



Ohio Legislative Service Commission

Bill Analysis

Bethany Boyd

H.B. 500

130th General Assembly
(As Introduced)

Rep. Young

BILL SUMMARY

- Eliminates the authority of a county transit board to enter into and supervise franchise agreements, and to accept the assignment of and then supervise an existing franchise agreement, for the operation of a county transit system.
- Permits a board of county commissioners, on behalf of a county transit board and by following the bill's procedure, to award a franchise for the operation of a public transit system or a portion of such a system, including the provision of transportation services for a county department of job and family services.
- Specifies that after awarding the franchise, the franchisee has no right to operate a public transit system or part of such a system until the board of county commissioners issues a certification to the franchisee.
- Requires a board of county commissioners to provide terms and conditions in a franchise, including specifying in the franchise that the board can terminate the franchise if the board determines that the franchisee has materially breached the franchise in any manner.
- Requires the awarding of the franchise to be made in accordance with the competitive bidding procedure prescribed by the bill.
- Requires annual written reports by the county transit board and by the franchisee, and an annual review by the board of county commissioners of the franchisee's performance.
- Includes transportation services provided by a county transit board as a family services duty or workforce development activity for which a board of county commissioners may contract.

- Specifies that a loan accepted by a county transit board cannot, in any way, obligate the general fund of a county or a board of county commissioners.

CONTENT AND OPERATION

Awarding a franchise to operate a public transit system

Application process

The bill eliminates the authority of a county transit board to enter into and supervise franchise agreements, and to accept the assignment of and then supervise an existing franchise agreement, for the operation of a county transit system.¹ Instead, the bill authorizes a board of county commissioners, on behalf of a county transit board, to award a franchise to operate a public transit system or portion of a public transit system to any person (an "applicant") who responds to a request for proposals and submits an application for a franchise, subject to such terms and conditions as the board of county commissioners considers appropriate and consistent with applicable laws. The bill defines an "application for a franchise" as the documents that are required to be filed in response to a request for proposals and that initiate the proceedings required for the award of a franchise. A "franchise" is the document and all accompanying rights approved by the board of county commissioners that provides the franchisee with the exclusive right to establish a public transit system and, subject to certification, the right to operate a public transit system. A franchise may include the right of a franchisee to provide transportation services for a county department of job and family services. The franchisee may be an individual, corporation, or other entity awarded a franchise.

The award of a franchise by a board of county commissioners to an applicant is the sole license and authority for the franchisee to establish a public transit system and, *subject to certification*, operate a public transit system.²

Issuing a certification

After awarding the franchise, the board of county commissioners may issue a certification. Until such issuance, the franchisee has no right to operate a public transit system or portion of such a system. A "certification" is the order issued by the board, after submission of an application for certification, that approves the operation of a public transit system, or a portion of that system, by a franchisee, subject to terms and conditions imposed by the board. The application for certification initiates the

¹ R.C. 306.04(C)(20) and (21).

² R.C. 306.04(D)(1), (2), and (3).



proceedings required for certification. The board of county commissioners cannot delete, alter, or amend the terms and conditions of the certification after its issuance.

The board of county commissioners must include in the certification performance targets related to the operation of a public transit system by the franchisee, including cost savings to the county, gains in efficiency, the safety and security of the traveling public and franchise employees, service to the traveling public, return on any investments made by the county, and any other performance targets as determined by the board. All terms and conditions of the certification order are terms and conditions of the franchise. Unless expressly exempted or granted a waiver in the certification, the franchisee must comply with all applicable rules, regulations, orders, and ordinances.³

Terms and conditions in the franchise document

A board of county commissioners must award a franchise for a period of not less than ten years, as provided in the franchise. A franchise cannot prohibit the franchisee from implementing new or improved services during the term of the franchise. The franchisee must coordinate its services, as specified in the franchise, with public transit providers to make effective transportation services available to the public and provide access to and from the public transit system.

A board of county commissioners must provide terms and conditions in a franchise to ensure that the franchisee will continue operation of the public transit system for the duration of the franchise's term, or, if the franchise is revoked, suspended, or abandoned, that financial and other necessary resources are available to continue the operation of the system until another franchisee is selected or until the board determines to cease the transit operations governed by the franchise. The franchise must specifically provide that the board of county commissioners has the right to terminate the franchise if the board determines that the franchisee has materially breached the franchise in any manner. The franchisee may appeal such a termination to the board, and, if the board upholds the termination, to the proper court of common pleas.⁴

Award of franchise through competitive bidding

Notwithstanding existing law's competitive bidding requirements for counties,⁵ a board of county commissioners that awards a franchise on behalf of a county transit

³ R.C. 306.04(D)(1) and (2).

⁴ R.C. 306.04(D)(4) to (7).

⁵ R.C. 307.86, not in the bill.



board to operate a public transit system must award the franchise through competitive bidding, as prescribed in the bill. Under the bill, the board of county commissioners must solicit bids that are not sealed, and must ensure that all bids the board receives are open for public inspection. The board must consider all bids that are timely received.

The fact that a bid proposes to be the most beneficial to the county monetarily in and of itself does not confer best bid status on that bid.

In awarding the franchise to a bidder, the board of county commissioners may consider all of the following:

- ♦The proposed monetary benefit to the county.
- ♦The bidder's ownership of, or access to, transportation facilities or transportation equipment, such as vehicles, automated transit systems, or any other applicable equipment.
- ♦The bidder's experience in operating public transit systems.
- ♦If the bidder has such experience, the bidder's record in relation to all aspects of operating a public transit system, including cost savings to a political subdivision, gains in efficiency, the safety and security of the traveling public and employees, service to the traveling public, return on any investments made by a political subdivision, and any other aspects the board includes for consideration.⁶

County transit board's annual report

If a board of county commissioners awards a franchise to a franchisee on behalf of a county transit board, the bill requires that the county transit board submit an annual written report to the board of county commissioners not later than a date designated by the board of county commissioners and in a form prescribed by that board. The board of county commissioners must make the report available on the general website of the county. The county transit board must include in the report a description in detail of the effects the franchise agreement had during the prior year on all of the following as they relate to the operation of a public transit system by the franchisee in that county: (1) cost savings to the county, (2) efficiency, (3) safety and security of the traveling public and franchise employees, (4) service to the traveling public, (5) return on investment by the county, and (6) any other aspects the board of county commissioners determines should be included in the report.⁷

⁶ R.C. 307.863.

⁷ R.C. 306.14(A).



Franchisee's annual report

A franchisee that is awarded a franchise by a board of county commissioners on behalf of a county transit board must submit an annual written report to the board of county commissioners or county transit board not later than a date designated by the board of county commissioners and in a form prescribed by that board. The board of county commissioners must direct the franchisee to submit the report to the board of county commissioners, the county transit board, or both. The board of county commissioners also must establish the issues to be addressed in the report about the public transit system that the franchisee operated during the prior year. The board of county commissioners must make the report available on the general website of the county.⁸

Annual review of franchisee's performance

A board of county commissioners that awards a franchise to a franchisee on behalf of a county transit board must conduct an annual review of the franchisee's performance. The board of county commissioners must include in the review a determination of the number of performance targets the franchisee met during the prior year and an evaluation of the franchisee's compliance with the other terms and conditions of the franchise, including any breaches of the franchise by the franchisee. The board must issue a written report, and make the report available on the general website of the county.⁹

Authority to contract for transportation services

Continuing law allows a board of county commissioners to enter into a written contract with a private or government entity, including a public or private college or university that is not necessarily located within the county the board serves, for the entity to perform a family services duty or workforce development activity on behalf of a county family services agency or workforce development agency. This authority is subject to federal law and to any limitations established by the Revised Code. The bill includes transportation services provided by a county transit board as a family services duty or workforce development activity for which a board of county commissioners may contract. The bill also authorizes a board of county commissioners to delegate to a county transit board the authority to solicit bids and award and execute contracts for those transportation services on behalf of the board of county commissioners.¹⁰

⁸ R.C. 306.14(B).

⁹ R.C. 306.14(C).

¹⁰ R.C. 307.982(A).



As already prohibited by continuing law regarding a family services duty, a board of county commissioners cannot enter into a contract for transportation services, which are considered to be a family services duty under the bill, if a county children services board serves as the public children services agency for the county.¹¹

Loans accepted by a county transit board

Continuing law authorizes a county transit board or board of county commissioners operating a transit system to accept loans from any federal, state, or other governmental or private source. The bill provides that a loan accepted by a county transit board cannot, in any way, obligate the general fund of a county or a board of county commissioners.¹²

HISTORY

ACTION	DATE
Introduced	03-19-14

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¹¹ R.C. 307.982(B).

¹² R.C. 306.04(C)(8).

