



Ohio Legislative Service Commission

Bill Analysis

Joe McDaniels

Am. H.B. 494

130th General Assembly

(As Reported by H. State and Local Government)

Reps. Schuring, C. Hagan, Slesnick, Slaby, Amstutz, Landis, Barborak, Blair, Boose, Brown, Burkley, Damschroder, Grossman, Hackett, Hill, Maag, Young, R. Adams, Hottinger, Williams, Rogers

BILL SUMMARY

- Authorizes the boards of county commissioners of two or more counties, upon approval of the Director of Transportation, to enter into a cooperative agreement that creates a regional transportation improvement project (RTIP) for the purpose of funding and completing transportation improvements.
- Requires that the cooperative agreement include a description or analysis of the deficiencies of the transportation system in the cooperating counties, a list of the transportation improvements to be undertaken in the project, the number of years the RTIP is effective, and directives on the operations and reporting requirements of the governing board.
- Requires the boards of county commissioners to hold public hearings on the cooperative agreement before adopting it.
- Requires that the RTIP and the cooperative agreement be administered by a governing board consisting of one county commissioner and the county engineer of each participating county.
- Specifies that the board and its members are subject to state sunshine laws.
- Authorizes the RTIP governing board to issue securities and to solicit and receive pledges of revenue from the state, participating counties, and political subdivisions and taxing districts located within the participating counties.
- Authorizes the RTIP governing board to request that a board of county commissioners levy a motor vehicle license tax, subject to voter approval, to fund

the transportation improvements specified in the cooperative agreement and other supplemental transportation improvements.

- Requires that the license tax be levied at a rate between \$1 and \$15 for motor vehicles and between \$1 and \$100 for commercial trucks, trailers, and semitrailers.
- Authorizes the Department of Transportation (ODOT) to make its resources available to the governing board of an RTIP upon the board's request so long as the board reimburses ODOT for its expenses.
- Specifies that an RTIP governing board need not obtain permission from a political subdivision to complete a transportation improvement that includes a street or highway located in that political subdivision that connects to the interstate system.
- Stipulates that the RTIP and its governing board dissolve by operation of law upon completion of the transportation improvements listed in the cooperative agreement, fulfillment of all contractual duties, and repayment of all bonds.

CONTENT AND OPERATION

RTIP authorization

The bill authorizes the boards of county commissioners of two or more counties to enter into a cooperating agreement creating a regional transportation improvement project (RTIP). The purpose of an RTIP is to complete transportation improvements within the territory of the participating counties.¹ The improvements may include construction, repair, maintenance, or expansion of streets, highways, parking facilities, rail tracks and necessary related rail facilities, bridges, tunnels, overpasses, underpasses, interchanges, approaches, culverts, and other means of transportation. The improvements may also include the erection and maintenance of traffic signs, markers, lights, and signals.²

Contents of the cooperative agreement

Counties seeking to create an RTIP must first draft a cooperative agreement to describe the scope of the project. The bill requires that the cooperative agreement include a description or analysis of the deficiencies of the transportation system in the participating counties and of the projected needs or deficiencies of the system in ensuing years. The description or analysis must be conducted under reasonable

¹ R.C. 5595.02(A).

² R.C. 5595.01(B).



assumptions about development, population trends, and other factors affecting transportation infrastructure in the counties.

The agreement must include a comprehensive list of the transportation improvements to be completed as part of the project. A general description of each improvement, schedules of the projected beginning and end dates of each improvement, and the estimated cost of each improvement must be included with the list.

The agreement must specify the number of years the RTIP is effective and include directives regarding the operations and reporting requirements of the governing board (see below). The boards of county commissioners of the participating counties may choose to include additional items in the agreement that they deem necessary or conducive to communicate the intentions of the agreement and ensure that the governing board effectively implements these intentions.³

Adopting and amending the cooperating agreement

The bill requires that each board of county commissioners participating in the RTIP hold at least one public hearing on the proposed cooperative agreement before approving the agreement. At least 30 days before the hearing, the board must provide public notice of the time and place of the hearing in a newspaper of general circulation in the county. During the 30 days leading up to the hearing, the proposed cooperative agreement must be made available for public inspection at the county's offices.

Once a board of county commissioners holds its public hearing, the board may approve the RTIP by enacting a resolution incorporating the cooperative agreement. If the cooperative agreement is approved by each county that is a proposed participant in the RTIP, one such county is required to send a copy of the agreement to the Director of Transportation for review. The bill requires the Director to evaluate the agreement and determine if the transportation improvements specified therein are in the best interest of the state's "transportation facilities."⁴

If the Director approves the agreement, the agreement is effective immediately unless the agreement specifies a different effective date. If the Director does not approve the agreement, the agreement may not take effect. The Director is required to

³ R.C. 5595.03(A).

⁴ Under continuing law, the term "transportation facilities" includes all publicly owned modes and means of transporting people and goods, such as highways, rights-of-way, roads and bridges, parking facilities, aviation facilities, port facilities, rail facilities, public transportation facilities, rest areas, and roadside parks. (R.C. 5501.01(A).)



send a notice of denial to each county that would have been a participant in the proposed RTIP. The notice must include the reason or reasons for the Director's denial and recommendations for ways in which the agreement may be changed to meet the Director's approval. If the Director does not make a determination within 90 days after receiving the cooperative agreement, the agreement is deemed approved and the cooperative agreement is effective immediately (unless the agreement specifies a different effective date).⁵

Once approved by the Director, the cooperative agreement may be amended at any time by majority vote of the governing board of the RTIP and of the boards of county commissioners of each participating county provided that the Director approves the amendment.⁶

Governing board

The RTIP cooperative agreement is administered by a governing board. The bill requires that the governing board consist of one county commissioner and the county engineer from each participating county. A board of county commissioners or the county engineer of a participating county may appoint or designate another person to serve on the governing board in their place. The county auditor of the participating county with the greatest population is required to serve as fiscal officer for the governing board. The county prosecutor of that county is required to serve as the board's legal advisor for the governing board and is charged with the duty of prosecuting and defending all suits and actions that the governing board directs or to which it is a party.

The bill specifies that an RTIP governing board is subject to the state public records and open meetings laws. The participating boards of county commissioners may make appropriations from county funds to pay costs incurred by the RTIP governing board in exercising its functions.⁷

Contracting authority

The bill authorizes RTIP governing boards to enter contracts and agreements necessary or incidental to the performance of their functions. If a board contracts to acquire goods or services with a cost in excess of \$50,000, the contract must be awarded in accordance with the same competitive bidding procedures that apply to boards of

⁵ R.C. 5595.03(C).

⁶ R.C. 5595.03(D).

⁷ R.C. 133.01, 5595.02, and 5595.10.



county commissioners. The bill also authorizes a governing board to employ persons and acquire property as is necessary for the board to carry out its functions. A governing board is a legal entity that may sue or be sued in its own name.⁸

Generating revenue for transportation improvements

Revenue pledges

The bill does not confer direct taxing authority on RTIP boards, but it does permit them to solicit and receive pledges of revenue for the purposes of funding the transportation improvements specified in the cooperative agreement and paying their operating expenses. The state, participating counties, and political subdivisions or taxing units located within the participating counties may pledge revenue to the governing board. The revenue may come from the state General Revenue Fund, payments in lieu of taxes derived from tax increment financing (TIF), income tax revenue derived from a joint economic development zone (JEDZ) or joint economic development district (JEDD), revenue derived from special assessments levied in a special improvement district (SID), and revenue derived from an income source of a new community district.⁹

Issuing securities

The bill authorizes the governing board to issue securities for the purpose of paying the costs of the transportation improvements. The securities would be backed solely by the pledges of revenue from the state, political subdivisions, and taxing districts specified above or RTIP license tax revenue (see below). The securities do not constitute a debt or a pledge of the faith and credit of the state or any political subdivision. Issuance of the securities is subject to the local government public securities law (R.C. Chapter 133.).¹⁰

License tax

In addition to soliciting and receiving pledges of revenue and issuing securities, an RTIP governing board may request that the board of county commissioners of one or more of the participating counties levy a motor vehicle license tax to help pay the cost of transportation improvements, pay debt service charges on securities issued for that purpose, and to fund "supplemental" transportation improvements not described in the cooperative agreement. The rate of the license tax must be between \$1 and \$15, in

⁸ R.C. 5595.04.

⁹ R.C. 5595.06.

¹⁰ R.C. 5595.05.



\$1 increments, for motor vehicles, and either \$1 or between \$10 and \$100, in \$10 increments, for commercial trucks, trailers, and semitrailers.

Voter approval is required for an RTIP license tax to be levied. The tax may apply throughout a participating county or only in a designated portion (based on motor vehicle registrations in that area). Voter approval in each county (or portion thereof) is required for the tax to be levied in that county or portion of county, so it is possible voters in one county approve the tax but voters in another county reject it. However, the RTIP board may specify that implementation of the tax is contingent upon the approval of tax measures in one or more of the other counties.

If a governing board intends to use any of the license tax revenue for supplemental transportation improvements, the board is required to adopt a resolution allocating the revenue among the transportation improvements described in the cooperative agreement and the supplemental improvements. The revenue used for supplemental improvements may not exceed \$5 for each motor vehicle on which the license tax is collected. If the license tax is approved by voters, the governing board must allocate the revenue in accordance with the resolution. The allocation may be changed only if the change is approved by the voters of each participating county.

The bill requires the registrar of motor vehicles to deposit the license tax revenue in the local motor vehicle license tax fund. The revenue is then distributed to the board of county commissioners levying the tax. The board of county commissioners is responsible for transferring the money to the governing board of the RTIP. An RTIP license tax remains in effect until the tax's expiration, repeal, or until the RTIP is dissolved.¹¹

Handling of assets

The bill requires that all money, funds, properties, and assets acquired by an RTIP governing board be held in trust in eligible public depositories selected by the governing board in accordance with the "Uniform Depository Act" (R.C. Chapter 135.). The money, funds, properties, and assets may not be mingled with other public funds.¹²

The governing board may invest money in excess of the board's current needs in the manner specified in the Uniform Depository Act. The investments may be sold at

¹¹ R.C. 4504.08, 4504.09, 4504.22, and 5595.06(B).

¹² R.C. 5595.08.



any time the governing board determines, and income from investments may be deposited to any fund selected by the board.¹³

The bill requires the governing board to obtain the approval of the Director of Transportation before using any amount pledged or allocated to the board for its administrative expenses. The Director may approve such expenses individually by line item or as an aggregate amount to be allocated over a period of time, up to 12 months. The Director may adopt rules prescribing procedures for approving the administrative expenses of RTIP governing boards.¹⁴

Assistance from ODOT

The bill authorizes an RTIP governing board to submit a written request to the Director of Transportation for the assistance of the Department of Transportation (ODOT) in completing the transportation improvements prescribed by the cooperative agreement. After receiving such a request, the Director is authorized to make ODOT resources available to the governing board as necessary to fulfill the request. After receiving a request for assistance, the Director may require the governing board to submit documentation to substantiate that the board has sufficient resources to fund the board's share of the project. If the Director provides ODOT assistance, the bill requires the governing board to pay all the expenses incurred by ODOT in fulfilling the request.¹⁵

Permission to complete transportation improvements

The bill specifies that the governing board need not obtain the approval, consent, or cooperation of any political subdivision to complete a transportation improvement that involves constructing or improving a street or highway that runs through the territory of that subdivision, connects to a highway that is part of the interstate system, and has been journalized by the Director of Transportation before the bill's effective date.¹⁶

¹³ R.C. 5595.09.

¹⁴ R.C. 5595.13.

¹⁵ R.C. 5595.07.

¹⁶ R.C. 5595.12.



An RTIP may exercise the power of appropriation of real property (i.e., "eminent domain") subject to existing limits and procedures applicable to other governmental units (R.C. Chapter 163.).¹⁷

Dissolution

The bill requires that the RTIP and its governing board dissolve upon completion of the transportation improvements listed in the cooperative agreement, fulfillment of all contractual duties assumed by the governing board, and repayment of all bonds issued by the governing board. After the RTIP dissolves, the boards of county commissioners that created the RTIP assume title to all real and personal property acquired by the RTIP's governing board in fulfillment of its duties. Such property must be distributed among the counties in accordance with the cooperative agreement. Unless otherwise provided by contract, pledges of revenue to the governing board of the RTIP from the state, a political subdivision, or a taxing unit terminate upon the dissolution of the RTIP.¹⁸

HISTORY

ACTION	DATE
Introduced	03-18-14
Reported, H. State & Local Gov't	05-21-14

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¹⁷ R.C. 5595.04(D).

¹⁸ R.C. 5595.14.

