Ohio Legislative Service Commission

Bill Analysis

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Sub. H.B. 35

130th General Assembly
(As Reported by H. Finance and Appropriations)
(Excluding appropriations, fund transfers, and similar provisions)

Rep. McGregor

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DEPARTMENT OF TRANSPORTATION

ODOT public-private partnership agreements

- In regard to the authority for the Department of Transportation (ODOT) to enter into public-private partnership agreements (known as P3s), allows the Director of Transportation to adopt rules for the control of traffic on public-private transportation facilities, particularly rules related to the avoidance of user fees.

- Establishes criminal penalties for violations of the rules, and establishes civil penalties for failure to comply with rules related to user fees.

- Allows the Director to include a binding dispute resolution provision in any P3 agreement.

ODOT force account limits

- Establishes scope of work limits allowing ODOT to proceed by force account without competitive bidding for certain bridge, culvert, and paving projects based on the size of the project and not the cost of the project.

- Increases the ODOT force account limits for projects not covered by the scope of work limits: (1) from $25,000 per mile to $30,000 per centerline mile, (2) from $50,000 to $60,000 for any single traffic control signal, and (3) from $50,000 to $60,000 for other single projects.

- Requires the Director to adjust the force account limits in odd numbered years (beginning in 2015) by the lesser of 3% or the percentage amount of any increase in ODOT's construction cost index for the prior two calendar years.

- Requires ODOT force account project cost estimates to include costs for subcontracted work and any competitively bid project components.

ODOT contracting changes

- Specifies that certain general laws related to the bidding of contracts and public improvements do not apply to ODOT contracts for transportation facilities.

- Permits ODOT to advertise for bids for construction contracts by allowing ODOT to advertise under an existing optional provision of law that specifies that, after first advertising for bids by full publication, the second advertisement may be made in an abbreviated form.

- Requires the amount of an ODOT construction contract performance bond and payment bond to be equal to 100% of the contract amount rather than 100% of the estimated cost of the work as in existing law.

Vehicle weight and size limits

- For roads that are part of the state highway system and are not interstate freeways, increases the maximum overall gross vehicle weight from 80,000 to 90,000 pounds.

- Increases from 40 feet to 50 feet the general maximum length for the operation of certain vehicles on public roads.

- Requires the Director of Transportation and local authorities to establish and issue special regional heavy hauling permits for regional trips at distances of 150 miles or less.

- Allows the operation of an overweight or oversize vehicle for a distance of two miles from the Ohio Turnpike, without a special permit issued by the Director or a local authority, if the vehicle was able to operate on the Turnpike without a special permit.

- Revises the penalty related to an overweight or oversize special permit to specifically prohibit the operation in violation of (1) gross load limits, (2) axle load by more than 2,000 pounds per axle or group of axles, (3) the terms of a permit that relate to an approved route except upon order of a law enforcement officer.

- Specifies that a separate violation of the motor vehicle and traffic laws by a person operating a vehicle or combination of vehicles under an overweight or oversize special permit does not invalidate the operation in accordance with the terms and conditions of the permit.

Other provisions

- Clarifies that the operator of a motor vehicle, when facing a red traffic signal, whether a round signal or an arrow, may not turn left after stopping at the signal unless the turn is being made from a one-way street into a one-way street.

- Permits up to 10% of the money deposited annually in the existing Airport Assistance Fund to be spent annually to pay operating costs associated with ODOT's Office of Aviation, as well as for maintenance and capital improvements to publicly owned airports as is authorized under current law.

- Terminates Ohio's participation in the Midwest Interstate Passenger Rail Compact.

- Authorizes the ODOT Director to enter into an agreement or contract with any entity to establish a traveler information program to provide real-time traffic conditions and travel time information free to travelers.

- Permits the Director, when granting a permit to an individual, firm, or corporation to use or occupy a portion of a state road or highway, to charge a one-time access permit processing fee not exceeding $30, $70, or $300, depending on the type of access granted.

- Authorizes the Director to remove snow and ice and maintain, repair, improve, or provide lighting upon interstate highways that are located within the boundaries of a municipal corporation.

- Requires ODOT to reimburse a county for the cost of relocating a county water and sewer facility due to a highway construction project.

- Authorizes the Director, pursuant to an agreement with a municipal corporation, to reimburse the municipal corporation for costs incurred in removing snow and ice and maintaining and repairing lighting upon interstate highways located in the municipal corporation.

- Authorizes the Director to use revenues from the state motor vehicle fuel tax to match approved federal grants awarded to ODOT, regional transit authorities, or eligible public transportation systems for public transportation highway purposes.

- Authorizes the Director to enter into agreements with specified federal agencies for the purpose of dedicating staff to the expeditious and timely review of environmentally related documents as necessary for the approval of federal permits.

- Permits a board of county commissioners to establish a reasonable fee to cover the costs the county incurs in proceedings to vacate a public road, such as the costs related to providing required published and mailed notice.

- Creates a six-member Joint Legislative Task Force on Department of Transportation Funding, requires the Task Force to examine the funding needs of ODOT, and requires the Task Force to issue a report of its findings and recommendations not later than December 15, 2014.

ODOT public-private partnership agreements

Under current law, the Department of Transportation (ODOT) may enter into public-private partnership agreements (known as P3s) based on proposals from private entities relating to transportation facilities (generally, all publicly owned modes and means of transporting people or goods and related structures and properties). Funding for a transportation facility controlled by a P3 may include private contributions, any available public funds, user fees, and State Infrastructure Bank obligations. A user fee may be a rate, toll, fee, or other charge imposed by an operator for use of all or part of a transportation facility.

Rulemaking for traffic control and regulation on public-private transportation facilities

(R.C. 5501.77)

The bill allows the Director of Transportation to adopt rules for the control and regulation of traffic on any transportation facility subject to a P3. The rules may address (1) the protection and preservation of the transportation facility, (2) the maintenance and preservation of good order within the transportation facility, and (3) vehicle owner or operator liability for avoidance of user fees.

The bill prohibits any person from violating any ODOT rule described above and establishes criminal and civil penalties for violations of the rules. In general, whoever violates such a rule is guilty of a minor misdemeanor on a first offense; on each subsequent offense such person is guilty of a misdemeanor of the fourth degree. When the violation is a civil violation for failure to comply with toll collection rules, the person is subject to a fee or charge established by ODOT by rule.

All fines collected for the violation of applicable laws of the state and the rules of ODOT or money arising from bonds forfeited for a violation must be disposed of in accordance with existing law governing the disposition of fines from persons apprehended or arrested by the State Highway Patrol. All fees or charges assessed by ODOT against an owner or operator of a vehicle as a civil violation for failure to comply with toll collection rules are declared to be revenues of ODOT or the public-private operator as set forth in the P3 agreement.

Additionally, the rules must provide that public police officers be afforded ready access, while in the performance of their official duties, to the transportation facility without the payment of user fees.

Binding dispute resolution in P3 contracts

(R.C. 5501.73)

The bill allows the Director of Transportation to include in any P3 agreement a provision authorizing binding dispute resolution for any contract controversy. Binding dispute resolution requires the agreement of all parties to the controversy and if all parties do not agree, a party having a claim against ODOT must exhaust its administrative remedies as specified in the P3 agreement before filing any action against ODOT in the Court of Claims. Under a binding dispute resolution, a technical expert makes a binding determination after review of all relevant items, which may include documents, interviewing appropriate personnel, and visiting the project site involved in the controversy.

The bill prohibits an appeal from the determination of a technical expert, but allows the Franklin County Court of Common Pleas to issue an order vacating such a determination if (1) the determination was procured by corruption, fraud, or undue means, (2) there was evidence of partiality or corruption on the part of the technical expert, or (3) the technical expert was guilty of misconduct in refusing to postpone the hearing, or in refusing to hear pertinent and material evidence, or of any other prejudicial misbehavior.

ODOT force account limits

(R.C. 5517.02 and 5517.021)

Overview

In general, "force account" is a term used to refer to circumstances under which ODOT is not required to competitively bid a construction project. Instead, ODOT may use its own labor force and equipment for the project. ODOT may perform a force account project if the estimated cost of the project is below specified force account limits established under the law. In order to determine the estimated cost of a project, ODOT must first complete the force account project assessment form developed by the Auditor of State. When the total estimated cost exceeds the force account amounts, the Director of Transportation must competitively bid the project and let the work to the lowest competent and responsible bidder.

As explained below, the bill establishes scope of work limits that are not subject to (1) the force account limits, (2) the requirement to estimate the cost of the project, or (3) the competitive bidding requirements. The bill also increases the force account limits, requires the Director of Transportation to adjust the amounts in odd-numbered years, and requires the costs for subcontracted work and competitively bid project components to be included in project estimates.

Scope of work limits

Under the bill, the Director of Transportation may proceed by force account without completing the Auditor's project assessment form and without competitive bidding to do any of the following work:

(1) Replace or widen any single span bridge if the deck area of the new or widened bridge does not exceed 700 square feet as measured around the outside perimeter of the deck;

(2) Replace the bearings, beams, and deck of any bridge on that bridge's existing foundation if the deck area of the rehabilitated structure does not exceed 800 square feet;

(3) Construct or replace any single cell or multi-cell culvert whose total waterway opening does not exceed 52 square feet; and

(4) Pave or patch an asphalt surface if the operation does not exceed 120 tons of asphalt per lane-mile of roadway length, except that ODOT cannot perform a continuous resurfacing operation under this scope of work authority if the cost of the work exceeds the force account amount of $30,000 per centerline mile of highway, as adjusted.

In addition to being exempt from completing the Auditor's project assessment form, these types of work projects are exempt from audit for force account purposes, except to determine compliance with the applicable size or tonnage limitations.

Force account estimates, increases, and adjustments

Generally, before undertaking the construction, reconstruction by widening or resurfacing, or improvement of a state highway, or a bridge or culvert, or the installation of a traffic control signal, the Director is required to make an estimate of the cost of the work using the Auditor's force account project assessment form. The bill specifies that when a force account project assessment form is required, the estimate must include costs for subcontracted work and any competitively bid component costs.

Under the bill, the force account limits, subject to adjustment, are increased as follows:

- To $30,000 per centerline mile of highway for highway construction and reconstruction projects, exclusive of structures and traffic control signals, from $25,000 per mile of highway under current law;

- To $60,000 for any single traffic control signal or any other single project, from $50,000 for such projects under current law.

Beginning on July 1, 2015, and every odd-numbered year thereafter, the bill requires the Director to increase the force account amounts by an amount not to exceed the lesser of 3%, or the percentage amount of any increase in ODOT's construction cost index as annualized and totaled for the prior two calendar years. The Director must publish the applicable amounts on ODOT's internet web site.

The bill specifies that when a project proceeds by force account as a result of the project estimated cost being within the force account limits or within the scope of work limits, ODOT must perform the work in compliance with any project requirements and specifications that would have applied if a contract for the work had been let by competitive bidding. Also, ODOT must retain in the project record all records documenting materials testing compliance, materials placement compliance, actual personnel and equipment hours usage, and all other documentation that would have been required if a contract for the work had been let by competitive bidding.

Lastly, the bill requires the Director to proceed by competitive bidding to let work to the lowest competent and responsible bidder after advertisement in both of the following situations:

(1) When the scope of work exceeds the prescribed limits established by the bill; and

(2) When the estimated cost of a project, other than a scope-of-work project, exceeds the force account amounts, as adjusted.

ODOT construction projects and contracts

(R.C. 9.33, 153.01, and 153.65)

The bill addresses several aspects of ODOT construction contracts. First, it specifies that the Director of Transportation must award all other contracts in accordance with ODOT's existing construction contract requirements. Next, the bill provides that ODOT is not a "public authority" for purposes of the state construction manager law and professional design services law, and therefore is not subject to those laws. Finally, the bill provides that nothing in the general laws that govern bids for public improvements may interfere with the power of the Director to prepare plans for, acquire rights-of-way for, construct, or maintain transportation facilities, or to let contracts for those purposes.

Advertising by ODOT for bids for construction contracts

(R.C. 5525.01)

The bill permits the Director of Transportation to advertise for bids for construction contracts under an existing optional provision of law. This provision provides that, after first advertising for bids by full publication, the second advertisement may be made in abbreviated form in a newspaper of general circulation and if the newspaper has an Internet web site, on that web site. Current law requires the Director to arrange for the full publication of an advertisement for bids for a

construction contract for two consecutive weeks in one newspaper of general circulation published in the county in which the project or any part of the project is located.

ODOT construction contract bonds

(R.C. 5525.16)

Before entering into a construction contract, the Director of Transportation must have a contract performance bond and a payment bond with sufficient sureties from the contractor. The bill requires the amount of the contract performance bond and payment bond to be equal to 100% of the contract amount rather than 100% of the estimated cost of the work as required in existing law.

Under existing law, a contract performance bond is conditioned upon the contractor's performing the work upon the terms proposed, within the time prescribed, and in accordance with applicable plans and specifications. It is also conditioned upon the contractor indemnifying the state against any damage that may result from the contractor's failure to perform under the contract. The payment bond is issued to ensure that all laborers, suppliers, and subcontractors are paid in full.

Vehicle weight and size limits

(R.C. 4513.34, 5577.04, and 5577.05)

Overall gross vehicle weight limit

For roads that are part of the state highway system and are not interstate highways, the bill increases the maximum overall gross vehicle weight from 80,000 to 90,000 pounds. For interstates and other roads that are not part of the state highway system (county and township roads), the bill retains the existing maximum overall gross vehicle weight limit of 80,000 pounds.

Vehicle size limits

The bill increases from 40 to 50 feet the general maximum length for motor vehicles operating on public roads in Ohio that do not otherwise have a separate maximum length. In particular, this general maximum vehicle length applies to vehicles other than trailers, semitrailers, and certain other specified vehicles, including passenger buses and certain transporter combinations. A vehicle may exceed this maximum length only with a special hauling permit, issued under rules adopted by the Director of Transportation or a local authority.

Permits

The bill creates a new, mandatory special regional heavy hauling permit that the Director of Transportation and local authorities must issue for trips of 150 miles or less, unless the requested route is over a highway with a condition insufficient to bear the weight of the vehicle or combination of vehicles. Upon application in writing, the special regional heavy hauling permit must be issued authorizing the applicant to operate or move a vehicle or combination of vehicles as follows: (1) at a size or weight exceeding the maximum allowable under Ohio law, (2) upon any highway under the jurisdiction of ODOT or the local authority, except highways with a condition insufficient to bear the weight as stated on the application, (3) for regional trips at distances of 150 miles or less from a facility stated on the application as the applicant's point of origin, and (4) upon payment of a permit fee established by the Director or the local authority. The bill continues to allow the Director or a local authority to issue or withhold an existing special permit that is not a mandatory, regional heavy hauling permit and to establish conditions for the operation of a vehicle under a permit.

Under current law, the issuance by the Director and local authorities of a special overweight or oversize vehicle permit is discretionary. Under rule, ODOT currently issues multiple types of permits based on what is being moved, size and weight, the routes, and the frequency of movement. Permits currently issued include trip permits, round trip permits, 90-day continuing permits, 365-day continuing permits, permits specific to an industry or product (construction equipment, farm equipment, manufactured buildings, and steel coils), and location specific permits (Toledo port area, Delta steel complex, and marinas). Each type of permit has a separate fee schedule and conditions for operation. (Ohio Administrative Code Chapter 5501:2-1.)

Special permits and the Ohio Turnpike

Under the bill, an overweight or oversize vehicle is not required to obtain a special permit to move a distance of two miles or less from the Ohio Turnpike if: (1) the vehicle or combination of vehicles was not required to have a special permit to operate on the Ohio Turnpike, and (2) the highway condition over which the vehicle is operating is sufficient to bear the weight of the vehicle. Current law allows the Ohio Turnpike Commission to adopt rules for the control and regulation of traffic on any turnpike project. The Commission rules in regard to axle loads, vehicle loads, and vehicle dimensions, including the issuance of special permits, apply on any turnpike project notwithstanding the general laws governing vehicle weight and size limits (R.C. 5537.16, not in the bill).

Penalties

The bill establishes specific permit violations in place of a general prohibition against violating the law governing permits. The bill prohibits violation of the following terms of a permit: (1) gross load limits, (2) axle load by more than 2,000 pounds per axle or group of axles, and (3) the terms of a permit that relate to an approved route, except upon order of a law enforcement officer. The bill retains the existing penalties applicable to special permits; specifically, (1) a first violation is a minor misdemeanor, (2) a second offense within one year is a fourth degree misdemeanor, and (3) any subsequent offense within one year is a third degree misdemeanor (R.C. 4513.99, not in the bill).

In addition, the bill specifies that a separate violation of the motor vehicle and traffic laws by a person operating a vehicle or combination of vehicles under an overweight or oversize special permit does not invalidate the operation in accordance with the terms and conditions of the permit.

Left turn on red traffic signal clarification

(R.C. 4511.13)

The bill clarifies that the operator of a motor vehicle, when facing a red traffic signal at an intersection, whether a round signal or an arrow, may not turn left unless the turn is being made from a one-way street into a one-way street. This restriction prevents a vehicle, when making a left turn on a red signal at an intersection, from proceeding through a lane carrying oncoming traffic, approaching either from the left or from ahead. Current law does not contain the "into a one-way street" restriction.

Airport Assistance Fund

(R.C. 4561.21)

The bill permits up to 10% of the money deposited annually in the existing Airport Assistance Fund to be spent annually to pay operating costs associated with ODOT's Office of Aviation, as well as for maintenance and capital improvements to publicly owned airports as provided in current law.

Midwest Interstate Passenger Rail Compact

(R.C. 4981.36 (repealed) and 4981.361 (repealed))

The bill terminates Ohio's participation in the Midwest Interstate Passenger Rail Compact. The Compact and the Midwest Interstate Passenger Rail Commission formed under the Compact was established for the purpose of advancing passenger rail service

within the Compact's member states. The ten states that enacted legislation joining the Compact are Illinois, Indiana, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, and Wisconsin.

Traveler information program

(R.C. 5501.03)

The bill authorizes the Director of Transportation to enter into cooperative or contractual agreements with any individual, organization, or business to create or promote a traveler information program that provides real-time traffic conditions and travel time information by telephone, text message, internet, or other similar means at no cost to the traveler. Under the bill, the Director may contract with a program manager, and the program manager is responsible for all costs associated with the development and operation of the traveler information program. Any compensation due to a program manager or vendor may include deferred compensation in an amount determined by the Director. Also, excess revenue must be remitted to ODOT for deposit into the Highway Operating Fund.

Without reference to any particular program, the bill establishes that any materials or data submitted to, made available to, or received by the Director, to the extent that the materials or data consist of trade secrets (as defined in the existing Trade Practices portion of the Ohio Uniform Commercial Code), or commercial or financial information, are confidential and are not public records.

ODOT access permit processing fee

(R.C. 5515.01)

The bill permits the Director of Transportation, when granting a permit to an individual, firm, or corporation to use or occupy a portion of a state road or highway, to charge a reasonable one-time access permit processing fee. The fee must not exceed $30 for agricultural access, $70 for residential access, and $300 for commercial or industrial access. The installation of a driveway that enters onto a road or highway is an example of when such a permit is required.

Maintenance of interstate highways

(Section 203.70)

Under the bill, the Director of Transportation may remove snow and ice and maintain, repair, improve, or provide lighting upon interstate highways that are located within the boundaries of a municipal corporation. The actions taken by the Director

must be adequate to meet the requirements of federal law. When agreed to in writing by the Director and the legislative authority of a municipal corporation and notwithstanding general laws related to competitive bidding, ODOT, as provided by the agreement, may reimburse a municipal corporation for all or any part of the costs incurred by the municipal corporation in maintaining and repairing lighting upon the interstate system, and removing snow and ice from the interstate system.

ODOT reimbursement for relocation of a county water and sewer facility

(R.C. 5501.51)

The bill classifies a county-owned or county-operated water and sewer facility as a "utility" for purposes of the existing requirement for ODOT to reimburse a utility for the cost of relocating any of the utility's facilities due to a highway construction project. Current law requires ODOT to reimburse the following utilities when a construction project requires such relocation: (1) publicly, privately, and cooperatively owned utilities subject to the authority of the Public Utilities Commission of Ohio, (2) a cable operator, and (3) an electric cooperative and a municipal electric utility not subject to the authority of the Public Utilities Commission.

Public transportation highway purpose grants

(Section 203.80)

The bill authorizes the Director of Transportation to use revenues from the state motor vehicle fuel tax to match approved federal grants awarded to ODOT, regional transit authorities, or eligible public transportation systems, for public transportation highway purposes, or to support local or state funded projects for public transportation highway purposes. Under the bill, "public transportation highway purposes" include: the construction or repair of high-occupancy vehicle traffic lanes, the acquisition or construction of park-and-ride facilities, the acquisition or construction of public transportation vehicle loops, the construction or repair of bridges used by public transportation vehicles or that are the responsibility of a regional transit authority or other public transportation system, or other similar construction that is designated as an eligible public transportation highway purpose. Motor vehicle fuel tax revenues may not be used for operating assistance or for the purchase of vehicles, equipment, or maintenance facilities.

Review agreements for federal environmental permits

(Section 755.10)

Under the bill, the Director of Transportation may enter into agreements with the United States or any department or agency of the United States, including, but not limited to, the United States Army Corps of Engineers, the United States Forest Service, the United States Environmental Protection Agency, and the United States Fish and Wildlife Service. An agreement must be solely for the purpose of dedicating staff to the expeditious and timely review of environmentally related documents submitted by the Director, as necessary for the approval of federal permits. The agreements may include provisions for advance payment by the Director for labor and all other identifiable costs of the United States or any department or agency of the United States providing the services. The Director must submit a request to the Controlling Board indicating the amount of the agreement, the services to be performed by the United States or the department or agency of the United States, and the circumstances giving rise to the agreement.

Fee to cover costs incurred in proceedings to vacate a road

(R.C. 5553.051)

The bill permits a board of county commissioners to establish a reasonable fee to cover the costs the county incurs in proceedings to vacate a public road, including the costs the county incurs in providing required published and mailed notice. The board may require an initial deposit to be paid at the time a petition for vacation of a road is filed or promptly thereafter. The clerk of the board must maintain an accurate and detailed accounting of all funds received and expended in the processing of a petition for vacation of a road.

Joint Legislative Task on Department of Transportation Funding

(Section 755.20)

The bill creates a six-member Joint Legislative Task Force on Department of Transportation Funding. The Task Force consists of three members of the House Finance and Appropriations Committee, two of whom are appointed by the Speaker of the House of Representatives and one of whom is appointed by the Minority Leader of the House of Representatives, and three members of the Senate Transportation Committee, two of whom are appointed by the President of the Senate and one of whom is appointed by the Minority Leader of the Senate. The Task Force is required to examine the funding needs of ODOT. Not later than December 15, 2014, the Task Force must issue a report containing its findings and recommendations to the President of the

Senate, the Minority Leader of the Senate, the Speaker of the House of Representatives, and the Minority Leader of the House of Representatives. At that time, the Task Force will cease to exist.

DEPARTMENT OF PUBLIC SAFETY

Merger of boards

- Changes the name of the State Board of Emergency Medical Services to the "State Board of Emergency Medical, Fire, and Transportation Services," eliminates the Ohio Medical Transportation Board, and assigns the duties of that Board to the renamed State Board of Emergency Medical, Fire, and Transportation Services.

- Provides that the renamed State Board of Emergency Medical, Fire, and Transportation Services be composed of 15 members of the former State Board of Emergency Medical Services and 4 former members of the Ohio Medical Transportation Board.

- Requires certain fees and money collected by the renamed State Board of Emergency Medical, Fire, and Transportation Services that the Ohio Medical Transportation Board currently collects to be deposited into the existing Trauma and Emergency Medical Services Fund instead of the existing Occupational Licensing and Regulatory Fund.

- Creates the Medical Transportation Committee of the renamed State Board of Emergency Medical, Fire, and Transportation Services, and also the Critical Care Subcommittee of the Medical Transportation Committee.

• Other provisions

- Reduces the fee charged for late vehicle registration renewals from $20 to $10 and extends the grace period from seven days to 30 days.

- Requires that penalties imposed for failure to pay or forward fees charged for copies of birth records, certifications of birth, and death records, and for the filing of divorce and dissolution decrees, be paid to the Department of Public Safety rather than the Treasurer of State as in current law.

- Requires the Department to forward the penalties to the Treasurer for deposit in the Family Violence Prevention Fund.

- Creates the Local Motor Vehicle License Tax Fund and requires all revenue received from local permissive motor vehicle registration taxes to be deposited into the Fund for subsequent distribution to local authorities.

- Redirects certain driver's license revenue from the State Highway Safety Fund (primarily funds the State Highway Patrol) to the existing State Bureau of Motor Vehicles Fund (funds the expenses of the Bureau).

- Changes the time period that a farm bus may be registered from two 90-day periods in any calendar year to one 210-day period in any calendar year.

- Provides that a person who holds a current, valid driver's license from another state is required to pass only vision screening in order to be issued a driver's license instead of the regular examination for obtaining a driver's license.

- Requires that the fee charged by the State Highway Patrol for the annual inspection of certain commercial buses be paid directly into the State Highway Safety Fund, rather than being paid into the GRF and transferred into the State Highway Safety Fund.

- Requires that rental fees paid by a deputy registrar for the use of space in a driver's license examining station be paid into the State Bureau of Motor Vehicles Fund rather than the Registrar Rental Fund as in current law.

- Eliminates the Registrar Rental Fund, which is currently used by the Department to pay the rent and expenses of driver's license examining stations.

- Permits a duly authorized subordinate acting on behalf of a county sheriff, chief of police, State Highway Patrol trooper, or chief of a fire department to remove an unoccupied motor vehicle, its cargo, or personal property from a motor vehicle accident scene.

- Provides that the Superintendent of the State Highway Patrol must hold the rank of colonel and requires the Superintendent to be appointed from within the eligible ranks of the Patrol.

- Specifies that all ranks of the Patrol below the Superintendent are classified.

- Increases the number of classic motor vehicle auctions a person may conduct per year, from two to four, without being subject to certain licensing requirements under the Motor Vehicle Dealers Law.

State Board of Emergency Medical Services and the Ohio Medical Transportation Board

(R.C. 307.05, 307.051, 307.055, 505.37, 505.375, 505.44, 505.72, 4503.49, 4513.263, 4743.05, 4765.02, 4765.03, 4765.04, 4765.05, 4765.06, 4765.07, 4765.08, 4765.09, 4765.10, 4765.101, 4765.102, 4765.11, 4765.111, 4765.112, 4765.113, 4765.114, 4765.115, 4765.116, 4765.12, 4765.15, 4765.16, 4765.17, 4765.18, 4765.22, 4765.23, 4765.28, 4765.29, 4765.30, 4765.31, 4765.32, 4765.33, 4765.37, 4765.38, 4765.39, 4765.40, 4765.42, 4765.48, 4765.49, 4765.55, 4765.56, 4765.59, 4766.01, 4766.02 (repealed), 4766.03, 4766.04, 4766.05, 4766.07, 4766.08, 4766.09, 4766.10, 4766.11, 4766.12, 4766.13, 4766.15, 4766.20 (repealed), 4766.22, and 5502.01; Section 747.10)

The bill changes the name of the State Board of Emergency Medical Services to the "State Board of Emergency Medical, Fire, and Transportation Services." It eliminates the Ohio Medical Transportation Board and assigns the duties of that board to the renamed State Board of Emergency Medical, Fire, and Transportation Services. The bill provides that the renamed State Board of Emergency Medical, Fire, and Transportation Services be composed of 15 members of the former State Board of Emergency Medical Services and four former members of the Ohio Medical Transportation Board, although the bill contains changes in the qualifications or nominating entities for some of the members.

Modification to the Board

Several of the positions on the former State Board of Emergency Medical Services continue unchanged on the renamed State Board of Emergency Medical, Fire, and Transportation Services. The bill makes the following modifications to positions on the former State Board of Emergency Medical Services that continue on the renamed State Board of Emergency Medical, Fire, and Transportation Services:

(1) One member is a physician certified by the American Academy of Pediatrics or American Osteopathic Board of Pediatrics who is active in the practice of pediatric emergency medicine and actively involved with an emergency medical service organization. The bill requires the Governor to appoint this member from among not only three persons nominated by the Ohio Chapter of the American Academy of Pediatrics, as specified in current law, but also from among three persons nominated by the Ohio Osteopathic Association.

(2) Under the bill, one member is the administrator of a hospital located in Ohio; current law specifies that this member must be the administrator of a hospital that is not a trauma center. Under the bill, the Governor must appoint this member from among three persons nominated by the Ohio Hospital Association: the Association for

Hospitals and Health Systems, three persons nominated by the Ohio Osteopathic Association, and three persons nominated by the Association of Ohio Children's Hospitals; these nominating entities are three of the four specified in current law. The bill provides that the Health Forum of Ohio no longer is to nominate three persons for this position, the fourth entity specified in current law.

(3) Under the bill, one member is an adult or pediatric trauma program manager or trauma program director who is involved in the daily management of a verified trauma center; current law specifies that this member must be a registered nurse who is in the active practice of emergency nursing. The bill requires the Governor to appoint this member from among three persons nominated by the Ohio Nurses Association, three persons nominated by the Ohio State Council of the Emergency Nurses Association, and three persons nominated by the Ohio Society of Trauma Nurse Leaders. Of these three nominating entities, the first two are specified in current law for this member while the third entity is a new nominating entity specified in the bill.

(4) Under the bill, one member must be a person who is certified to teach in this state in an emergency medical services training program or an emergency medical services continuing education program and holds a valid certificate to practice as an EMT, advanced EMT, or paramedic. The bill eliminates current language that provides that if the State Board has not yet certified persons to so teach in this state, the person must be qualified to be certified to so teach.

(5) Under the bill, one member must be an EMT, advanced EMT, or paramedic, and one member must be a paramedic. ("EMT" is the new term for "EMT-basic" and "advanced EMT" or "AEMT" are the new terms for "EMT-I.") The Governor must appoint these members from among three EMTs or AEMTs and three paramedics nominated by the Ohio Association of Professional Fire Fighters.

Current law specifies that one member must be an EMT-basic, one must be an EMT-I, and one must be a paramedic, and that the Governor must appoint these members from among three EMTs-basic, three EMTs-I, and three paramedics nominated by the Ohio Association of Professional Fire Fighters and three EMTs-basic, three EMTs-I, and three paramedics nominated by the Northern Ohio Fire Fighters.

(6) Under the bill, one member must be an EMT, AEMT, or paramedic, and one member must be a paramedic, and the Governor must appoint these members from among three EMTs or AEMTs and three paramedics nominated by the Ohio State Firefighter's Association.

Current law specifies that one member must be an EMT-basic, one member must be an EMT-I, and one must be a paramedic, and that the Governor must appoint these

members from among three EMTs-basic, three EMTs-I, and three paramedics nominated by the Ohio State Firefighter's Association.

(7) Under the bill, one member must be a person whom the Governor must appoint from among an EMT, an AEMT, or a paramedic nominated by the Ohio Association of Emergency Medical Services or the Ohio Ambulance and Medical Transportation Association. Current law specifies that one member must be a person whom the Governor must appoint from among an EMT-basic, an EMT-I, and a paramedic nominated by the Ohio Association of Emergency Medical Services.

New positions on the Board

The bill also creates the following new positions on the renamed Board:

(1) One member must be an EMT, an AEMT, or a paramedic, whom the Governor must appoint from among three persons nominated by the Ohio Ambulance and Medical Transportation Association.

(2) One member must be a paramedic, whom the Governor must appoint from among three persons nominated by the Ohio Ambulance and Medical Transportation Association.

(3) One member must be the owner or operator of a private emergency medical service organization whom the Governor must appoint from among three persons nominated by the Ohio Ambulance and Medical Transportation Association.

(4) One member must be a provider of mobile intensive care unit transportation in this state whom the Governor must appoint from among three persons nominated by the Ohio Association of Critical Care Transport.

(5) One member must be a provider of air-medical transportation in this state whom the Governor must appoint from among three persons nominated by the Ohio Association of Critical Care Transport.

(6) One member must be the owner or operator of a nonemergency medical service organization in this state that provides ambulette services whom the Governor must appoint from among three persons nominated by the Ohio Ambulance and Medical Transportation Association.

Elimination of members and terms of office

In a section of uncodified law, the bill provides that on the effective date of the amendments the bill makes to the Revised Code section that establishes the renamed State Board of Emergency Medical, Fire, and Transportation Services, the following

members of the current State Board of Emergency Medical Services will cease to be members of the renamed Board:

(1) The member who is an administrator of an adult or pediatric trauma center;

(2) The member who is a member of the Ohio Ambulance Association;

(3) The member who is a physician certified by the American Board of Surgery, American Board of Osteopathic Surgery, American Osteopathic Board of Emergency Medicine, or American Board of Emergency Medicine, is chief medical officer of an air medical agency, and is currently active in providing emergency medical services;

(4) Of the members of the renamed State Board of Emergency Medical, Fire, and Transportation Services who were EMTs, advanced EMTs, or paramedics and were appointed to the previous Board in those capacities, only the members who are designated by the Governor to continue to be members of the renamed Board will continue to be so; the other persons will cease to be members of the renamed Board.

In addition, on the effective date of the amendments the bill makes to the Revised Code section that establishes the renamed State Board of Emergency Medical and Transportation Services, the member who is a registered nurse and is in the active practice of emergency nursing will cease to be a member of the renamed Board. Not later than 60 days after the effective date of those amendments, the Governor must appoint to the renamed State Board of Emergency Medical and Transportation Services an adult or pediatric trauma program manager or trauma program director who is involved in the daily management of a verified trauma center. The Governor must appoint this member from among three persons nominated by the Ohio Nurses Association, three persons nominated by the Ohio Society of Trauma Nurse Leaders, and three persons nominated by the Ohio State Council of the Emergency Nurses Association.

In addition, on that same effective date, all members of the former State Board of Emergency Medical Services who do not cease to be members of the renamed State Board of Emergency Medical, Fire, and Transportation Services as specified in the bill will continue to be members of the renamed State Board of Emergency Medical, Fire, and Transportation Services, and the dates on which the terms of those continuing members expire remain unchanged.

On that same effective date, the bill provides that the following members of the former Ohio Medical Transportation Board become members of the State Board of Emergency Medical, Fire, and Transportation Services for the terms specified:

(1) The person who owns or operates a private emergency medical service organization operating in this state, as designated by the Governor, for a term that ends November 12, 2014;

(2) The person who owns or operates a nonemergency medical service organization in this state that provides only ambulette services, for a term that ends November 12, 2014;

(3) The person who is a member of the Ohio Association of Critical Care Transport and represents air-based services, for a term that ends November 12, 2015;

(4) The person who is a member of the Ohio Association of Critical Care Transport and represents a ground-based mobile intensive care unit organization, for a term that ends November 12, 2015.

All subsequent terms of office for these four positions on the State Board of Emergency Medical, Fire, and Transportation Services will be for three years as provided in current law governing the State Board.

Transfer procedures

The bill provides that on July 1, 2013, the Medical Transportation Board and all of its functions are transferred to the Department of Public Safety. On that date, the Medical Transportation Board will operate under the Department, which will assume all of the Board's functions. All assets, liabilities, related capital spending authority, and equipment and records related to the Medical Transportation Board's functions are transferred to the Department on that date.

No validation, cure, right, privilege, remedy, obligation, or liability is lost or impaired by reason of the transfer, and all of the Medical Transportation Board's rules, orders, and determinations continue in effect until modified or rescinded by the Department. No action or proceeding pending on July 1, 2013, is affected by the transfer, and any action or proceeding pending on that date will be prosecuted or defended in the name of the Department or the Director of Public Safety.

On or after July 1, 2013, the Director of Budget and Management is required to take any action with respect to budget changes made necessary by the transfer, including the transfer of cash balances between funds. The Director also may cancel encumbrances and reestablish encumbrances or parts of encumbrances as needed in the fiscal year in the appropriate fund and appropriation item for the same purpose and to the same vendor.

The bill provides that these uncodified provisions are exempt from the referendum and therefore take effect immediately when the bill becomes law.

Disposition of certain fees and money

The bill requires certain fees and money collected by the renamed State Board of Emergency Medical, Fire, and Transportation Services to be deposited in the state treasury to the credit of the existing Trauma and Emergency Medical Services Fund. Under current law, these fees and money are collected by the Ohio Medical Transportation Board, are credited to the existing Occupational Licensing and Regulatory Fund, and must be used solely to pay the salaries and expenses that the Board incurs in implementing and enforcing the laws governing the Board.

Under current law, all money in the Trauma and Emergency Medical Services Fund is used by the Department of Public Safety for the administration and operation of the Division of Emergency Medical Services and the State Board of Emergency Medical Services, and by the State Board of Emergency Medical Services to make grants. The bill does not alter these uses.

Limitations on the Board

The bill prohibits the State Board of Emergency Medical, Fire, and Transportation Services from administering laws and rules exceeding its statutory authority (R.C. Chapters 4765. and 4766.). In addition, the Board is prohibited from regulating any profession that otherwise is regulated by another board, commission, or similar regulatory entity.

Medical Transportation Committee

The bill creates the Medical Transportation Committee of the State Board of Emergency Medical, Fire, and Transportation Services. The Committee consists of members appointed by the Board in accordance with rules adopted by the Board. In appointing members of the Committee, the Board is required to attempt to include members representing urban and rural areas and various geographical areas of the state, and must ensure that the members have substantial experience in the transportation of patients, including addressing the unique issues of mobile intensive care and air medical services.

Committee members must be Ohio residents, may be members of the Board, and serve without compensation but are reimbursed for actual and necessary expenses incurred in carrying out duties as members of the Committee. The Committee must select a chairperson and vice-chairperson from among its members. A majority of all Committee members constitutes a quorum. No action may be taken without the

concurrence of a majority of all members of the Committee. The Committee must meet at the call of the chair and at the direction of the Board, but the Committee cannot meet at times or locations that conflict with Board meetings.

The Committee is required to advise and assist the Board in matters related to the licensing of nonemergency medical service, emergency medical service, and air medical service organizations in Ohio.

Critical Care Subcommittee

The bill creates the Critical Care Subcommittee of the Medical Transportation Committee. The membership of the Subcommittee and the conduct of the Subcommittee's business must conform to rules adopted by the State Board of Emergency Medical, Fire, and Transportation Services. The Subcommittee is required to advise and assist the Committee and Board in matters relating to mobile intensive care and air medical service organizations in Ohio.

Other changes

In conducting investigations of alleged violations of laws and rules governing emergency medical service transportation entities and personnel and complaints alleging such violations, the bill eliminates an existing provision that permits the Ohio Medical Transportation Board to use any method of communication, including a telephone conference call, to receive descriptions of evidence for reviewing allegations and for voting on a suspension. The bill also requires the affirmative vote of a majority of the members of the State Board of Emergency Medical, Fire, and Transportation Services to suspend without a hearing a medical transportation-related license the State Board issues. Current law requires the affirmative vote of at least four members of the Ohio Medical Transportation Board to suspend such a license.

The bill requires the Department of Public Safety to administer the laws and rules relative to not only trauma and emergency medical services as in current law, but also any laws and rules relative to commercial medical transportation services.

Vehicle registration late fee

(R.C. 4503.04, 4503.042, and 4503.07)

The bill reduces the fee charged for late vehicle registration renewals from $20 to $10 and extends the grace period from seven days to 30 days. Under continuing law, the fee can be waived for good cause shown or for a vehicle that is only used on a seasonal basis and has not been used on public roads or highways since the expiration of the registration, if the application is accompanied by supporting evidence as the Registrar

may require. A deputy registrar who collects the late fee retains 50¢ and the rest of the fee is credited to the State Highway Safety Fund.

Late payment penalty for copies of public documents

(R.C. 3705.242)

The bill requires that a 10% penalty for failure to pay or forward fees charged for any of the following must be paid to the Department of Public Safety and forwarded to the Treasurer of State for deposit in the Family Violence Prevention Fund: (1) copies of birth records, (2) copies of certifications of birth, (3) copies of death records, (4) filings of divorce decrees, and (5) filings of dissolution decrees. Current law provides that the penalty must be paid directly to the Treasurer for deposit in the Family Violence Prevention Fund.

In order to obtain any of the above documents or submit any of the above filings, current law requires a person to pay a fee to the Director of Health, a person authorized by the Director, a local commission of health, or a local registrar of vital statistics. As specified above, a penalty equal to 10% of the fees due is assessed if the underlying fees are not paid.

Local Motor Vehicle License Tax Fund

(R.C. 126.06, 127.14, 4501.03, 4501.031, 4501.04, 4501.041, 4501.042, 4501.043, 4503.42, 4503.45, 4504.19, and 4504.21)

The bill creates the Local Motor Vehicle License Tax Fund and requires all revenue received from local permissive motor vehicle registration taxes to be deposited into the Fund for subsequent distribution to local authorities. Current law requires this revenue to be deposited into the Auto Registration Distribution Fund. These local permissive taxes are levied by municipal corporations, counties, townships, and transportation improvement districts in increments of $5.

The bill also clarifies that when special reserved and collector's vehicle license plates are issued, all applicable local permissive motor vehicle registration taxes are to be collected, not just two specific such taxes.

Redirection of certain driver's license revenue

(R.C. 4501.06, 4506.08, 4506.09, and 4507.23)

The bill redirects certain driver's license revenue from the State Highway Safety Fund to the existing State Bureau of Motor Vehicles Fund. The revenue that is redirected is some or all of the revenue that is collected when the following are issued

or given: a commercial driver's license (CDL) temporary instruction permit, a CDL, a restricted CDL, a renewal of a CDL, a CDL waiver for farm-related service industries, CDL skills tests, a driver's license temporary instruction permit, a driver's license, a duplicate or renewal of a driver's license, a motorcycle operator's endorsement, and a motorized bicycle license or duplicate of such a license.

All of the money in the State Bureau of Motor Vehicles Fund is used to pay the expenses of the Bureau of Motor Vehicles, while the vast majority (over 90%) of the money in the State Highway Safety Fund is used to pay the expenses of the State Highway Patrol.

Farm bus registration period

(R.C. 4503.04)

The bill permits a farm bus to be registered for one 210-day period from the date of issuance of the license plates in any calendar year for a fee of $10. Current law permits a farm bus to be registered for not more than two 90-day periods in any calendar year for a fee of $10 for each 90-day period.

Tests required of new residents who hold a driver's license from another jurisdiction

(R.C. 4507.05(D))

Under the bill, any person who has in the person's possession a valid and current driver's license or motorcycle operator's license or endorsement issued to the person by another jurisdiction recognized by Ohio is exempt from having to submit to the regular examination for obtaining a driver's license or motorcycle operator's endorsement in Ohio if:

(1) The person submits to and passes the usual vision screening;

(2) The person surrenders to the Registrar of Motor Vehicles or deputy registrar the person's driver's license issued by the other jurisdiction; and

(3) The person complies with all other applicable requirements for issuance of an Ohio driver's license, driver's license with a motorcycle operator's endorsement, or restricted license to operate a motorcycle.

If the person does not comply with all of the requirements specified above, the person must submit to the regular examination for obtaining a driver's license or motorcycle operator's endorsement in order to obtain such a license or endorsement. Current law provides that such a person is exempt from obtaining a temporary

instruction permit but is required to submit to the regular examination in obtaining a driver's license or motorcycle operator's endorsement.

Commercial bus safety inspection fee

(R.C. 4501.06 and 4513.53)

The State Highway Patrol conducts annual safety inspections of certain commercial buses (school and church buses generally are not inspected under this program) and is authorized to charge a fee of up to $200 for each bus inspected. By rule of the Department of Public Safety, the fee currently is set at $100 for each bus inspected. The bill requires that these fees be paid directly into the State Highway Safety Fund.

Under current law, the fees first are paid into the state treasury to the credit of the General Revenue Fund. Following an annual determination and certification by the Director of Public Safety of the amount of fees collected, the Director of Budget and Management then is authorized to transfer cash up to the amount certified from the GRF to the State Highway Safety Fund.

Deputy registrar rental fees

(R.C. 4507.011)

The bill requires that rental fees paid by deputy registrars who are assigned to driver's license examining stations be deposited by the Director of Public Safety into the State Bureau of Motor Vehicles Fund rather than the Registrar Rental Fund as in current law. The bill then eliminates the Registrar Rental Fund.

Under current law, rental fees deposited into the Registrar Rental Fund may only be used by the Department of Public Safety to pay the rent and expenses of the deputy registrars' driver's license examining stations. Rental fees from deputy registrars who are assigned to Bureau of Motor Vehicles locations are currently paid to the Registrar and deposited into the State Bureau of Motor Vehicles Fund.

Thus, under the bill, all rental fees paid by deputy registrars are required to be deposited into the State Bureau of Motor Vehicles Fund, rather than split amongst two separate funds.

Clearing of motor vehicle accident scenes

(R.C. 4513.66)

The bill permits a duly authorized subordinate acting on behalf of certain public officials to remove an unoccupied motor vehicle, its cargo, or any personal property from an accident scene located on a highway, street, or property ordinarily used for vehicular travel. The officials that may authorize a subordinate under the bill include a county sheriff; chief of police of a municipal corporation, township, or township or joint police district in which the accident occurred; a State Highway Patrol trooper; or the chief of the fire department having jurisdiction where the accident occurred.

The bill also extends the existing immunity from liability that applies to public officials to duly authorized subordinates acting on behalf of those officials. That immunity from liability applies to any injury, death, or loss to person or property that results from the removal, including any loss involving a private tow truck or towing company authorized to perform the removal. Current law, which the bill does not change, provides that the immunity does not apply if a removal causes or contributes to the release of a hazardous material or to structural damage to the roadway. Current law also specifies that a private tow truck operator or towing company is not immune if the operator or company performs the removal in a reckless or willful manner.

Superintendent and ranks of the State Highway Patrol

(R.C. 5503.01 and 5503.03)

The bill provides that the Superintendent of the State Highway Patrol must hold the rank of colonel and requires the Superintendent to be appointed from within the eligible ranks of the Patrol. The bill also provides that all ranks of the Patrol below the level of Superintendent are classified positions. The result will be that the Superintendent is an unclassified position and all other ranks of the Patrol are classified positions. Current law permits the Superintendent to classify members of the Patrol.

Classic motor vehicle auctions

(R.C. 4517.021)

In general, continuing law requires any person who engages in the business of selling new or used motor vehicles to be licensed as a motor vehicle dealer or salesperson. A person who engages in the business of motor vehicle auctioning must be licensed as a motor vehicle auction owner, and a motor vehicle auction owner must use a licensed auctioneer to conduct motor vehicle auctions. The Bureau of Motor Vehicles

issues licenses to motor vehicle dealers, salespersons, and motor vehicle auction owners.

The motor vehicle dealer, salesperson, and auction owner licensing provisions do not apply to a person when auctioning classic motor vehicles (motor vehicles 26 years old or older) under certain conditions. One condition is that a person may hold not more than two auctions of classic motor vehicles per year that last no more than two days in order to remain exempt from the motor vehicle dealer, salesperson, and auction owner licensing provisions. The bill will permit a person to hold four auctions without becoming subject to those licensing provisions.

OHIO TURNPIKE COMMISSION

- Repeals authority (1) allowing the Director of Budget and Management and Director of Transportation to execute a contract with a private entity for the purpose of outsourcing turnpike-related highway services, and (2) granting the Director of Transportation the authority to exercise the powers of the Commission.
- Eliminates the Highway Services Fund, which was created to receive money from the contract outsourcing highway services.

Repeal of turnpike outsourcing laws

(R.C. 126.60, 126.601 through 126.605 (repealed); R.C. 718.01, 5739.02, 5747.01, and 5751.01)

The bill repeals authority granted in 2011 that allows the Director of Budget and Management and Director of Transportation to execute a contract with a private entity for the purpose of outsourcing turnpike-related highway services. The provisions being repealed also (1) granted the Director of Transportation the authority to exercise the powers of the Commission, (2) established a proposal process requiring General Assembly approval before the release of an invitation to bid, and (3) created the Highway Services Fund, which was to receive money from the contract outsourcing highway services.

- Segregates commercial activity tax revenue attributable to selling motor vehicle fuel used on public highways from other commercial activity tax revenue based on taxpayers' reports, and credits such motor fuel-related revenue to a separate fund.

- Extends through the FY 2014-FY 2015 biennium the existing reductions in the motor fuel dealers' prompt payment and shrinkage allowances that applied during FY 2008-FY 2013 (1% and 0.5%, respectively).

Commercial activity tax revenue from motor fuel

(R.C. 5751.02, 5751.051, and 5751.20; Sections 757.20, 812.20.10, and 812.20.20)

The bill segregates commercial activity tax (CAT) revenue attributable to sales of motor fuel used for propelling vehicles on public highways from other taxable gross receipts and requires the Tax Commissioner and Director of Budget and Management to credit the tax attributable to those receipts, minus administrative costs, to a separate fund. Accordingly, CAT revenue arising from such fuel sales will no longer be available for distribution to the General Revenue Fund (GRF) and to some local governments and school districts to partially reimburse them for the earlier legislated repeal of local tangible personal property taxes.

Under continuing law, the CAT is levied on the basis of each taxpayer's taxable gross receipts. On December 7, 2012, the Ohio Supreme Court held that spending motor fuel-related CAT revenue on nonhighway purposes violates the constitutional provision prohibiting money derived from excises relating to motor vehicle fuel from being spent on nonhighway purposes (Ohio Constitution, Article XII, Section 5a).[1] Under current law, all revenue from the CAT was credited to the GRF and to two other funds to provide tangible personal property tax replacement payments to some local governments and school districts. The Court enjoined CAT motor fuel revenue from being spent for those purposes after December 7, 2012.

The bill requires every CAT taxpayer, beginning July 1, 2013, to indicate on the taxpayer's return the portion of the taxpayer's receipts, if any, that are attributable to motor fuel used to propel vehicles on public highways. The Department of Taxation must publicize this requirement to taxpayers. If a taxpayer reporting taxable gross receipts attributable to the sale of motor fuel reports the CAT on a quarterly basis, the

[1] *Beaver Excavating Co. v. Testa*, Slip Opinion No. 2012-Ohio-5776.

taxpayer may no longer estimate its taxable gross receipts for a calendar quarter and then reconcile its actual taxable gross receipts at the end of the year, as all quarterly taxpayers currently may do. Under this estimation procedure, if a taxpayer's estimated taxable gross receipts fall between 95% and 105% of its actual taxable gross receipts for each quarter, the taxpayer avoids the imposition of interest and penalties on any additional tax due. The bill's change applies immediately when the bill becomes law.

Under continuing law, CAT revenue is initially deposited in the Commercial Activities Tax Receipts Fund. The bill creates the Commercial Activity Tax Motor Fuel Receipts Fund to receive motor fuel-related CAT revenue. On or before February 20, May 20, August 20, and November 20 of each year, the Tax Commissioner, after deducting an amount from revenue in the Commercial Activities Tax Receipts Fund to cover the Department's administrative costs, is required to transfer from the amount remaining in the Commercial Activities Tax Receipts Fund a proportionate amount of the remainder of the revenue attributable to CAT motor fuel revenue to the Commercial Activity Tax Motor Fuel Receipts Fund. The first such transfer must occur by November 20, 2013. The bill does not specify how money in the Commercial Activity Tax Motor Fuel Receipts Fund is to be spent.[2]

To address the disposition of motor fuel-related CAT taxes imposed since the Supreme Court's decision, the bill requires the Department to determine the amount of such taxes that are remitted between December 7, 2012, the date of the Court's decision, and June 30, 2013. The Tax Commissioner must estimate and certify this amount to the Director of Budget and Management on or before June 25, 2013. The Director must transfer that amount from the GRF to the Commercial Activity Tax Motor Fuel Receipts Fund by June 30, 2013. Before November 20, 2013, the Commissioner must calculate a reconciled amount and certify the difference to the Director, who must transfer the reconciled amount from the GRF to the Commercial Activity Tax Motor Fuel Receipts Fund, or vice versa if the reconciled amount is less than the amount previously estimated.

[2] H.B. 59 of the 130th General Assembly, the main operating budget, does authorize the Director of Budget and Management to use revenue in a fund called the Commercial Activity Tax Motor Fuel Receipts Fund to compensate the GRF for GRF-sourced debt service on state-issued bonds whose proceeds the Ohio Public Works Commission awarded to fund highway-related local infrastructure projects, with any remaining balance in the fund transferred to the Highway Operating Fund. See Section 757.20 of H.B. 59 of the 130th General Assembly.

Continuation of the motor fuel evaporation and shrinkage allowance

(Section 757.10)

Ohio law imposes a motor fuel excise tax of 28¢ per gallon on motor fuel dealers. The codified law governing the motor fuel excise tax provides that a motor fuel dealer filing a complete and timely monthly tax report with payment is entitled to deduct the tax due on 3% of the fuel gallonage the dealer received, minus 1% of the fuel gallonage sold to retail dealers.[3] This deduction is to cover the costs of filing the report and to account for evaporation, shrinkage, and other losses. The last three transportation appropriations acts reduced the 3.0% deduction for fiscal years 2008 through 2013 to 1.0% (minus 0.50% of gallonage sold to retail dealers). The act extends through the FY 2014-FY 2015 biennium the uncodified 1.0% motor fuel shrinkage allowance for motor fuel dealers (minus 0.5% of gallonage sold to retail dealers).

Under the ongoing codified motor fuel excise tax law, retail dealers of motor fuel who have purchased fuel on which the motor fuel excise tax has been paid are granted a refund for evaporation and shrinkage equal to 1.0% of the taxes paid on the fuel each semiannual period.[4] The last three transportation appropriations acts reduced the refund percentage to 0.5% for fiscal years 2008 through 2013. The act extends through the FY 2014-FY 2015 biennium the uncodified 0.5% retail dealer shrinkage refund of the taxes paid on the fuel received by a retail dealer.

MISCELLANEOUS

Horse racing meetings

- Permits the State Racing Commission, through December 31, 2013, to issue a temporary permit to conduct live horse-racing meetings at a location where other permits to conduct live horse-racing meetings have been issued.
- States that the permits must be issued to a permit holder for a period not to aggregate more than one year from the first date of issuance.
- Permits the Commission to adopt rules under the Administrative Procedure Act to establish the temporary permit procedures.

[3] R.C. 5735.06 (not in the bill).

[4] R.C. 5735.141 (not in the bill).

- Adjusts the payment schedule related to payments from the Casino Operator Settlement Fund to the municipality or township in which a horseracing track is located or will be located.

Service station bonding requirement repealed

- Repeals the provision that requires a property owner, if the owner is also the owner of the service station, or if the owner of the property is not the owner of the service station, then in certain cases the lessee of the property, to file an annual $3,000 bond with the executive authority of the municipal corporation in which the service station is, or is to be, located, or with the clerk of the board of county commissioners if the service station is not, or is not to be, located within a municipal corporation.

- Repeals the provision that provides that, if the service station is determined to be an abandoned service station, the bond must be forfeited and the proceeds applied to the costs of repair or removal and restoration.

- States that the repeal does not cancel or otherwise terminate a bond that is in effect on the repeal's effective date.

- Adjusts the persons that receive notice of the finding that a service station is abandoned.

- Removes the ability of the municipal corporation or county to bring an action on the bond to recover costs of repair or removal and restoration of an abandoned service station.

Appointment of deputy

- Requires the Director of the Ohio Public Works Commission to appoint from among the Commission's employees a deputy to act as Director when the Director is absent or temporarily unable to carry out the duties of office.

- Specifies that federal money received by the state for fiscal stabilization and recovery purposes is to be used in accordance with the Buy-U.S. and Buy-Ohio preferences established in state law, but only to the extent permitted by federal law.

Temporary racing permits

(Section 737.10; R.C. 3769.04, not in the bill)

Notwithstanding any provision of the Racing Law, and through December 31, 2013, the bill permits the State Racing Commission to issue a temporary permit to conduct live horse-racing meetings at a location where other permits to conduct live horse-racing meetings have been issued. The permits must be issued to a permit holder for a period not to aggregate more than one year from the first date of issuance. The Commission can adopt rules under the Administrative Procedure Act to effectuate this provision and to establish the procedures and conditions to apply for a temporary permit.

Ongoing law that the bill notwithstands generally sets out the procedure, required information, and fees for a person who desires to hold or conduct a horse-racing meeting, wherein the pari-mutuel system of wagering is allowed.

Payments related to racetracks

(Sections 601.10, 601.11, and 812.30)

The bill adjusts the payment schedule related to location of a racetrack. To the extent that sufficient cash is available, within three months after the receipt of moneys into the Casino Operator Settlement Fund, the Director of Budget and Management must pay $1 million to the municipality or township in which each commercial racetrack is located, including a municipality or township to which a racetrack is to relocate as specified in the memorandum of understanding of February 17, 2012, between the Office of the Governor, State of Ohio, and Penn National Gaming, Inc., pertaining to racing permit transfers, but excluding the previous municipality or township of each moved track and excluding a municipality or township in a county with a population between 1,100,000 and 1,200,000 in the most recent federal decennial census (Franklin County). Additionally, within six months after these first payments are made, the Director of Budget and Management must pay an additional $1 million to each of these municipalities and townships.

If, after either of the payments referenced above, a municipality or township loses a racetrack as a result of the racetrack permit holder's decision to relocate to another municipality or township, the municipality or township losing the racetrack becomes eligible for a payment from the Racetrack Facility Community Economic Redevelopment Fund. Such a municipality or township is not entitled to more than the sum of $3 million minus any payments made by the Director of Budget and Management under these provisions. The Director of Budget and Management may

establish any necessary appropriation items in the appropriate funds and agencies in order to make any required payments.

The bill specifies that these provisions are effective immediately.

Under current law, the Director of Budget and Management must make the first payment described above, totaling $6 million, by December 31, 2012, and the second payment, totaling $6 million, by June 30, 2013.

Service station bond

(R.C. 3791.11 (repealed), 3791.12, 3791.13, and 3791.99; Section 803.10)

Repealed bond requirement

The bill repeals the requirement that prohibits a person from constructing, renewing operation of, or continuing operation of a service station unless, before the commencement of construction or renewed operation and during the period of continued operation, a valid bond is on file as explained below. The bond must be obtained by the owner of the property if the owner also is the owner of the service station. If the owner of the property is not the owner of the service station, then the bond must be obtained by the lessee of the property; except that the lessee must be other than any person who leases and operates the service station under a contract with a supplier of gasoline and petroleum products. The bond must identify and list the name and address of the property owner and any lessee other than a person who leases and operates the service station under a contract with a supplier of gasoline and petroleum products.

The bill repeals the requirement that such a bond must be filed annually with the executive authority of the municipal corporation in which the service station is, or is to be, located, or with the clerk of the board of county commissioners if the service station is not, or is not to be, located within a municipal corporation. The bond must either be a cash bond or have sufficient sureties approved by the executive authority or clerk with whom it is filed. The bond must be renewed annually. The bond must be in the amount of $3,000 for each service station, and is to assure the repair or removal of the service station and its appurtenances and restoration of the property. The bond must be conditioned upon the repair or removal of the service station and restoration of the property if the service station is determined to be an abandoned service station. If the service station is determined to be an abandoned service station, and proper hearing procedures apply, the bond must be forfeited and the proceeds applied to the costs of repair or removal and restoration. If the amount of the bond exceeds the costs of repair or removal and restoration, the excess must be returned to the depositor.

The bill specifies that the repeal of the bond requirement does not cancel or otherwise terminate a bond that is in effect on the repeal's effective date. Such a bond continues in effect and expires according to its terms. Upon expiration of the bond, the depositor is not required to renew the bond, and any amount posted must be returned to the depositor.

The bill also removes the criminal penalty attached to the failure to file a bond.

Definitions

The bill recodifies the definitions of "service station" and "abandoned service station" that are currently in the repealed law, and therefore continues the terms' use in other provisions of ongoing law. As used in current law and in the bill:

"Service station" means any facility designed and constructed primarily for use in the retail sale of gasoline, other petroleum products, and related accessories; except that "service station" does not include any such facility that has been converted for use for another bona fide business purpose, on and after the date of commencement of such other use.

"Abandoned service station" means any service station that has not been used for the retail sale of gasoline, other petroleum products, and related accessories for a continuous period of six months, whenever failure to reasonably secure station buildings from ready access by unauthorized persons and to reasonably maintain the station's premises has resulted in conditions that endanger the public health, welfare, safety, or morals; provided, that such conditions include, but are not limited to, the presence of defective or deteriorated electrical wiring, heating apparatus, and gas connections, or of unprotected gasoline storage tanks, piping, and valves, or any combination of the foregoing; and provided further that the casual and intermittent use of a service station for the retail sale of any item described in the definition of "service station" during the six-month period must not be held to prevent the station from being determined an abandoned service station if it meets the other qualifications of this provision.

Notice

Due to the repeal described above, the bill makes some general conforming changes. Under the bill, the executive authority of a municipal corporation or board of county commissioners, as applicable, must send written notice of the place and date of a hearing that is scheduled to determine if a service station is an abandoned service station, together with a copy of the inspector's report of the condition of the station's buildings and premises, and information that the service station may be ordered repaired or removed if it is determined to be abandoned, to all persons listed on the

records of the county recorder as an owner of the affected property. Under current law, the notice is to be sent to all persons listed on the bond. Continuing law also requires notice to be sent to all persons listed in the records of the county recorder or county clerk of courts as holding a lien on the affected property.

Action to recover costs

When a municipal corporation or county enters and repairs or removes an abandoned service station and its appurtenances and restores the property as provided in ongoing law, the bill permits that entity to bring an action to recover the costs of repair or removal and restoration, plus the costs of the suit. The owner of the property and any lessee, other than a person leasing and operating the service station under a contract with a supplier of gasoline and other petroleum products, are jointly and severally liable for the costs.

Under current law, when a municipal corporation or county enters and repairs or removes an abandoned service station and its appurtenances and restores the property, it can bring an action on the bond to recover the costs of repair or removal and restoration, plus the costs of the suit. Currently, if the costs of repair or removal and restoration exceed the amount collected on the bond, the owner of the property and any lessee, other than a person leasing and operating the service station under a contract with a supplier of gasoline and other petroleum products, are jointly and severally liable for the deficiency.

Appointment of a deputy for the Ohio Public Works Commission

(R.C. 164.05)

The bill requires the Director of the Ohio Public Works Commission to appoint from among the Commission's employees a deputy with the necessary qualifications to act as Director when the Director is absent or temporarily unable to carry out the duties of office. Under continuing law, the Director is authorized to retain the services of or employ financial consultants, engineers, accountants, attorneys, and other employees as the Director determines are necessary to carry out the Director's duties, and to fix the compensation for their services.

Federal stabilization and recovery money subject to Buy-US and Buy-Ohio preferences

(Section 701.20)

The bill specifies that federal money received by the state for fiscal stabilization and recovery purposes is to be used in accordance with the preferences established in

Ohio law for products and services made or performed in the U.S. and Ohio, but only to the extent complying with the preferences is permitted by federal law.[5] The Director of Administrative Services adopts rules under the Administrative Procedure Act prescribing criteria and procedures for giving preferences to products produced or mined in the U.S. and in Ohio. Contrary to what seems to be assumed by the bill, services are not mentioned in the statutory preferences that authorize the rule-making, but services do seem to be mentioned in the rules.[6]

Generally, before awarding a contract, the Department of Administrative Services or a state agency that is responsible for evaluating a contract is required to evaluate the bids to determine if the product that is the subject of the bid is produced or mined in the U.S. and if the product that is the subject of the bid is produced or mined in Ohio. Bidders who produce or mine products in states bordering Ohio are to be treated as if their products were produced or mined in Ohio, so long as the interstate commerce between Ohio and the border state is of sufficient level and regularity, and the border state does not impose greater restrictions than the Ohio Buy-U.S. and Buy-Ohio preferences. And bidders having a significant economic presence in Ohio also are to be treated as if their products were produced in Ohio, so long as their products were produced in other states or in North America. (Products mined outside Ohio do not qualify for the latter exception.) Significant economic presence in Ohio is measured by number of employees and capital investment in Ohio.

In evaluating bids under the preferences, the department or state agency first must remove bids that offer products that have not been or that will not be produced or mined in the U.S. Then, from among the remaining bids, the department or state agency must select the lowest responsive and responsible bid that offers products that have been produced or mined in Ohio, so long as sufficient competition can be generated within Ohio to ensure that compliance with the Buy-US and Buy-Ohio preferences will not result in an excessive price for the product or in acquiring a disproportionately inferior product.

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[5] Section 801.20 of the bill defines the American Recovery and Reinvestment Act of 2009 (ARRA) for purposes of the bill. The ARRA has fiscal stabilization and recovery purposes. Section 701.20, however, refers more generally to "federal law," and not just to the ARRA.

[6] R.C. 125.09(C) and 125.11(B). These sections are not in the bill.

Technical corrections

(R.C. 5503.04)

The bill corrects an outdated reference to the Trauma and Emergency Medical Services Grants Fund, which previously was renamed the Trauma and Emergency Medical Services Fund.

HISTORY

ACTION	DATE
Introduced	02-05-13
Reported, H. Finance & Appropriations	02-27-13

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