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# OHIO LEGISLATIVE SERVICE COMMISSION

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**H.B. 62**  
**133rd General Assembly**

## Bill Analysis

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## Department of Taxation

### Motor fuel excise tax

- Increases the per-gallon rates of the motor fuel excise tax and the motor fuel use tax by 6¢, from 28¢ to 34¢, on July 1, 2019.
- Extends the taxes, over a five-year phase-in, to compressed natural gas (CNG) that is held in high-pressure containers at a pressure of at least 2,900 PSI and used to propel vehicles on public roads.
- Maintains current revenue distribution proportions and amounts for revenue derived from the first 28¢ of the per-gallon rate.
- Allocates 55% of the revenue from the rate increases to the state (Highway Operating Fund) and 45% to local governments (Gasoline Excise Tax Fund), with the local shares being divided among counties, townships, and municipalities in the same proportions as current law.
- 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.
- Increases the refund for fuel used in transit, school, and county developmental disabilities board buses by the same amount implied by the increase in the tax rate.
- Extends the existing motor fuel tax refunds for transit systems, school districts, and county developmental disabilities boards to persons contracting with them to provide services on their behalf.

### Motor fuel tax notices

- Requires certain information related to federal and state motor fuel tax rates to be displayed at retail gas stations.

- Requires the Director of Agriculture to design and produce official notices displaying that information in accordance with the bill's specifications, which are to be affixed on fuel pumps by local sealers who are responsible for inspecting the pumps.

### **Use of motor fuel tax revenue**

- States that motor fuel tax revenue "shall be used for construction, maintenance, and repair of roads and bridges, the operational costs of applicable state agencies, or used to match other revenue for these purposes."
- Requires that the amount deposited to the Motor Fuel Tax Administration Fund be determined by appropriation rather than as a percentage of motor fuel tax receipts.

### **Transit authority: tax levy and agreements to fund infrastructure**

- Authorizes a regional transit authority in a county with population between 750,000, and 900,000 (Hamilton County) to levy a tax specifically to fund road and bridge infrastructure projects.
- Requires that, after levying such a tax, a regional transit authority must enter into agreements with counties, municipalities, and townships to fund such projects.
- Establishes the following procedure to implement the infrastructure agreement: (1) the authority must submit the agreement to its public works district integrating committee, (2) the integrating committee must vote to approve or deny the agreement, and (3) if approved, the authority must expend funds only as authorized in the agreement.
- Requires the integrating committee to have six votes to approve such an infrastructure agreement.

### **Earned income tax credit**

- Removes a mechanism limiting the state earned income tax credit (EITC) to not more than 50% of the taxpayer's income tax liability if the taxpayer's taxable income exceeds \$20,000.
- Increases the state EITC credit amount from 10% to 30% of the taxpayer's federal EITC.

### **Use of joint ambulance district funds**

- Specifically authorizes a joint ambulance district to construct, or enter into a lease-purchase agreement to acquire, buildings or equipment necessary for the district.

### **Motor fuel excise tax**

(R.C. 5735.01, 5735.011, 5735.05, 5735.051, 5735.053, 5735.142, 5735.27, and 5736.01; Sections 757.20, 757.30, 757.40, 757.70, and 812.30)

The motor fuel excise tax is currently levied at the rate of 28¢ per gallon and applies to gasoline, diesel, kerosene (other than K-1 grade), and all other liquid fuels, including liquid natural gas and liquid petroleum gas. Nearly all the revenue is devoted, by constitutional command, solely to road and highway purposes including construction, maintenance, signals

and signs and other traffic control systems, various other highway related purposes, and to retiring debt issued for such purposes. A small percentage of the revenue (1%) is attributed by law to tax-paid fuel for boats or other water-going vessels, and that part of the revenue is used for various waterway-related purposes. The tax is paid primarily by wholesale distributors (“dealers”).

### **Rate**

(R.C. 5735.05)

The bill increases the per-gallon tax rate to 34¢ per gallon beginning July 1, 2019.

### **Motor fuel use tax**

The state’s motor fuel use tax rate will increase by the same amount by operation of law. The fuel use tax applies to fuel purchased outside Ohio but used within the state by large commercial trucks – i.e., trucks with at least three axles or weighing more than 26,000 pounds, and commercial tractors (trucks used to pull semi-trailers).<sup>1</sup>

### **Addition to tax base**

(R.C. 5735.01(JJ), 5735.011, and 5735.05)

The bill extends the tax to compressed natural gas (CNG) that is held in high-pressure containers at a pressure of at least 2,900 PSI and used to propel vehicles on public roads or on waterways. The tax will apply to diesel gallon equivalents of CNG. The diesel gallon equivalent standard is 139.30 cubic feet or 6.38 pounds.

The tax rate for CNG would eventually, in 2023, equal the 34¢ per-gallon rate the bill applies to gasoline, diesel, and other fuels, but the rate would phase in over five fiscal years, beginning with FY 2020, as follows: 7¢ in FY 2020, 14¢ in FY 2021, 21¢ in FY 2022, 28¢ in FY 2023, and 34¢ in FY 2024 and thereafter.

Since the petroleum activity tax (PAT) base is linked to the kinds of fuel subject to the motor fuel tax, adding a new kind of fuel to the motor fuel tax base implicitly adds it to the PAT base, so CNG becomes part of the PAT base. Also, adding CNG to the motor fuel excise tax base removes CNG, by implication, from the commercial activity tax (CAT) base (see R.C. 5751.01(F)(2)(r)). The CAT rate is 0.26% of gross receipts from all transactions throughout the distribution chain; the PAT rate is 0.65% on a single transaction along the distribution chain.

### **Revenue distribution**

(R.C. 5735.051 and 5735.27)

Revenue generated from the first 28¢ per gallon of the motor fuel excise tax rate will be distributed among state funds and among local governments in the same proportions as under current law. In fiscal year 2018, approximately 56% of the revenue was credited to the Highway Operating Fund (HOF), which is the primary state source of road and highway funding; about 6% was committed to highway debt service; and 2.75% was for transportation-related spending by various state agencies other than the Department of Transportation. About 31.5% of the

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<sup>1</sup> See, R.C. Chapter 5728, not in the bill.

revenue was distributed by statutory formula among counties, townships, and municipal corporations through the Gasoline Excise Tax Fund. An additional 3.4% of the revenue was devoted to local funding of roads and bridges through the state's local infrastructure program (LTIP) on a grant basis. Some of the revenue initially credited to the HOF has, since 2003, been circulated back to local governments in uncodified law as funding for the Department of Public Safety was shifted off the fuel tax (in the bill, this is continued into the FY 2020-2021 biennium by Section 757.30).

Revenue generated from the bill's rate increase – after subtracting amounts issued in refunds, reserved for waterway-related purposes, and for the Motor Fuel Tax Administration Fund – will be divided as follows: 55% to the HOF and 45% to the Gasoline Excise Tax Fund. The additional 2% of total revenue that the bill credits to the HOF before any other transfers would apply only to the revenue derived from the 28¢ portion (see Section 757.10 of the bill).

The local portion of the new motor fuel excise tax revenue will be divided among the three classes of political subdivisions in the same proportions that apply under current law: 42.86% to municipal corporations, 37.14% to counties, and 20% to townships. As under current law, the municipal corporation share is divided proportionally by vehicle registrations and the county share is divided equally among counties.

The township share of the additional revenue would be allocated in a manner closely approximating the current township distribution, with 52% of the township share being allocated in equal 1/1,308 shares (there being 1,308 townships) and 48% in such a fashion that each township receives the greater of (1) what it would receive of the additional township share if it were allocated equally among all 1,308 townships, or (2) 70% of what the township would receive if one-half of the additional township share were allocated in proportion to township road mileage and one-half in proportion to township vehicle registrations. (The latter amount is known as the "formula amount" or "large township" share because townships with larger territory or populations tend to receive more than if the revenue were allocated in equal amounts.)

### **Allowances, discounts, and refunds**

(Section 757.20)

Current law governing the motor fuel tax permits each motor fuel dealer that properly files and pays monthly taxes to deduct the tax due on 1% of the fuel the dealer received, minus 0.5% of the fuel sold to retail dealers.<sup>2</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>3</sup> But each of the last six transportation appropriation acts reduced the 3% discount to 1% (minus 0.50% of fuel sold to retail dealers) for each year since FY 2008. The bill continues the allowance at the reduced 1% level throughout the FY 2020-2021 biennium.

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<sup>2</sup> Section 757.20 of H.B. 26 of the 132<sup>nd</sup> General Assembly.

<sup>3</sup> R.C. 5735.06(B)(1)(c), not in the bill.

Current law also grants a refund to retail fuel dealers who have purchased fuel on which the excise tax has been paid to account for evaporation and shrinkage.<sup>4</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 2019 by uncodified provisions in the last six transportation appropriation acts. The bill continues the reduced percentage at this level through the FY 2020-2021 biennium.

### **Transit and school buses**

(R.C. 5735.142)

Under current law, transit systems, school districts, and county developmental disability boards are entitled to refunds for a portion of the fuel excise tax that was paid on the fuel used by those entities in their operations. The refunds are not assignable to any other person. Transit systems are refunded 27¢ per gallon of the 28¢ per gallon tax, while school districts and developmental disability boards are refunded 6¢ per gallon (i.e., the amount by which the tax rate was last increased, between 2003 to 2005).

The bill increases the refund amounts for these entities by the same amount implied by the increase in the motor fuel excise tax rate. Consequently, transit systems will continue to absorb 1¢ per gallon of fuel (after the refund) and school districts and developmental disability boards will continue to absorb 22¢ per gallon, but will not absorb any of the bill's rate increase.

### **Contractor refund**

(R.C. 5735.142)

The bill extends the refund currently available for transit systems, school districts, and county DD boards to persons contracting with those agencies to perform the agency's operations on the agency's behalf. Such a contractor is entitled to claim a refund for the tax paid on fuel used by the contractor in performing agency operations under the contract. The refund amount is the same amount as the agency's refund: in the case of a transit system, all but 1¢ per gallon, and in the case of a school district or county DD board, all but 22¢ per gallon.

As with the agencies themselves, a contractor must apply to the Department of Taxation for the refund and may not claim a refund for less than 100 gallons.

### **Motor fuel tax notices**

(R.C. 5735.50; Section 757.90)

The bill requires the following information to be displayed at a retail gas station: (1) the federal and state excise taxes imposed on each gallon of gasoline and diesel fuel, (2) the last date the state rate was changed, and (3) the ranking of Ohio's tax rate compared to the rate of motor fuel excise taxes levied in other states. This information would have to be displayed in one of the following manners, as chosen by the gas station's owner:

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<sup>4</sup> R.C. 5735.141, not in the bill.

1. The information would appear either on video monitors visible to fuel pump users, on customer receipts, or on a notice displayed conspicuously at the entrance to the service station;
2. An official notice containing the information would be produced by the Department of Agriculture and affixed on the gas station's fuel pumps by local officials who currently are charged with inspecting those pumps, i.e., a county auditor or municipal sealer (collectively referred to herein as "local sealers").

With regard to the official notices, the Director of Agriculture would design and produce them according to specifications prescribed by the bill, and the first notices would have to be produced within 90 days after the provision's effective date.

After calculating, with the assistance of the Tax Commissioner, the tax data to be included on the notices, the Director must produce the notices and notify local sealers. Upon the order of each sealer, the Director must deliver enough to allow the notices to be placed on each retail service pump that the sealer is charged with inspecting, except pumps at those stations that opt to display the tax data by any of the three alternate means described in the first option detailed above.

The Director must update the notices after a change in the state or federal motor fuel tax rate, and each local sealer must affix the notices within 14 months after receiving them from the Director. However, if a motor fuel tax rate changes within six months after another rate change, the sealer is only required to affix a notice that reflects the effects of both changes within 14 months after the second change.

A sealer is required to replace a notice if it becomes unreadable or if the same notice has been displayed on a pump for three years. The sealer may obtain additional notices from the Director upon request. A gas station operator is not liable for affixing or maintaining the notices.

The bill prescribes several design attributes of the official notice. For example, the bill specifies its minimum dimensions (neither side can be greater than 4½" or less than 3½") and several visual requirements, e.g., how information is to be arranged and the colors that may be displayed on the notice (red, white, or blue). The notice, in addition to required motor fuel tax data, also must display the state seal, and include the statement "This notice is required by the Ohio Fuel Transparency Act, O.R.C. 5735.50." The bill prohibits the notice from displaying any information other than that prescribed by the bill, including the names of a public official or state agency.

## **Use of motor fuel tax revenue**

(R.C. 5735.05(F))

The bill states that motor fuel excise tax (MFT) revenue "shall be used for construction, maintenance, and repair of roads and bridges, the operational costs of applicable state agencies, or used to match other revenue for these purposes." It is unclear whether and to what extent this provision may affect the manner in which current law and the bill otherwise allocate MFT revenue. For example, the bill authorizes the use of some MFT revenue to match federal revenue for public transportation. Additionally, current law authorizes the use of motor

fuel taxes to fund railroad grade crossings and to fund harbor and boat ramp construction and maintenance activities of the Department of Natural Resources.

### **Tax Administration Fund**

(R.C. 5735.053)

Under current law, 0.275% of motor fuel tax receipts are credited to the Motor Fuel Tax Administration Fund and used to pay the expenses of the Department of Taxation in administering the tax. The bill instead requires that the amount deposited to the Fund be determined by appropriation and transferred to the fund in equal monthly amounts.

### **Transit authority: tax levy and agreements to fund infrastructure**

(R.C. 306.353, 306.70, and 5739.023; Section 703.71)

The bill authorizes a regional transit authority (RTA) to levy a sales tax specifically to fund road and bridge infrastructure projects related to its operations. The authority applies only to a county with a population of between 750,000 and 900,000 (currently only Hamilton County).

Under continuing law, a transit authority may levy a sales tax within its territory. (The tax “piggy-backs” on the state sales tax.) The authority may levy the tax, at a rate of up to 1.5%, to raise general revenue, to fund a regional transportation improvement project (RTIP), or both. The bill adds that, in addition to those purposes, an RTA may also levy a tax for the express purpose of funding road and bridge construction or maintenance projects, provided that funding such projects is not the sole purpose of the tax. Projects may involve the construction or maintenance of county, municipal, or township roads and bridges related to the RTA’s provision of service.

### **Project agreements with local governments**

Once an RTA levies a tax specifically for infrastructure projects, the RTA must enter into one or more agreements with counties, municipalities, or townships located within the RTA’s territory to fund the projects. The bill establishes the following procedure to implement such agreements:

1. The transit authority must submit each agreement to the appropriate public works integrating committee;
2. The integrating committee must, on at least an annual basis, review and then either approve or deny those submitted agreements;
3. The integrating committee must notify the transit authority about the approval or denial;
4. If approved, the transit authority may expend the funds, but only as authorized in the agreement. No funds may be spent before the agreement is entered into.

In addition, the bill specifies that only six members of the integrating committee are required to approve an infrastructure agreement.

## **Tax levy resolution and ballot language**

If an RTA proposes a tax that will, in part, fund infrastructure projects, the ballot language proposing the tax must state that information. In that ballot language, and in the resolution proposing the tax, a transit authority may also specify the percentage of tax revenue that will be allocated among a tax levy's several purposes (i.e., general revenue, RTIPs, and/or infrastructure projects). If a portion of the tax proceeds will be used as general revenue, the resolution and ballot may also specify the percentage of such revenue that will be allocated to specific functions, projects, and other activities of the transit authority.

### **Application to projects funded by other means**

The bill states that its provision authorizing a tax levy specifically for infrastructure projects is not intended to prohibit RTAs that do not levy such a specific-purpose tax from spending general revenue on infrastructure projects, when otherwise authorized by law.

## **Earned income tax credit**

(R.C. 5747.71; Section 757.100)

The bill makes two modifications to an existing income tax credit based on the taxpayer's federal earned income tax credit (EITC). Under current law, the state EITC is nonrefundable and equals 10% of the taxpayer's federal EITC. If the taxpayer's individual or joint Ohio adjusted gross income exceeds \$20,000, then the credit may not exceed 50% of the taxpayer's tax liability.

The bill removes this 50% limitation and increases the allowable credit from 10% to 30% of the taxpayer's federal EITC. The credit remains nonrefundable.

The changes apply to taxable years beginning on or after January 1, 2019.

## **Use of joint ambulance district funds**

(R.C. 505.267 and 505.71)

The bill specifically authorizes a joint ambulance district to use its tax revenue to construct, or enter into a lease-purchase agreement to acquire, buildings or equipment necessary for the district.

Under current law, a joint ambulance district may use its funds to "purchase, lease, maintain, and use" buildings and equipment. By comparison, other districts – including joint fire districts, township fire districts, and joint police districts – may use funds for those purposes and also for constructing property or acquiring property through a lease-purchase agreement. The bill extends the ability to use funds for these latter purposes to joint ambulance districts.

Joint ambulance districts may be created by a combination of townships and municipal corporations. The districts are taxing authorities that may levy property taxes and incur debt, similar to those other joint districts.

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## **Department of Transportation (ODOT)**

### **Speed limits**

- Requires any changes to speed limits that are established in statute (because the statutory speed limit is either too high or too low for a particular location) to be based on criteria established by an engineering study, as defined by the Director, rather than by specific types of studies as required under current law.
- Makes clarifying changes to the statutory speed limits, including consolidating a repetitive speed limit and creating consistency in the language and terminology.

### **Overweight vehicles**

- Removes the 150-mile radius restriction for travel under a special regional heavy hauling permit, thus allowing vehicles under the permit to travel further distances that exceed standard size and weight restrictions.
- Makes permanent a current temporary exemption from statutory vehicle size and weight limits that applies to towing vehicles that are traveling to or returning from removing a motor vehicle from an emergency on a public highway.
- Requires the Director to conduct a study of the fees associated with overweight vehicle permits and the general impact of overweight vehicles on Ohio's infrastructure.
- Requires the Director to submit, to the Governor, the Speaker of the House of Representatives, and the President of the Senate by October 1, 2019, a report of the study's findings and recommendations for changes to the existing permit fee structure.

### **Ohio's Road to Our Future Joint Legislative Study Committee**

- Creates the Ohio's Road to Our Future Joint Legislative Study Committee, composed of five members from the Senate and five members from the House of Representatives (three majority members and two minority members from each chamber).
- Requires the Study Committee to review ODOT's sources of revenue, expense mitigation, technology, finance techniques, asset leverage and conditions, and employee demographics.
- Requires the Study Committee to conduct a variety of studies and analyses to assist in the overall review, as described above.
- Requires the Study Committee, by October 1, 2019, to prepare and submit a report and then present the report to the President of the Senate and the Speaker of the House of Representatives.

### **ODOT study of the Ohio River's economic impact**

- Requires the ODOT Director to conduct a study of the Ohio River's economic impact on Ohio, including determining the amount of steel, fertilizer, and coal that is delivered by barges that travel on the Ohio River.

- Requires the Director to submit a report of the study's findings to the Governor, the Speaker of the House of Representatives, and the President of the Senate within 180 days after the bill's effective date.

## **Highway construction, maintenance, and snow removal**

- Requires ODOT to install, if the Director determines it necessary, devices in construction areas that intentionally slow down traffic, such as arrow boards, channelizing devices, and rumble strips.
- Permits the Director to provide road salt (at the Director's purchase price) to a political subdivision under specified circumstances.
- Permits the Director to remove snow and ice from, and to maintain, repair, improve, or provide lighting on, interstate highways located within a municipal corporation or to reimburse a municipal corporation for such improvements.
- Authorizes money in the Roadwork Development Fund to be used by the Development Services Agency for the construction and maintenance of public roads that provide or improve access to tourism attractions.

## **Performance audit of ODOT**

- Requires the State Auditor to provide for the completion of a performance audit of ODOT by January 1, 2020.

## **Court proceedings**

- Specifies that the Director need not produce, for evidence in a court, an original electronic record, plan, drawing, or other document (in addition to an exemption for nonelectronic original items, as in current law).
- Eliminates the presumed authorization to depose the Director in all pending lawsuits. (Currently, the Director may be deposed in all such suits as long as the deposition takes place at the Director's office.)

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

- Authorizes the Director to enter into IDIQ contracts for up to two projects in fiscal years 2020 and 2021.
- 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.

## **Memorial highway designations**

- Designates the "SFC Charles E. Carpenter Memorial Highway."
- Designates the "Patrolman Mathew J. Mazany Memorial Highway."
- Designates the "SFC John E. Conger, Jr. Memorial Highway."

## **Speed limits**

(R.C. 4511.21)

Under the bill, when ODOT or a local authority seeks to alter a speed limit established in statute, the bill requires the change be based on criteria established by an engineering study, as defined by the Director. Current law requires changes to statutory speed limits to be based on either a “geometric and traffic characteristic study” or an “engineering and traffic investigation.” Current law neither defines the study or the investigation nor specifies the differences, if any, between the two concepts. Thus, the bill standardizes the method of determining whether a change in the statutory speed limit is appropriate for a particular location. Under current law, unchanged by the bill, the Director or a local authority with the Director’s approval may raise or lower a speed limit if local conditions make the current speed limit either greater or less than is reasonable or safe.

The bill also makes clarifying changes to the statutory speed limits. The changes include consolidating a repetitive speed limit and creating consistency in the language and terminology.

## **Special regional heavy hauling permit**

(R.C. 4513.34)

The bill removes the mileage restriction for a special regional heavy hauling permit. Under current law, a person may apply in writing to the Director (if traveling on state highways) or to a local authority (if traveling on highways within the authority’s jurisdiction) for a special regional heavy hauling permit. The permit allows the applicant to drive a vehicle or combination of vehicles that exceed the standard size or weight restrictions on any highway under the jurisdiction of the authority granting the permit, except highways that cannot bear the excess weight of the vehicle or vehicles. The permit restricts the permit holder to highways that are within 150 miles from the applicant’s point of origin. The Director or local authority must issue a special regional heavy hauling permit to any applicant, provided the applicant pays the established fee for the permit.

The bill removes the 150-mile-radius restriction for a special regional heavy hauling permit. Thus, permittees may travel greater distances with vehicles that exceed standard size and weight restrictions.

## **Size and weight exemptions for towing vehicles**

(R.C. 5577.15)

The bill makes permanent a temporary exemption from statutory vehicle size and weight limits that applies to certain towing vehicles – ones that are traveling to and returning from removing a motor vehicle from an emergency on a public highway. Specifically, those size and weight limitations do not apply in any of the following circumstances:

1. When a person is engaged in the initial towing or removal of a wrecked or disabled motor vehicle from the site of an emergency on a public highway to the nearest storage facility or qualified repair facility;
2. When the person is en route to the site of an emergency on a public highway to tow a wrecked or disabled motor vehicle; or

3. When the person is returning from delivering a wrecked or disabled motor vehicle to the nearest storage facility or qualified repair facility after removing the motor vehicle from the site of an emergency on a public highway.

Prior to the temporary exemption (which is scheduled to expire on June 30, 2019), the law only provided an exemption from the statutory vehicle size and weight limits for a towing vehicle while the vehicle was engaged in the scenario in (1), but not the scenarios in (2) or (3). Thus, a towing vehicle was exempt while towing the wrecked or disabled vehicle, but not while traveling to the emergency or returning back to its “home” location.

## **ODOT study on overweight vehicles**

(Section 755.80)

The bill requires the Director to conduct a study of the fees charged for overweight vehicle permits, and the general impact of overweight vehicles on Ohio’s infrastructure. The Director must determine all of the following:

1. The additional highway, bridge, and safety infrastructure design requirements (and their associated costs) that are needed because of the operation of overweight vehicles;
2. The extent of the wear that overweight vehicles cause on roads, bridges, and safety infrastructure;
3. The overall construction and maintenance costs associated with overweight vehicles; and
4. Whether the current permit fees are sufficient to pay for the additional highway, bridge, and safety infrastructure costs caused by the operation of overweight vehicles, and if not sufficient, the amount the fees need to be increased to offset those additional costs.

The bill also requires the Director to submit to the Governor, the Speaker of the House of Representatives, and the President of the Senate by October 1, 2019, a report of the study’s findings and recommendations for changes to the existing permit fee structure.

## **Ohio’s Road to Our Future Joint Legislative Study Committee**

(Section 755.20)

The bill creates the Ohio’s Road to Our Future Joint Legislative Study Committee consisting of the following ten members:

1. Five Senate members, appointed by the President of the Senate (three majority party members and two minority party members – the President must appoint one of those members to be a co-chairperson); and
2. Five House of Representative members appointed by the Speaker (three majority party members and two minority party members – the Speaker must appoint one of those members to be a co-chairperson).

ODOT must provide the Study Committee with any administrative assistance the Study Committee requests.

## **Purpose and duties of the Study Committee**

The purpose of the Study Committee is to review all of the following as they pertain to ODOT:

1. Alternative sources of revenue;
2. Expense mitigation;
3. Evolving technology;
4. Exploration of innovative finance techniques;
5. Asset leverage and conditions;
6. The demographics of employees within ODOT.

To accomplish the purpose of the Study Committee, the Study Committee must conduct all of the following:

1. An analysis of the future needs of ODOT and the state's infrastructure, including local infrastructure;
2. An analysis of all ODOT personnel, with an emphasis on future retirements and possible attrition. The analysis must include a list of technology that will provide greater efficiency for ODOT;
3. A cost-benefit analysis of leasing vehicles versus purchasing vehicles weighing more than 12,000 pounds gross vehicle weight;
4. A cost-benefit analysis of leasing versus purchasing construction equipment that has a lifespan of five years or more;
5. A review of evolving technology and its incorporation into the traditional engineering and infrastructure solutions, as applied to planning, capacity enhancement, risk management, system operations, safety, and system reliability;
6. An analysis of ODOT's debt policies, structures, and practices;
7. An analysis of methods for leveraging state assets, including cell towers, light poles, rights-of-way, rest areas, buildings, and garages. The analysis must include the methods ODOT is currently using to leverage its assets and whether there are any impediments to that leveraging, such as restrictions in advertising, constraints in renting spaces, or other impediments;
8. An analysis of all ODOT – maintained transportation systems. The analysis must include all of the following:
  - An inventory of the structure ratings versus ODOT's target ratings;
  - The urban, rural, general, and priority pavement condition ratings versus ODOT's target ratings; and
  - A cost analysis of the funds that are necessary to maintain, improve, and expand the current transportation system under ODOT's jurisdiction.

9. An analysis of using a vehicle-miles-traveled approach to transportation funding in Ohio and the feasibility of starting a pilot program or fully using the vehicle-miles-traveled approach in Ohio;
10. A review of ODOT's functions and whether those functions accomplish and further ODOT's mission.

### **Submission of Study Committee's report**

The Study Committee, by October 1, 2019, must complete a report of its findings. After completion, the Study Committee must present the report to the Speaker of the House and the President of the Senate. Once the report is presented, the Study Committee ceases to exist.

### **ODOT study of the Ohio River's economic impact**

(Section 755.70)

The bill requires the Director to conduct a study of Ohio River's economic impact on the state of Ohio. As part of the study, the Director must do the following:

1. Determine the tonnage of steel and fertilizer delivered by barges on the Ohio River;
2. Determine the tonnage of coal delivered by barges that travel on the Ohio River, and the megawatt capacity generated by that coal.

The Director must submit a report of the study's findings to the Governor, the Speaker of the House of Representatives, and the President of the Senate within 180 days after the bill's effective date.

### **Rumble strips in construction areas**

(R.C. 5517.07)

The bill requires ODOT to install the following in construction zones if the Director determines it is appropriate and if not already present: signs and other traffic control devices, including arrow boards, channelizing devices, temporary raise pavement markers, portable changeable message signs, temporary traffic barriers, screens, and rumble strips. The requirement codifies current ODOT practices for traffic control in construction zones.

### **Excess road salt**

(R.C. 5501.41)

The bill permits the Director to provide road salt to a political subdivision if all of the following apply:

1. The Director has excess road salt;
2. The political subdivision is unable to acquire road salt; and
3. The political subdivision is in an emergency situation.

The bill requires the Director to seek reimbursement for any road salt provided to a political subdivision for the same price at which the Director purchased the road salt. Current law permits the Director to remove snow and ice from state highways (including state highways within a municipal corporation, if the Director receives prior consent from the municipal

corporation's legislative authority). Otherwise, each political subdivision is responsible for snow and ice removal in its respective jurisdiction (i.e., a board of county commissioners is responsible for county roads, a board of township trustees is responsible for township roads, etc.).

## **Maintenance of interstate highways**

(Section 203.70)

The bill permits the Director to remove snow and ice from and to maintain, repair, improve, or provide lighting on interstate highways located within the boundaries of a municipal corporation in order to meet federal highway requirements. Additionally, if there is a written agreement between the Director and the legislative authority of the municipal corporation, ODOT may reimburse that municipal corporation for all or part of the costs incurred by the municipal corporation in making the described improvements to the interstate highways in their boundaries. This permissive authority is an extension of the authority granted to the Director in 2017 in H.B. 26 of the 132<sup>nd</sup> General Assembly (the prior transportation budget).

## **Roadwork Development Fund**

(R.C. 122.14)

The bill authorizes the Development Services Agency to use money from the Roadwork Development Fund for the construction, reconstruction, maintenance, or repair of public roads that provide or improve access to tourism attractions. The overall purpose of the Fund is to make road improvements associated with retaining and attracting business for Ohio. Current law specifies that the Fund may be used towards public roads that provide access to a public airport or are located within a public airport. The money in the Fund comes from the Highway Operating Fund.

## **Performance audit of ODOT**

(Section 755.90)

The bill requires the State Auditor to provide for the completion of a performance audit of ODOT by January 1, 2020. The performance audit must be conducted in accordance with the laws governing the conduct of performance audits by the State Auditor. Under current law, the State Auditor is required to conduct at least four performance audits each biennium of four different state agencies (or one of the audits may be of a state institution of higher education). The State Auditor has the discretion to audit the entire agency or a portion of the agency. Any state agency must implement the recommendations of the performance audit within three months after the comment period (which lasts from the day following the release of the audit until 14 days after the release), otherwise the agency is subject to specified reporting requirements to the Governor, State Auditor, and the leadership of the General Assembly.

## **Court proceedings**

(R.C. 5501.21)

Currently, ODOT may produce, in lieu of an original, a copy of a **paper** record, plan, drawing, or other document ("document") as evidence in a court, as long as the copy is

stamped with ODOT's seal. Under the bill, ODOT may also produce, in lieu of an original, a copy of an **electronic** document that is stamped with ODOT's seal.

Additionally, under current law, any party to any pending lawsuit may depose the Director as long as the deposition takes place in the Director's office. The bill eliminates the presumed authorization that the Director may be a deponent in **any** lawsuit, relevant to the Director or not. (The bill does not prohibit the Director from being deposed – it merely removes this broad grant of authority.)

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

(Section 203.100)

The bill requires the Director to advertise, seek bids for, and award IDIQ contracts for up to two projects in fiscal years 2020 and 2021. 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. To enter into IDIQ contracts, the Director is required 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. 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 term 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.

## **Memorial highway designations**

(R.C. 5534.014, 5534.407, and 5534.807)

The bill designates a portion of State Route 122 in Butler and Warren Counties as the "SFC Charles E. Carpenter Memorial Highway"; a portion of State Route 2 in Lake County as the "Patrolman Mathew J. Mazany Memorial Highway"; and a portion of State Route 63 in Warren County as the "SFC John E. Conger, Jr. Memorial Highway."

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## **Department of Public Safety (DPS)**

### **Registration taxes and fees**

- Imposes an additional \$175 registration fee on a plug-in electric motor vehicle and an additional \$75 registration fee on a hybrid motor vehicle.
- Requires the Registrar of Motor Vehicles to transmit the registration fees for plug-in electric and hybrid motor vehicles to the State Treasurer; requires the Treasurer to credit 55% of that amount to the Highway Operating Fund, and 45% to be divided among municipal corporations, counties, and townships.
- Defines "plug-in electric motor vehicle" as a passenger car powered wholly or in part by a battery cell energy system that can be recharged via any external source of electricity.

- Defines “hybrid motor vehicle” as a passenger car powered by an internal propulsion system consisting of both (1) a combustion engine, and (2) a battery cell energy system that cannot be recharged via an external source of electricity, but can be recharged by other vehicle mechanisms that capture and store electric energy.
- Authorizes municipal corporations and townships to levy an additional \$5 motor vehicle registration tax.
- Requires the Registrar to adopt rules, within 90 days of the bill’s effective date, to establish a deputy registrar service fee that is between \$3.50 and \$5.25.

### **Lamination fee to document authentication fee**

- Removes all references to laminating a driver’s license, commercial driver’s license, motorcycle operator’s license, motorized bicycle license, temporary instruction permit, probationary license, or identification card.
- Replaces the \$1.50 lamination fee with a \$1.50 document authentication fee, to be charged for each application for issuance, renewal, or replacement of the various licenses and the identification card.

### **Financial Responsibility Random Verification Program**

- Eliminates the Financial Responsibility Random Verification Program managed by the Bureau of Motor Vehicles.

### **Online driver’s license renewal for military personnel**

- Requires the Registrar to allow a person on active duty in the military (while stationed outside of Ohio), that person’s spouse, and that person’s dependents (while living outside of Ohio) to renew their driver’s license or motorcycle operator’s endorsements online.

### **Disabled veteran license plates**

- Specifies that a disabled veteran may obtain “Disabled Veteran” license plates for all vehicles owned by that veteran, rather than for only one vehicle as in current law.
- Requires a disabled veteran to pay for all applicable registration-related taxes and fees for each vehicle after the first registration.

### **Peer-to-peer car sharing**

- Authorizes private motor vehicle rentals between vehicle owners and other licensed drivers through a peer-to-peer car sharing program and peer-to-peer car sharing agreements.
- Establishes requirements and responsibilities that apply to a peer-to-peer car sharing program pertaining to information that must be gathered from participants in the program, the disclosures that must be made to participants, and procedures when a safety recall is issued on a participating motor vehicle.

- Considers a peer-to-peer car sharing program a vendor for purposes of collecting and remitting sales taxes.
- Makes any violation of the regulations concerning the peer-to-peer car sharing programs subject to the applicable penalties associated with a violation of the Consumer Sales Practices Law.
- Requires the operator of a public-use airport to adopt reasonable standards, regulations, procedures, and fees and requires the peer-to-peer car sharing program, shared vehicle owner, and shared vehicle driver to comply with them.
- Makes a general statement that the General Assembly does not intend to limit or restrict an insurer's ability to exclude coverage or underwrite an insurance policy as it relates to peer-to-peer car sharing.

## Other changes

- Authorizes a person who has a physical impairment and is exempt from the requirement to wear a seatbelt to register to have the physical impairment noted in the Law Enforcement Automated Data System.
- Clarifies that a commercial driver's license (CDL) holder, who (1) is operating **any** motor vehicle (commercial or not), (2) is arrested for a violation of the law governing operating a vehicle while impaired (OVI), and (3) refuses an officer's request to submit to a drug or alcohol test, will be disqualified from driving a commercial motor vehicle.
- Eliminates the maximum cap (\$85) that an entity may charge for administering a commercial driver's license skills test (including the appointment fee), and instead allows the entity to set a reasonable and competitively priced fee.

## Registration taxes and fees

### Electric and hybrid vehicle registration fees

(R.C. 4503.10, 4503.103, and 4501.01)

The bill imposes, starting 180 days after the effective date of the section, an additional \$175 registration fee on a plug-in electric motor vehicle and an additional \$75 registration fee on a hybrid motor vehicle.

Under the bill a "plug-in electric motor vehicle" is a passenger car powered wholly or in part by a battery cell energy system that can be recharged via any external source of electricity. A "hybrid motor vehicle" is a passenger car powered by an internal propulsion system consisting of both (1) a combustion engine, and (2) a battery cell energy system that cannot be recharged via an external source of electricity, but can be recharged by other vehicle mechanisms that capture and store electric energy.

The Registrar is required to transmit all money arising from the fees to the State Treasurer. The Treasurer is required to divide the money in the same manner as revenue attributable to the bill's increase in the motor fuel tax rate (see discussion of motor fuel tax, above) – 55% of that amount into the Highway Operating Fund, and 45% among municipal

corporations, counties, and townships. The money may only be used for the following: (1) construction, maintenance, and repair of roads and bridges, (2) operational costs of applicable state agencies, and (3) as a match for other revenue for these purposes.

Under current law, the owner or lessor of a plug-in electric or hybrid passenger car pays \$34.50 in state registration taxes and fees (\$20 registration tax, \$11 BMV fee; \$3.50 deputy registrar fee), plus up to \$25 in permissive local registration taxes. The \$20 registration tax is deposited into the Auto Registration Distribution Fund and primarily distributed back to counties, municipal corporations, and townships for local highway and bridge projects.

In sum, under the bill, the owner or lessor of an electric motor vehicle would pay \$209.50 in state registration fees and taxes, and the owner or lessor of a hybrid motor vehicle would pay \$109.50 in state registration fees and taxes.

### **Permissive municipal and township motor vehicle registration tax**

(R.C. 4501.031, 4501.042, 4501.043, 4504.10, 4504.173, 4504.181, and 4504.201)

The bill authorizes municipal corporations and townships to levy and retain an additional \$5 motor vehicle registration tax on motor vehicles registered in the municipal corporation or the unincorporated area of the township. (The authorization is similar to the additional \$5 motor vehicle registration tax on motor vehicles that may be levied in counties as enacted in H.B. 26 of the 132<sup>nd</sup> General Assembly, the prior transportation budget.)

A municipal corporation may levy the tax through an ordinance, resolution, or any other measure specified in its charter, but the tax is subject to referendum. A board of township trustees may levy the tax by first holding two public hearings, then providing public notice of those hearings in a newspaper of general circulation, and last by adopting a resolution levying the tax. The township tax is also subject to referendum.

The additional \$5 tax may only be used for specified purposes. For municipal corporations, the tax may be used for enforcing and administering the tax, and paying the following: (1) costs associated with public roads, highways, bridges, and viaducts, (2) the costs associated with street and traffic signs, markers, and signals, (3) debt service obligations, and (4) costs for similar purposes. For townships, the tax may be used for enforcing and administering the tax, and paying the following: (1) costs associated with township roads, bridges, and culverts, (2) the costs associated with street and traffic signs, markers, and signals, (3) the cost of purchasing road machinery and equipment, and (4) the cost of certain railroad crossings.

Under current law, unchanged by the bill, municipal corporations, townships, and counties may establish a combination of local motor vehicle permissive registration taxes up to \$25 per taxing district. The taxes authorized under the bill increase the maximum amount of local permissive taxes that may be levied per taxing district to \$30.

### **Deputy registrar service fee**

(R.C. 4503.038)

The bill requires the Registrar to adopt new rules, not later than 90 days after the bill's effective date, to establish a deputy registrar service fee that is between \$3.50 and \$5.25. Under current law, the Registrar has the authority to establish, by rule, the deputy registrar

service fee, which compensates deputy registrars for performing certain transactions on behalf of the Registrar (e.g., issuing driver's licenses and vehicle registrations). The fee may not exceed \$5.25 and is currently set at \$3.50. The effect of the bill is to require the Registrar to revisit the previously established deputy registrar fee that is established by rule.

### **Lamination fee to document authentication fee**

(R.C. 4506.11, 4507.01, 4507.13, 4507.23, 4507.50, 4507.52, and 4511.521)

The bill eliminates the requirement that a driver's license, commercial driver's license, motorcycle operator's license, motorized bicycle license, temporary instruction permit, probationary license, or identification card be laminated. In practice, the licenses and identification cards are now printed onto the plastic material, rather than laminated. The bill also eliminates the \$1.50 lamination fee; however, it replaces that fee with a \$1.50 "document authentication fee" for each application for issuance, renewal, or replacement of the various licenses and the identification card.

A deputy registrar is permitted to retain the document authentication fee, while the Registrar must deposit the fee into the Public Safety – Highway Purposes Fund, in the same manner as lamination fees collected by the Registrar are deposited under current law. Finally, the bill exempts a disabled veteran from the document authentication fee, in the same way that current law exempts a disabled veteran from the lamination fee.

### **Financial Responsibility Random Verification Program**

(R.C. 4509.101 and 4510.04; Section 3 of Am. Sub. S.B. 20 of the 120<sup>th</sup> General Assembly)

The bill eliminates the Financial Responsibility Random Verification Program, which is currently managed by the Bureau of Motor Vehicles (BMV).

Under current law, the Program randomly selects motor vehicle owners whose motor vehicles are registered in Ohio to provide proof of financial responsibility (automobile insurance) with regard to the registered motor vehicle. If an owner does not respond to the first notice sent by certified mail, two additional notices are sent, also by certified mail. If the owner fails to respond to any of the notices or one of the notices is returned as refused or not deliverable, the Registrar must impose the standard civil penalties related to failure to provide proof of financial responsibility.

For a first-time offense, the required civil penalties include an administrative suspension of the person's driver's license until the person provides proof of financial responsibility, a \$100 reinstatement fee, a \$50 nonvoluntary compliance fee (if the person did not voluntarily surrender his or her license, certificate of registration, or license plates in response to the suspension order), and a \$10 deputy registrar service fee. The length of time of the suspension and the amount of the reinstatement fee increase if the owner has had his or her license suspended previously for failure to provide proof of financial responsibility within the past five years.

The Registrar can remove the driver's license suspension and waive the reinstatement fee and nonvoluntary compliance fee, for both of the following reasons:

1. If the owner can provide proof of financial responsibility for the date in question (even after failure to respond to the notices sent under the Program); or

2. If the owner can provide evidence that the owner generally does maintain proof of financial responsibility, but that the motor vehicle was not covered for the date in question because of specified circumstances (i.e., the vehicle was inoperable, the vehicle is only used seasonally and the date in question was out of season, the owner was not at fault for the lapse in coverage, or the lapse in coverage was caused by excusable neglect under circumstances that are unlikely to reoccur).

## **Online driver's license renewal for military personnel**

(R.C. 4507.18)

The bill requires the Registrar to allow a person on active duty in the U.S. Armed Forces who is stationed outside of Ohio to renew the person's driver's license or motorcycle operator's endorsement online. The Registrar must also permit the person's spouse and dependents who are also outside of Ohio to renew their licenses or endorsements online as well. As part of the online renewal, the applicant must provide all of the following:

1. A digital copy of the applicant's military identification card or military dependent identification card;
2. A digital copy of a form provided by the Registrar demonstrating that the applicant (if a spouse or dependent) passed a vision examination;
3. A digital copy of a current 2x2 color passport-quality photograph with a white background to be used as the applicant's new license or endorsement photograph; and
4. A digital copy of all identification documents and supporting documents required by state law or administrative rule to comply with state and federal requirements.

The Registrar must make it possible for applicants to upload and electronically send all copies of supporting documents and photographs for renewal. The online option for renewal, however, does not impact current law's exemption from the licensing requirements for military personnel, their spouses, and dependents, or prevent them from renewing in person at a deputy registrar's office, if they choose to do so.

The Registrar must adopt rules in order to implement and administer the online registration requirements.

## **Disabled veteran license plates**

(R.C. 4503.41)

Under current law, a disabled veteran with a service-connected disability rated at 100% by the federal Veterans' Administration may apply to the Registrar to register the veteran's personal vehicle and obtain "Disabled Veteran" license plates. The disabled veteran is not required to pay any registration-related fees or taxes (i.e., the general registration tax, the local motor vehicle tax, and the deputy registrar fee) when registering that vehicle. Although not specified in the Revised Code, a disabled veteran may register only one motor vehicle to receive "Disabled Veteran" license plates. The bill allows a disabled veteran to register all the vehicles owned by that veteran and obtain "Disabled Veteran" license plates for those vehicles. However, the disabled veteran must pay all applicable registration taxes and fees for each vehicle after the first vehicle registered.

## Peer-to-peer car sharing

(R.C. 4926.01, 4926.02, 4926.03, 4926.04, 4926.05, 4926.06, 4926.07, 4926.08, and 4926.09; Section 757.60)

The bill authorizes private motor vehicle rentals between vehicle owners and other licensed drivers in what is known as “peer-to-peer car sharing.” The vehicle owners and licensed drivers are connected through a peer-to-peer car sharing program, which is the person operating a business platform to enable vehicle sharing for financial consideration. The service is in some ways similar to Airbnb, but for motor vehicles.

### Basic parameters of the program

The bill outlines basic requirements for a peer-to-peer car sharing program operating in Ohio. As part of the basic requirements for operation, a peer-to-peer program must collect information from any participant in the program, such as name, address, driver’s license number and state of issuance, insurance information, and verification of current vehicle registration. It also must collect and maintain records relating to the use of a vehicle in the program. The program is not permitted to allow a peer-to-peer car sharing program agreement through its platform if the person operating the shared vehicle does not have a valid driver’s license or if the shared vehicle is not properly registered and insured.

The contract at the center of the peer-to-peer car sharing arrangement is the peer-to-peer car sharing agreement. A peer-to-peer car sharing program, a shared vehicle owner, and the shared vehicle driver are all parties to the agreement. The agreement sets forth the parameters of peer-to-peer car sharing, including the location(s) for drop-off and pick-up of the vehicle, the date and time for drop-off and pick-up, whether the time the shared vehicle owner spends delivering the vehicle is paid, and the daily rate, fees, and any insurance costs for the insurance provided by the program (see “**Insurance**” below). In addition to the basic parameters, as a part of the agreement, the program must make a variety of disclosures, including any right of the program to seek indemnification from the shared vehicle owner or the shared vehicle driver, any insurance coverage or lack of insurance coverage that might occur based on whether the car sharing period is in effect or whose insurance is being used at the time, and emergency contact information.

The bill specifies that the program is responsible for any equipment, including GPS or program-specific equipment that facilitates peer-to-peer car sharing, that is installed in the vehicle, unless the shared vehicle driver causes damage to the equipment. The program is also responsible, as a vendor, for collecting and remitting any sales taxes required by law. The shared vehicle driver is responsible for addressing any recall repairs on the shared vehicle, and informing the program if the owner receives notice about a recall, so that the shared vehicle can be brought back to the owner for the repair.

### Penalties

The bill specifies that peer-to-peer car sharing (in general) and a peer-to-peer car sharing program agreement (in particular) is a consumer transaction, and thus, makes peer-to-peer car sharing subject to the Uniform Commercial Code (U.C.C.), specifically as it relates to consumer sales practices. For purposes of the Consumer Sales Practices Law, the peer-to-peer car sharing program is considered the “supplier” and the shared vehicle owner and the shared

vehicle driver are considered “consumers.”<sup>5</sup> By placing peer-to-peer car sharing programs in the purview of the U.C.C., the programs must comply with general business, contract, and advertising practices (for instance, the peer-to-peer car sharing program agreement cannot specify that the motor vehicle being shared is a luxury vehicle if the motor vehicle is actually a low-cost small compact vehicle).

Additionally, the bill specifies that any violation of the requirements and regulations pertaining to peer-to-peer car sharing in Ohio are subject to the applicable penalties associated with a violation of the Consumer Sales Practices Law. Violations of that law are prosecuted as civil lawsuits by either the State Attorney General or by private practices. The specific remedies, fines, and procedures related to those prosecutions are already established in current law.<sup>6</sup>

### **Operation at airports**

The bill requires the operator of a public-use airport to adopt reasonable standards, regulations, procedures, and fees that apply to peer-to-peer car sharing programs. Additionally, the operator is permitted to enter into agreements, including concession agreements, with a peer-to-peer car sharing program. In turn, a peer-to-peer car sharing program, a shared vehicle owner, and a shared vehicle driver must comply with the standards, regulations, procedures, and agreements that are adopted and pay all fees in a timely manner.

### **Insurance**

The bill makes a general statement pertaining to automobile insurance as it applies to peer-to-peer car sharing program, rather than specific insurance requirements. The statement conveys that it is not the intent of the General Assembly to either limit or restrict an insurer’s ability to exclude insurance coverage from an insurance policy or an insurer’s ability to underwrite an insurance policy.

### **Exemption from wearing a seatbelt**

(R.C. 4507.13, 4507.52, and 4513.263)

Under current law, generally any person who is operating an automobile or sitting in the front seat of an automobile must wear a seatbelt. However, the seatbelt requirement does not apply to a person who has an affidavit signed by a licensed physician or chiropractor that states that the person has a physical impairment that makes use of a seatbelt impossible or impractical. The bill expands the details that must be included in the affidavit to include the following:

1. Whether the physical impairment is temporary, permanent, or reasonably expected to be permanent;
2. If the physical impairment is temporary, how long the physical impairment is expected to make the use of a seatbelt impossible or impractical.

Additionally, the bill permits a person with such an affidavit (if the person’s physical impairment is permanent or reasonably expected to be permanent) to register with the

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<sup>5</sup> R.C. 1345.01, not in the bill.

<sup>6</sup> Chapter 1345 of the Revised Code.

Registrar to have the physical impairment available through the Law Enforcement Automated Data System (LEADS). If the person is included in LEADS, that person does not need to have the affidavit in his or her possession while operating or occupying the automobile (as a person would under current law).

The Registrar is required to adopt rules to establish the process for the information about a person's physical impairment to be included in LEADS. All such information is not a public record subject to inspection or copying through a public records request.

The bill specifies that a physician or chiropractor who issues an affidavit generally is immune from any civil liability if the person who was issued the affidavit is injured or dies because of not wearing a seat belt. The exemption from civil immunity does not apply if the physician or chiropractor acts in a manner that is willful, wanton, or reckless in issuing the affidavit.

## Implied consent for CDL holders

(R.C. 4506.17)

Currently, a person is disqualified from operating a commercial motor vehicle if all of the following apply:

1. The person holds a commercial driver's license (CDL) or commercial temporary instruction permit (CDL permit) or the person operates a commercial motor vehicle that requires a CDL or CDL permit;
2. The person is arrested for violating the law governing operating a vehicle while impaired (OVI); and
3. The person refuses to submit to a blood, urine, or breath test despite being deemed to have consented under the implied consent statute.

Although R.C. Chapter 4506 requires the Registrar of Motor Vehicles to disqualify a CDL holder if the holder refuses to comply with a request for a blood, breath, or urine test under Ohio's implied consent statute, several lower courts have found that CDL holders may only be disqualified if the holder is operating a commercial motor vehicle at the time of arrest. *Lachowski v. Petit*, Portage C.P. No. 2018-CV-430; *Vaughn v. Petit*, Franklin C.P. No. 18CV007834. These decisions create uncertainty regarding the disqualification of a CDL holder who refuses to submit to a test while driving a **noncommercial** vehicle.

Consequently, the bill clarifies that refusal to submit to a test (when arrested for OVI) leads to disqualification when a CDL holder is driving **any** type of motor vehicle, not just a commercial motor vehicle.

Relatedly, the U.S. Supreme Court has found that the implementation of implied consent laws that impose a **civil** penalty, such as license disqualification, on motorists who refuse to comply with a request for a blood, breath, or urine test is constitutional. *Birchfield v. North Dakota*, 136 S. Ct. 2160, 2165 (2016), citing *McNeely v. Missouri*, 133 S. Ct. 1552 (2013).

## CDL skills test fee

(R.C. 4506.09)

Under current law, any person, agency of this or another state, or agency department or instrumentality of a local government may administer the skills test required for obtaining a commercial driver's license. Each testing entity may charge a maximum divisible fee of \$85 (not more than: \$20 for the pre-trip inspection, \$20 for the off-road maneuvering portion, and \$45 for the on-road portion). A testing entity may also charge a maximum appointment fee of \$85.

The bill eliminates the caps on these fees – the maximum divisible fee and the appointment fee – and instead authorizes the testing entity to set a reasonable and competitively priced fee.

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## Local Government

- Exempts from competitive bidding any county purchase of used supplies made at a public auction, including equipment, materials, and other tangible assets.
- Authorizes a board of county commissioners of a county that has a population between 350,000 and 400,000 to contract – with the county sheriff or a fire department chief that has countywide authority – to implement a countywide program for emergency management as an alternative to implementing such a program under the countywide emergency management agency's authority.
- Authorizes an officer or employee of a county, township, or municipal corporation to simultaneously hold the public position and serve as a member or officer of the board of trustees of a transportation improvement district.
- Specifies that, notwithstanding Ohio common law or any contrary statute, the simultaneous holding of those positions does not constitute the holding of incompatible offices or employment.
- Specifies that the financial or contractual relationship between a county, township, or municipal corporation and a transportation improvement district is permissible and does not constitute an unlawful interest in a public contract by an officer or employee of a county, township, or municipal corporation.
- Authorizes a port authority to take certain actions regarding the towing of motor vehicles.
- Eliminates the requirement that contracts between a port authority and a contractor be executed in triplicate, thus eliminating the need for the contract to be carbon copied.
- Requires the Director of Mental Health and Addiction Services and the board of county commissioners to make initial appointments to a newly formed Alcohol, Drug Addiction, and Mental Health Services Board from members jointly recommended by the county's community mental health board and the alcohol and drug addiction services board.

## County competitive bidding

(R.C. 307.86)

The bill exempts from the County Competitive Bidding Law any purchase of used supplies the county makes at a public auction and defines “supplies” to include equipment, materials, and other tangible assets. Under continuing law, a county must make purchases of over \$50,000 through competitive bidding, subject to numerous exemptions. For instance, continuing law exempts any purchase made from the federal government, the state, another county, or a township, municipal corporation, board of education, or educational service center. The bill’s provision could be interpreted as an expansion of this existing exemption.

## Countywide emergency planning

(Section 755.15)

### Background

The bill establishes an alternative to the existing process by which a countywide program for emergency management may be established. However, the alternative process only applies to a county with a population between 350,000 and 400,000 as of the bill’s effective date. Under current law, each county, township, or municipal corporation (political subdivision) in Ohio must participate in one of the following:

1. A countywide program for emergency management, which is governed by a countywide emergency management agency that is established, via written agreement, by the board of county commissioners of a county and the chief executive of all or a majority of the other political subdivisions within the county.
2. A regional program for emergency management, which is governed by a regional authority for emergency management that is established, via written agreement, by the boards of county commissioners of two or more counties, with the consent of the chief executives of a majority of the participating political subdivisions of each county involved; or
3. A program for emergency management established by the political subdivision.

A countywide emergency management agency is governed by an executive committee, which consists of at least the following seven members: one county commissioner representing the board of county commissioners entering into the agreement; five chief executives representing the municipal corporations and townships entering into the agreement; and one nonelected representative. The countywide agreement must specify if any additional members will serve on the executive committee. The executive committee is required to appoint a director/coordinator of emergency management who is responsible for coordinating, organizing, administering, and operating emergency management in accordance with the countywide agency’s program. The director/coordinator may be an official or employee of any political subdivision entering into the countywide agreement, except that the director/coordinator may not be the chief executive of any of those political subdivisions.

## **Alternative method of establishing a countywide program**

The bill allows a board of county commissioners (in the county with a population between 350,000 and 400,000) to establish a countywide program for emergency management without the establishment of a countywide emergency management agency. Under the bill, the board may enter into a contract with the county sheriff or a chief of a fire department that has countywide authority in order to implement a countywide emergency management program. Such a contract may not last longer than four years.

After entering into the contract, the sheriff or fire chief must appoint a director/coordinator of emergency management. The director/coordinator must pursue and complete a professional development program in accordance with rules adopted by the Director of Public Safety, and coordinate, organize, administer, and operate emergency management in accordance with the program for emergency management (which is established by contract), subject to the direction of the sheriff or fire chief. The program for emergency management must:

1. Comply with the laws, rules, and regulations governing emergency management, including the requirement to cooperate with other state agencies and political subdivisions;
2. Include an all-hazards emergency operations plan that has been coordinated with all agencies, boards, and divisions with emergency management functions within the county; and
3. Include the preparation and conduct of an annual exercise of the county's all-hazards emergency operations plan.

All agencies, boards, and divisions that have emergency management functions within each political subdivision within the county are required to cooperate in the development of the all-hazards emergency operations plan and to cooperate in the preparation and conduct of the annual exercise. However, a political subdivision located in the county is not required to be a part of the contract so long as the political subdivision establishes its own program for emergency management.

The board of county commissioners that entered into a contract to establish the countywide emergency management program is permitted to appropriate money from its general fund to meet its obligations under the contract, including the development and maintenance of a countywide public safety communication system. Such money may be used to purchase and maintain the assets and equipment of the county or of the sheriff or fire chief who entered into the contract.

## **Transportation improvement district simultaneous office holding**

(R.C. 3.112)

The bill provides that an elected official or employee of a county, township, or municipal corporation may simultaneously serve in that position and as a member or officer of the board of trustees of a transportation improvement district (TID). The simultaneous holding of the two

positions does not constitute the simultaneous holding of incompatible offices, despite Ohio common law or any Ohio statute indicating anything to the contrary.

The bill specifies that a financial or contractual relationship between the county, township, or municipal corporation and the TID is permissible and does not constitute an unlawful interest in a public contract by an elected official or employee of a county, township, or municipal corporation; Ohio law prohibits public officials from having an interest in a contract entered into by the official's political subdivision.<sup>7</sup>

Ohio common law prohibits the simultaneous holding of two public offices or employment when the two are determined to be "incompatible." The Ohio Attorney General makes these determinations by Opinions of the Attorney General using a common law test that in part examines impermissible conflicts of interest between the two positions and other state, local, or federal laws that apply to prohibit the simultaneous holding of positions. The Attorney General recently issued an opinion finding a county commissioner and member of the board of trustees of a TID incompatible.<sup>8</sup> The Attorney General addressed scenarios where the commissioner is a voting trustee of the TID appointed by the board of county commissioners or a nonvoting trustee of the TID appointed by the Speaker of the House of Representatives or President of the Senate.

The Attorney General concluded that the voting TID trustee is incompatible because the commissioner, as a trustee of the TID, is subordinate to the board of county commissioners because of the commissioners' appointment authority. The nonvoting TID trustee is incompatible because impermissible conflicts of interest result from the TID trustee's conflicting interest as a commissioner. The Attorney General noted these conflicts specifically arise from: (1) the board of county commissioners providing funds to the TID and the commissioner's possible bias, as a TID trustee, toward providing TID funds to county areas rather than areas outside the commissioner's county, (2) the authority of the TID to enter into contracts in which a commissioner is prohibited from having a direct or indirect concern, and (3) the authority of the TID to accept grants or loans from the county. Sometimes the potential for conflict may be remote and the Attorney General may find the conflict can be sufficiently avoided or eliminated. However, the Attorney General determined that the potential for conflict between the positions of county commissioner and member of a TID<sup>9</sup> is not remote or speculative and cannot be avoided.

The bill reflects the policy of the General Assembly to allow the simultaneous holding of the positions despite one position being subordinate to the other and despite conflicts of interest that cannot be reconciled. The issues identified by the Attorney General remain but are

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<sup>7</sup> R.C. 2921.42, not in the bill.

<sup>8</sup> 2018 Op. Att'y Gen. No. 2018-024.

<sup>9</sup> There is no Attorney General determination for a township trustee or municipal legislative authority member serving simultaneously on a TID, but to the extent those positions may pose similar conflicts, an analogous outcome may be anticipated.

permissible under the bill because the General Assembly is statutorily condoning the simultaneous holding of the positions regardless of these issues.<sup>10</sup>

Despite this provision of the bill, a municipal corporation or a chartered county, through its home-rule authority to self-govern, likely can decide to disallow the simultaneous holding of these positions for its elected officials or employees.<sup>11</sup>

Finally, because the bill includes employees, which the Attorney General's opinion did not address, there could be: (1) a violation of Ohio's Little Hatch Act,<sup>12</sup> (2) a possible breach of contract if the employee is subject to a collective bargaining agreement, and (3) to the extent any person is paid through federal grant money received by a TID, a violation of the federal Hatch Act.<sup>13</sup> Although the amendment attempts to "notwithstanding" common law and any contrary statute, it is questionable whether the General Assembly may enact legislation that violates provisions of the Ohio Constitution or federal law.

## **Port authority**

### **Towing authorization**

(R.C. 4505.101, 4513.60, 4513.601, 4513.61, 4513.62, 4513.63, 4513.64, 4513.65, 4513.66, and 4513.69)

The bill authorizes a port authority's police department to take certain actions regarding towing motor vehicles – currently, entities such as county sheriffs and municipal police departments may take these actions, but not port authority police departments.

Specifically, under the bill, a port authority police department may order into storage the following vehicles within the port authority's jurisdiction: (1) an abandoned junk motor vehicle, (2) a vehicle that has come into the port authority police department's possession, (3) a vehicle that has been left on public streets or other public property for more than 48 hours or on private property without the property owner's permission for more than for hours, and (4) a vehicle that has been in an accident.

The bill also requires a port authority police department to comply with all existing law regarding the towing of motor vehicles, such as maintaining proper records of motor vehicles stored by the port authority police department.

Additionally, under current law, a towing service is required to notify the appropriate law enforcement agency about a vehicle that comes into the entity's possession after the

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<sup>10</sup> See, for example, 2009 Op. Att'y Gen. No. 2009-005 (although conflicts of interest may exist between the positions of member of a city legislative authority and member of the governing board of a community improvement corporation that has been designated under R.C. 1724.10 as the agency of the city, "the General Assembly has legislatively sanctioned a person serving in both positions at the same time" under R.C. 1724.10(A)).

<sup>11</sup> Ohio Const. art. XVIII, sec. 3 and art. X, sec. 3.

<sup>12</sup> R.C. 124.57, not in the bill.

<sup>13</sup> 5 U.S.C. § 7321 *et. seq.*

vehicle is towed from a private tow-away zone. The bill requires notice to be given to a port authority police department if the tow occurs within the port authority's jurisdiction

### **Carbon copies**

(R.C. 4582.12 and 4582.31)

The bill eliminates the requirement that contracts for the construction of a building, structure, or other improvement exceeding \$150,000 entered into between a port authority and a contractor be executed in triplicate, thus eliminating the need for the contract to be carbon copied.

### **Board of Alcohol, Drug Addiction, and Mental Health Services**

(R.C. 340.021)

The bill requires the Director of Mental Health and Addiction Services and the board of county commissioners to make initial appointments to a newly formed Alcohol, Drug Addiction, and Mental Health Services Board (ADAMH Board) from members jointly recommended by the county's community mental health board and the alcohol and drug addiction services board, unless the appointment is otherwise prohibited by law. Currently, those appointing authorities must make the appointments from those recommendations "to the greatest extent possible." Under continuing law, any county or combination of counties with a population of at least 50,000 must establish an alcohol, drug addiction, and mental health services district. An ADAMH Board must be established for each alcohol, drug addiction, and mental health services district. An ADAMH Board generally consists of 18 members, unless the board of county commissioners approves a 14-member board.

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## **Other Provisions**

- Requires the Governor to submit the biennial transportation budget to the General Assembly four weeks after the General Assembly's organization.
- Requires an entity – that receives funding from the motor fuel tax and expends \$100,000 or more of those funds – to post annual updates on that entity's website regarding how the funding is being used.
- Exempts an individual who provides services for or on behalf of a motor carrier transporting property from coverage under Ohio's Workers' Compensation Law, Unemployment Compensation Law, Overtime Law, and Minimum Wage Law if specified conditions apply to the individual.
- Allows the motor carrier to elect coverage under those laws for an individual who satisfies the bill's conditions.
- Requires a person who erects or replaces a sign containing the International Symbol of Access to do so with a logo that depicts a dynamic character leaning forward with a sense of movement.

- Eliminates the exemption to the Opened Container Law that allows a person to possess an open container of alcohol in or on a stationary vehicle that is not being operated in a traffic lane and is in an outdoor refreshment area.
- Allows the governing authority of a chartered nonpublic school to charge a child's parents or guardians a fee to transport the child to and from school-sponsored activities, including extracurricular activities, if the governing authority did not purchase the vehicle being used with state or federal funds.
- Allows a chartered nonpublic school to own and operate, or contract with a vendor that supplies, a vehicle designed for not more than nine passengers, to transport students to and from school under certain circumstances.
- Starting in fiscal year 2022, changes from 2% to 6% the amount of financial assistance the Public Works Commission may allocate to local subdivisions for capital improvements related to public emergencies.

## **Governor budget submission deadline**

(R.C. 107.03)

Under current law, the Governor is required to submit the main operating budget to the General Assembly, not later than four weeks after its organization. In years of a new governor, the main operating budget must be submitted by March 15.

The bill requires the Governor to submit the biennial transportation budget – the budget that primarily includes motor fuel excise tax-related appropriations for ODOT, the Public Works Commission, and the Development Services Agency, and other transportation and infrastructure-related appropriations – to the General Assembly not later than four weeks after the General Assembly's organization.

## **Website updates for transportation funds**

(Section 755.50)

The bill requires any agency or entity, including a local government entity, that receives funding from the motor fuel tax and expends \$100,000 or more of the funds, to update that agency or entity's website with annual updates regarding how the funds are being used. The updates may include information concerning how much money is spent, when the money is spent, on what projects the money is spent, and similar information that demonstrates the use of the funds.

## **Motor carrier independent contractor agreements**

(R.C. 4111.03, 4111.14, 4121.01, 4123.01, and 4141.01, with conforming changes in R.C. 119.14 and 1349.61; Section 741.10)

The bill exempts an individual to whom all of the following conditions apply from coverage under Ohio's Workers' Compensation Law, Unemployment Compensation Law, Overtime Law, and Minimum Wage Law:

- The individual operates a vehicle or vessel in the performance of services for or on behalf of a motor carrier transporting property (“motor carrier” generally refers to a person engaged in the business of transporting persons or property by motor vehicle for hire or compensation).
- All of the following factors apply to the individual:
  - The individual owns the vehicle or vessel that is used in performing the services for or on behalf of the carrier, or the individual leases the vehicle or vessel under a bona fide lease agreement that is not a temporary replacement lease agreement (a bona fide lease agreement does not include an agreement between the individual and the motor carrier transporting property for which, or on whose behalf, the person provides services).
  - The individual is responsible for supplying the necessary personal services to operate the vehicle or vessel used to provide the service.
  - The compensation paid to the individual is based on factors related to work performed and not solely on the basis of the hours or time expended.
  - The individual substantially controls the means and manner of performing the services, in conformance with regulatory requirements and specifications of the shipper.
  - The individual enters into a written contract with the carrier for whom the individual is performing the services that describes the relationship between the individual and the carrier to be that of an independent contractor and not that of an employee.
  - The individual is responsible for substantially all of the principal operating costs of the vehicle or vessel and equipment used to provide the services, including maintenance, fuel, repairs, supplies, vehicle or vessel insurance, and personal expenses, except that the individual may be paid by the carrier the carrier’s fuel surcharge and incidental costs, including tolls, permits, and lumper fees.
  - The individual is responsible for any economic loss or economic gain from the arrangement with the carrier.

The bill’s exemption does not apply under the Unemployment Compensation Law if the individual is performing certain services exempt from the federal unemployment tax under the Federal Unemployment Compensation Tax Act<sup>14</sup> (FUTA). Those services are services performed in the employ of the state, political subdivisions of the state, federally recognized Indian tribes, or nonprofit organizations exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code.<sup>15</sup> FUTA requires, however, that state unemployment compensation systems cover those services to receive the full FUTA tax credit for employers in that state.<sup>16</sup> Under continuing law, Ohio’s Unemployment Compensation Law covers those services, and

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<sup>14</sup> 26 U.S.C. 3301 *et seq.*

<sup>15</sup> 26 U.S.C. 3306(c)(7) and (8).

<sup>16</sup> 26 U.S.C. 3304(a)(6) and 3309(a).

employers for whom those services are performed may elect to be reimbursing employers who reimburse the state Unemployment Compensation Fund rather than pay state unemployment contributions.<sup>17</sup>

The bill's exemption does not apply to any claim or cause of action pending under the laws listed above on the provision's effective date. Additionally, the bill allows a motor carrier to elect coverage under any of the laws listed above for an individual who is otherwise exempt under the bill.

Currently, Ohio courts use different tests to determine whether an individual performing services for another is "employed by" or an "employee of" the other for purposes of the laws amended by the bill. Although the tests vary, the determination is generally based on how much direction and control the "employer" has over the individual performing the services. The following list summarizes the tests currently used under each law amended by the bill:

- Workers' compensation – whether the employer reserves the right to control the manner or means of doing the work (workers' compensation has a separate test for individuals in the construction industry).<sup>18</sup>
- Unemployment compensation – a 20-factor test similar to the "common law test" used by the Internal Revenue Service to determine whether a person is an independent contractor under the federal income tax and federal unemployment tax laws.<sup>19</sup>
- Minimum wage and overtime – an "economic realities" test<sup>20</sup> that is used to determine an individual's employment status under the federal minimum wage and overtime laws.

Ohio's minimum wage was established by an amendment to the Ohio Constitution<sup>21</sup> ("Section 34a"). Section 34a states that "employee" and "independent contractor" have the same meanings as in the federal Fair Labor Standards Act.<sup>22</sup> Determining employee status is often fact-specific, and whether an individual who satisfies the bill's requirements for the exemption would also satisfy the economic realities test used in minimum wage determinations would be determined based on the facts involved. It is not clear whether the bill's test is narrower than the economic realities test. Section 34a stipulates that the section must be liberally construed in favor of its purposes. The section specifies that laws "may be passed to implement and create additional remedies, increase the minimum wage rate, and extend the coverage of the section, but in no manner restricting any provision of the section." The bill's exclusion of certain individuals providing services to motor carriers from the definition of

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<sup>17</sup> R.C. 4141.241 and 4141.242, not in the bill.

<sup>18</sup> *Gillum v. Industrial Comm.*, 141 Ohio St. 373, 374 (1943). See also *Bostic v. Connor*, 37 Ohio St.3d 144 (1988).

<sup>19</sup> R.C. 4141.01(B)(2)(k) and Ohio Administrative Code 4141-3-05.

<sup>20</sup> See *Donovan v. Brandal*, 736 F.2d 1114 (6th Cir. 1984) and *Solis v. Cascom, Inc.*, 2011 U.S. Dist. LEXIS 122573, case No. 3:09-cv-257 (S.D. Ohio 2011).

<sup>21</sup> Ohio Const., art. II, sec. 34a.

<sup>22</sup> 29 United States Code 201 *et seq.*

employee for purposes of the Minimum Wage Law could potentially be viewed as a restriction on Section 34a.<sup>23</sup>

## **International Symbol of Access**

(R.C. 9.54 and 9.57, repealed)

The bill requires a person who erects or replaces a sign containing the International Symbol of Access to do so with a logo that depicts a dynamic character leaning forward with a sense of movement, like the one shown here:



Current law does not specify what the International Symbol of Access logo must look like; many signs containing this symbol depict a stationary character, like the one shown here:



## **Opened container of alcohol exemption**

(R.C. 4301.62)

The bill eliminates the exemption to the Opened Container Law that allows a person to possess an opened container of beer or intoxicating liquor in or on a motor vehicle within a designated outdoor refreshment area (DORA) when the vehicle is stationary and is not being operated in a lane of vehicular traffic. A DORA is a designated area created by a municipal corporation or township where a person may purchase beer or intoxicating liquor from a designated liquor permit holder and walk around outdoors.

The current exemption is not in compliance with the federal opened container law requirement. As a result, the state is subject to both limitations on the use of some federal transportation funds and to additional procedural requirements. The bill's elimination of this exemption makes Ohio's law compliant with the federal law.

## **Pupil transportation**

(R.C. 3327.07 and 4511.76)

Under current law, the governing authority of a chartered nonpublic school may charge the parents or guardians of a student a fee to transport the student to and from school, as long

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<sup>23</sup> R.C. 4111.14.

as the vehicle was not purchased with state or federal funds. The bill allows the governing authority, under the same circumstances, to also charge a fee to transport a student to and from school-sponsored activities, including extracurricular activities.

Additionally, the bill allows a chartered nonpublic school to own and operate, or contract with a vendor that supplies, a vehicle originally designed for not more than nine passengers (not including the driver) to transport students to and from regularly scheduled school sessions when:

1. The student's school district of residence has declared that transporting the student is impractical; or
2. A student does not live within 30 minutes of the chartered nonpublic school and the student's school district is not required to transport the student.

## **Allocation of public improvement funds for emergency purposes**

(R.C. 164.08)

The bill revises the formula for allocating a portion of the net proceeds of general obligations issued for public infrastructure capital improvements under the State Capital Improvement Program starting in fiscal year 2022. Under the bill, starting July 1, 2021, the Director of the Public Works Commission may distribute 6%, increased from 2%, of the net proceeds to local subdivisions for capital improvements necessary for the immediate preservation of public health, safety, and welfare in fiscal year 2020. In the past, qualified projects have included repairs related to floods, sinkholes, bridge collapses, and other emergency road and bridge-related problems.<sup>24</sup>

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## **Note on Effective Dates**

(Sections 812.10 and 812.20)

The bill includes a default provision stating that, except as otherwise specifically provided, the amendment, enactment, or repeal of a section is subject to the referendum under the Ohio Constitution and takes effect on the 91st day after the bill is filed with the Secretary of State (barring the filing of a referendum petition).

Article II, Section 1d of the Ohio Constitution states that "appropriations for the current expenses of state government and state institutions" and "[l]aws providing for tax levies" go into immediate effect and are not subject to the referendum. The bill includes a statement that an appropriation of money under the bill is not subject to the referendum if a contemplated expenditure is wholly to meet a current expense within the meaning of the Ohio Constitution and R.C. 1.471. However, the appropriation is subject to the referendum if a contemplated expenditure wholly or partly does not meet a current expense within the meaning of those provisions.

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<sup>24</sup> Public Works Commission, "Emergency Program" available at: <http://www.pwc.state.oh.us/Emergency.html>, last accessed March 1, 2019.

The bill states that the motor fuel tax rate increases and the extension of those taxes to compressed natural gas are exempt from the referendum, and therefore the law goes into immediate effect, pursuant to the constitutional exception described above. Although these parts of the act go into immediate effect, they will not apply until October 1, 2019. (Sections 757.50 and 812.30.)

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## History

Action	Date
Introduced	02-12-19
Reported, H. Finance	03-07-19
Passed House (71 – 27)	03-07-19
Reported, S. Transportation, Commerce, & Workforce	03-21-19
Passed Senate (24-6)	03-21-19

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