restrictions concerning the program. For example, townships cannot operate traffic cameras on interstate highways. The bill restricts the types of traffic cameras that a township or county may use by limiting them to only handheld cameras.

## **Transportation improvement districts**

### **Agreement with a RTA**

(R.C. 306.353, 5540.01, 5540.03, and 5540.06)

The bill authorizes a transportation improvement district (TID) to enter into an agreement (including a multi-year agreement) with the regional transit authority (RTA) in Hamilton County in order to construct or maintain roads and bridges that relate to the RTA’s provision of services (“qualifying project”). Under current law, a county, municipal corporation, or township (“local government”) may enter into a similar agreement with the RTA. Under the agreement, the TID (along with any other participating local government) agrees to fund and finance the qualifying project. The bill authorizes the TID to issue bonds to assist in that funding and financing. Relatedly, the bill authorizes the RTA to levy, pledge, and assign sales and use taxes in order to reimburse the TID and any other local government for the debt service on the bonds issued by the TID or local government.

An agreement between a TID and the Hamilton County RTA, as authorized by the bill, must go through the same process as agreements for qualifying projects under current law. Namely, the appropriate public works integrating committee must approve the agreement (requiring an affirmative vote of six members of the committee). The committee must notify the RTA of its decision to approve or deny the agreement; and the RTA may only spend funding as authorized under the agreement. The committee also must annually review the agreement (unless it is a multi-year agreement that was previously approved).

In order to ensure the full payment of any bonds issued by the TID (or any other authorized local government), the bill prohibits the RTA and the electors that approve the sales and use tax from repealing, rescinding, or reducing the sales and use tax until the debt service on the bonds is fully paid.

The bill applies the general authority, immunity, and responsibilities granted to a TID for projects under current law to the qualifying project with the RTA. Additionally, it expands a TID’s authority to cooperate with any governmental agencies in the planning, design, acquisition, construction, maintenance, funding, and financing of projects, including the qualifying projects. Finally, it authorizes a TID to employ, hire, or otherwise retain the services of auditors.

## **Local government spending**

(R.C. 5540.02)

The bill authorizes any county, municipal corporation, or township to make appropriations to pay costs that a TID incurs, provided that the money is available for that purpose. Under current law, only the local governments that are part of the TID may make appropriations to support it. The expansion allows other local governments that benefit from, but are not a part of, the TID to share in its costs.

## **County cooperation**

(R.C. 5540.03)

The bill authorizes a TID to enter into an agreement with the board of county commissioners that created the TID and the boards of county commissioners of any contiguous group of counties to exercise the powers of that TID for a project that is both of the following:

1. Located partially or wholly within any county that is a part of the agreement; and
2. Is partially funded with federal money.

Under current law, a TID may enter into an agreement with one contiguous county, but not necessarily a group of counties. As a creature of statute, a TID may only take actions specifically authorized by statute. The bill's expansion specifically enables the Lucas County TID to undertake transportation system improvements that benefit Lucas, Wood, Ottawa, and Sandusky counties, if these counties win a federal Safe Streets and Roads for All grant.

## **TID board of trustees**

(Section 5540.02)

The bill eliminates the authorization for the Senate President to appoint a nonvoting member to a TID's board of trustees. Under continuing law, a TID board of trustees is structured in one of two ways. In both structures, the President of the Senate may, but is not required to, appoint a nonvoting member to the board. The bill removes the Senate appointment entirely, but retains the Speaker of the House's potential appointee.

## **Regional transportation improvement projects (RTIPs)**

Continuing law authorizes the boards of county commissioners of two or more counties to enter into a cooperative agreement creating a regional transportation improvement project (RTIP). The purpose of an RTIP is to undertake transportation improvements within the participating counties. The agreement governs the scope of the project and includes a comprehensive plan for its completion. The only existing RTIP encompasses Carroll, Columbiana, and Stark counties.

The bill makes several changes to RTIPs and the special financing districts that counties participating in an RTIP may create to generate funding for projects.

## **Memorandum of understanding with Department of Transportation**

(R.C. 4504.22, 5595.01, 5595.03, 5595.04, 5595.041, 5595.042, 5595.05, 5595.06, 5595.11, 5709.481, and 5709.50)

The bill allows the governing board of an RTIP formed before the bill's 90-day effective date ("qualified RTIP"), to negotiate and enter into a memorandum of understanding with the Department of Transportation (ODOT) concerning infrastructure improvements and economic development activities that are at least partially funded by private sources and are in close proximity to the RTIP right-of-way ("opportunity corridor improvements").

A qualified RTIP that enters into a memorandum of understanding with ODOT, in addition to all current authority an RTIP possesses, may do any or all of the following:

- Purchase property located within the RTIP "development area," i.e., the area within 2,500 feet of RTIP right-of-way and in which opportunity corridor improvements may be undertaken, except by eminent domain, for use by the RTIP board for transportation or opportunity corridor improvements.
- Appropriate property, through eminent domain, within the RTIP right-of-way exclusively for a transportation improvement described in the memorandum of understanding, provided the appropriation authority is also described in the memorandum. The board is explicitly prohibited from appropriating property under current law.
- Receive and reinvest funds from the development area.
- Contract for the use of digitalized procurement planning and permitting systems.
- Request and receive grants and private contributions.
- Establish, acquire, own, control, manage, sell, or transfer businesses.
- Form and manage public-private enterprises, i.e., private corporations, jointly owned by the RTIP board and a private party, to manage opportunity corridor improvements, subject to the approval of ODOT.
- Enter into an agreement with the Ohio Academic Resource Network for the purpose of establishing, expanding, or improving broadband or other digital services in the development area.

While not specifically intertwined with a memorandum of understanding, the bill also allows revenue sources of a qualified RTIP authorized under continuing law to be used for opportunity corridor improvements and clarifies that land within the RTIP development may be exempted from property taxation and subject to payments in lieu of taxes (PILOTs) by a municipal corporation, township, or county under continuing tax increment financing (TIF) law.

## **Transportation financing districts (TFDs)**

(R.C. 5709.48, 5709.49, 5709.50, and 5709.83; Section 803.20)

Counties participating in an RTIP may create a transportation financing district (TFD) that, similar to a TIF incentive district, generates funding for projects by exempting the increase

in assessed value of property in the district from taxation and collecting service payments from property owners. Service payments may be used in furtherance of the RTIP and in accordance with the cooperative agreement and, as authorized by the bill, any memorandum of understanding.

The bill makes several changes to TFDs. First, the bill requires that a TFD must generally include all of the territory of the counties participating in the RTIP. Under current law, a TFD may, but is not required to, include territory from all of the participating counties. Under continuing law, which the bill retains, a TFD may not include residential property or property that is already exempt under a TIF arrangement.

Second, the bill requires that the RTIP governing board enter into an agreement with each property owner whose property will be included in the TFD. Under current law, the board must get the approval of all property owners, but is not required to enter into a formal agreement with each owner. Under the bill, each agreement must specify the projects and purposes for which the owner's service payments will be used. If an owner refuses to enter into an agreement, the owner's property must be excluded from the TFD.

Third, the bill aligns the notice and approval requirements for creating TFD with those that apply to a TIF arrangement. Specifically, the bill eliminates a requirement that all taxing districts within the territory of a proposed TFD approve its creation. Instead, similar to the creation of a TIF, only the approval of school districts within the territory is required, and only if the proposed exemption is greater than 75% or longer than ten years. In lieu of seeking school district approval, the RTIP may agree to fully compensate school districts for their resulting revenue loss or, similar to current law, a district may negotiate a compensation agreement in exchange for its approval. A school district may also waive its right to approve TFDs.

The bill's TFD changes apply to any resolution granting a TFD tax exemption adopted on or after the bill's 90-day effective date.

## **Aggregate minerals mining zoning**

(R.C. 303.02 and 519.02)

The bill requires a county or township to allow aggregate mineral surface mining activities in any zoning district (i.e., residential, commercial, industrial) as either a permitted use or conditional use through the board of zoning appeals when both of the following apply:

1. The county or township has authorized a zoning resolution for the aggregate mineral mining operation; and
2. The activities to be conducted by the operation are authorized by a permit issued by the Department of Natural Resources.

The bill retains current law's specification that if a county or township intends to regulate aggregate minerals surface mining through a zoning resolution, it can only do so in the interest of public health or safety.

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## DEPARTMENT OF TAXATION

### Motor fuel tax allowances and refunds

- Continues the 1% fuel dealer and 0.5% retailer shrinkage allowances in effect biennially since 2008, superseding the 3% and 1% allowances in permanent codified law.

### Motor fuel tax allowances and refunds

(Section 757.20)

Since FY 2008, each motor fuel dealer that properly files and pays monthly motor fuel excise taxes may deduct from the payment the tax otherwise due on 1% of the fuel the dealer received, minus 0.5% of the fuel sold to retail dealers.<sup>16</sup> This allowance is to cover the costs of filing the report and to compensate for evaporation, shrinkage, and other “unaccounted for” losses. Under permanent codified law, however, the percentages are 3% and 1%, respectively.<sup>17</sup> But each of the last eight transportation appropriation acts reduced the 3% discount to 1% (minus 0.5% of fuel sold to retail dealers). The bill continues the allowance at the reduced 1% level throughout the FY 2024-2025 biennium.

Retail fuel dealers who have purchased fuel on which the excise tax has been paid may receive a refund to account for evaporation and shrinkage.<sup>18</sup> In permanent codified law, the refund equals 1% of the taxes paid on the fuel each semiannual period. But, as with the dealer shrinkage allowance, the retailer refund has been reduced to 0.5% for each fiscal year from 2008 through 2023 by uncodified provisions in the last eight transportation appropriation acts. The act continues the reduced percentage at this level through the FY 2024-2025 biennium.

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## HISTORY

Action	Date
Introduced	02-15-23
Reported, H. Finance	03-01-23
Passed House (74-21)	03-01-23
Reported, S. Transportation	03-23-23
Passed Senate (30-0)	03-23-23

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<sup>16</sup> Section 757.20 of H.B. 74 of the 134<sup>th</sup> General Assembly.

<sup>17</sup> R.C. 5735.06(B)(1)(c), not in the bill.

<sup>18</sup> R.C. 5735.141, not in the bill.