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Final Analysis

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- Requires all wayside detector systems installed in Ohio to be within ten to 15 miles from the adjacent system, depending on the natural terrain surrounding the system.
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- In accordance with federal regulations, requires PUCO and ODOT to investigate the safety practices of any railroad company that does not work with them in good faith related to the use of the wayside detector systems.
- Requires PUCO and ODOT to issue a report to the Federal Railroad Administration (FRA) recommending enforcement action against the railroad company if the results of an investigation show that the company does not appear to be in compliance with federal safety standards.
- Requires PUCO and ODOT to issue a copy of that report to the Governor, the Senate President, the Speaker of the House, and the Minority Leaders of both the Senate and the House of Representatives.
- Requires all wayside detector systems installed and operating in Ohio to either directly send their emergency alerts to the operator of the train, rolling stock, or on-track equipment, or to have the person who receives the emergency alert immediately notify the operator of the defect.

Two-person freight train crews

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

Hazardous waste transportation report

- Requires PUCO and the Ohio Environmental Protection Agency to prepare and submit a written report to the General Assembly, by September 28, 2023, pertaining to the transportation of hazardous materials and hazardous waste.

Railroad technology report

- Requires PUCO to examine and compile information regarding the best practices and current use of certain railroad safety technologies and submit a report to specified legislative committees by September 28, 2023.

Wayside detector systems

(R.C. 4955.50 and 4955.51)

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

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

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

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

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

Investigation

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

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

Two-person freight train crews

(R.C. 4999.09)

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

[1] 49 United States Code (U.S.C.) § 20106.

[2] 49 Code of Federal Regulations (C.F.R.) Part 212.

[3] 49 C.F.R. 212.115.

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

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

Civil penalties

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

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

The act requires the Attorney General, upon PUCO's request, to bring a civil action to collect these penalties. Penalties collected are deposited into the Public Utilities Fund. The fund is used for PUCO's administration and its supervision and jurisdiction over the state's railroads and public utilities.[6]

Provisions not applicable if federal requirements imposed

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

[4] According to railroad industry usage, "hostler service" involves moving locomotives within a railroad yard to various locations for fuel, cleaning, service, and repair.

[5] Federal regulations define "utility employees" as railroad employees who are temporarily part of a train or yard crew to help the crew assemble, disassemble, or classify rail cars or operate trains. 49 C.F.R. 218.5.

[6] R.C. 4905.10, not in the act.

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

Hazardous waste transportation report

(Section 749.10)

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

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

The report also must include recommendations for (1) strengthening Ohio's safety requirements for hazardous materials and waste transportation, and (2) appropriate enhancements to current civil and criminal penalties related to the mishandling of hazardous materials or waste and the failure to meet disclosure requirements. PUCO and OEPA must submit the report to the General Assembly by September 28, 2023.

Railroad technology report

(Section 749.20)

The act requires PUCO to examine both the current use and the best practices for use of hot boxes and hot bearing detectors, acoustic bearing detectors, and cameras installed on or alongside railroad tracks or wayside detector systems. PUCO may consult with technical experts, railroad companies, the FRA, professional railroad associations, and the companies that manufacture and install such technology. By September 28, 2023, PUCO must compile the information into a written report and submit it to the chairperson and ranking member of the following legislative committees:

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

[7] Govinfo.gov/content/pkg/FR-2022-07-28/pdf/2022-15540.pdf. See United States Constitution, Article VI, Cl. 2.

DEPARTMENT OF TRANSPORTATION

Ohio Rail Development Commission

Composition of the Commission

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

Passenger rail

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

Regional Transit Authority (RTA) audits

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

ODOT expense reports

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

Highway ramps

- Requires ODOT to ensure that limited access exit and entrance ramps to interstate highways exist at least every 4.5 miles in adjacent municipal corporations, provided that:
  - Each municipal corporation has a population above 35,000;

- The municipal corporations are located in different counties; and
- At least one of the municipal corporations is in a county with a population above one million.

- Requires ODOT use money appropriated to it for highway purposes to construct the ramps.

ODOT design-build authority

- Expands the type of ODOT projects that may be bid as a design-build contract to include projects pertaining to all transportation facilities, which involve all modes of transportation and related facilities, not just highways or bridges.
- Allows the ODOT Director to reject a best-value bidder for a design-build contract if the Director determines that it is not in the state's best interests.
- After Controlling Board approval, authorizes the Director to accept another bid or to reject all bids and rebid the contract.

ODOT contract performance and payment bonds

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

State Infrastructure Bank

- Requires any loan made to a small municipal corporation by ODOT from the State Infrastructure Bank to be a zero-interest loan.
- Requires a municipal corporation to qualify for ODOT's Small City Program to be eligible for a zero-interest loan.

Oversize/overweight limits and permits

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

Ohio Workforce Mobility Partnership Program

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

Wrong-way driving study

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

Strategic transportation and development analysis

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

Brent Spence Bridge Corridor Project

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

Commercial motor vehicle parking

- For FYs 2024 and 2025, permits ODOT to close a rest area only if the parking lot remains available for commercial motor vehicles.

Indefinite delivery indefinite quantity (IDIQ) contracts

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

Ohio Rail Development Commission

Composition of the Commission

(R.C. 4981.02)

The act modifies the makeup of the Ohio Rail Development Commission by specifying that on October 21, 2025, or when the current Governor-appointed chairperson vacates their position before that date, the ODOT Director or the Director's designee must serve as the chairperson. The Director currently serves as a voting member of the Commission, but current law requires the Governor (with the advice and consent of the Senate) to appoint a chairperson (without requiring any specific qualifications or background). Under the act, once the Director or the Director's designee becomes chairperson, the Governor must appoint a member to the Commission who represents the general public.

Thus, the act maintains the Commission's membership at 15 members – four nonvoting members from the legislature; two voting members, one appointed by the Senate President and one appointed by the Speaker of the House; the ODOT Director and the Director of Development, both voting members; and seven voting members appointed (with the advice and consent of the Senate) by the Governor. The seven members appointed by the Governor are: (1) a person who represents the interests of a freight rail company, (2) a person who represents the interests of passenger rail service, (3) a person who has expertise in infrastructure financing, (4) a person who represents the interests of organized labor, (5) a person who represents the interests of manufacturers, and (6) two persons who represent the general public.

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

Passenger rail

(R.C. 4981.04)

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

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

Regional Transit Authority (RTA) audits

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

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

ODOT expense reports

(R.C. 5501.521)

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

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

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

Highway ramps

(R.C. 5501.60)

The act requires ODOT to ensure that limited access exit and entrance ramps to interstate highways exist at least every 4.5 miles in adjacent municipal corporations, provided that:

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

- Each municipal corporation has a population above 35,000 (based on the most recent federal ten-year census);
- The municipal corporations are located in different counties; and
- At least one of the municipal corporations is in a county with a population above one million (based on the most recent federal ten-year census).

Under continuing law, ODOT has jurisdiction over the placement, establishment, construction, maintenance, and repair of interstate highways and their exit and entrance ramps. Generally, ODOT works with municipal corporations on construction projects when an interchange is necessary or desired by either ODOT or the municipal corporation. Multiple factors are considered before construction, including economic activity, environmental impact, safety, residential character and location, property rights, controlling urban sprawl, farmland preservation, construction costs, and funding.

ODOT design-build authority

(R.C. 5517.011)

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

Under continuing law, the ODOT Director may use design-build contracts for highway or bridge projects. The act allows ODOT to enter into design-build contracts for the design and construction of all transportation facilities, not just highway and bridge projects. Transportation facilities include all publicly owned modes and means of transporting people and goods, including highway, aviation, rail, and port facilities. Transportation facilities also include physical buildings and infrastructure such as garages, district offices, rest areas, and roadside parks.

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

ODOT contract performance and payment bonds

(R.C. 5525.16)

The act alters the requirements governing performance and payment bonds required to be secured by ODOT contractors. Generally, before entering into a contract with ODOT, a contractor must obtain a performance bond equal to 100% of the contract amount, conditioned that the contractor will perform the work on the terms, and within the time prescribed in, the contract. A contractor also must secure a payment bond equal to 100% of the contract, conditioned for the payment by the contractor and all subcontractors for labor, work, and materials related to the contract.

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

Contract amount changes

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

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

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

Inability of surety to meet obligations

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

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

Large contracts

Under the act, when the total contract amount exceeds $500 million, the Director may authorize either of the following for purposes of meeting the surety bonding requirements:

1. The issuance of multiple contract performance bonds or multiple contract payment bonds to meet the requirement that the bonding amount equals 100% of the contract amount; or

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

State Infrastructure Bank

(R.C. 5531.09)

The State Infrastructure Bank consists of federal grants and awards, other assistance received by ODOT, and any other money appropriated by law. It is administered by the ODOT Director. Money in the Bank is used to provide loans, loan guarantees, and other financial support to encourage public and private investments in transportation projects in Ohio. Both public and private entities may apply for financial assistance from the Bank.

The act requires the ODOT Director to provide zero-interest loans from the Bank to small cities. To be eligible, a small city must meet the qualifications of ODOT's Small City Program. The Small City Program provides federal funds to small cities with populations from 5,000 to 24,999 that are not located within a metropolitan planning organizations' boundaries.

Oversize/overweight limits and permits

(R.C. 4513.34 and 5577.044)

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

Similarly, continuing law also provides for a general size exemption for farm machinery and an additional allowance for farm machinery to exceed the weight limits up to 7.5% while transporting farm commodities. Farm machinery includes all machines and tools used in the production, harvesting, and care of farm products (e.g., trailers used for agricultural produce, agricultural tractors, threshing machinery, hay-baling machinery, corn shellers, hammermills, etc.) Generally, the owner of farm machinery must obtain a farm equipment permit to cover weight above the 7.5% allowance and for other use of that machinery on the roads and highways that does not involve farm commodity transportation.[9]

The farm equipment permit issued by ODOT is a one-year permit. However, under prior law, if the same farm machinery or the agricultural products hauled by that farm machinery was loaded onto a commercial trailer or semitrailer, the only ODOT permit available for that

[9] R.C. 4501.01(U), 5577.042, and 5577.05, not in the act.

commercial trailer or semitrailer was a 90-day permit.[10] The act requires ODOT and every county to issue an annual permit for both:

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

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

Ohio Workforce Mobility Partnership Program

(Sections 203.45 and 755.20)

The act establishes a two-year Ohio Workforce Mobility Partnership Program and requires ODOT to administer it. Under the program, the board of trustees of any regional transit authority (RTA) (urban or rural) may singularly or jointly apply for grant funding for individual or collaborative projects. The grant funding must be used to support the transportation of resident workforce members between the service territories of the RTAs.

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

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

An economically significant employment center is a single site, multiple adjoining sites, or a business park where the employers located at the site or park employ at least 250 full-time onsite employees.

The ODOT Director must manage the program by establishing any necessary procedures and requirements to administer it. Those may include grant application procedures, application evaluation criteria, award processes, and any conditions for spending grant money awarded under the program. The act earmarks $15 million in each fiscal year from Highway Operating

[10] Ohio Administrative Code (O.A.C.) 5501:2-1.

Fund (Fund 7002) appropriation item 772422, Highway Construction – Federal for ODOT to administer the program.

Wrong-way driving study

(Section 203.25)

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

Strategic transportation and development analysis

(Section 203.47)

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

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

In conducting the study, ODOT may conduct an advanced analysis of individual "hotspot" locations, which may include conceptual remedies with planning level costs. ODOT may contract with third parties, as necessary, to execute the study. The act appropriates $10 million in FY 2024 for the study.

Brent Spence Bridge Corridor Project

(Section 203.47)

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

Commercial motor vehicle parking

(Section 755.40)

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

Indefinite delivery indefinite quantity (IDIQ) contracts

(Section 203.100)

The act requires the ODOT Director to advertise, seek bids for, and award indefinite delivery indefinite quantity (IDIQ) contracts for up to two projects in FYs 2024 and 2025. An IDIQ contract is a contract for an indefinite quantity, within stated limits, of supplies or services that will be delivered by the awarded bidder over a defined contract period. When entering into IDIQ contracts, the Director must prepare bidding documents, establish contract forms, determine contract terms and conditions, develop and implement a work order process, and take any other action necessary to fulfill the Director's duties and obligations related to IDIQ contracts. The Director must ensure that an IDIQ contract includes the maximum overall value of the contract, which may include an allowable increase of $100,000 or 5% of the advertised contract value, whichever is less, and the duration of the contract, including a time extension of up to one year if determined appropriate by the Director. The requirements pertaining to IDIQ contracts are an extension of the requirements from previous transportation budgets.

DEPARTMENT OF PUBLIC SAFETY

Pay ranges for Highway Patrol officers and other employees

- Establishes pay range 19 and step value seven in pay range 17 in salary schedule E-1 for exempt state employees instead of having the Director of Administrative Services adopt rules to establish them as under former law.
- Prohibits all employees except State Highway Patrol captains from being assigned to step value seven in pay range 17 of schedule E-1.
- Beginning July 1, 2023, assigns exempt sergeants in the Highway Patrol, or their equivalents, to pay range 14 in salary schedule E-1.

Noncommercial trailer registration

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

Plug-in hybrid electric motor vehicle additional registration fee

- Reduces, from $200 to $150, the additional motor vehicle registration fee that applies to plug-in hybrid electric motor vehicles, beginning January 1, 2024.

Military license plate program documentation

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

Removable windshield placard expiration

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

Motor vehicle certificate title

- Requires the purchaser of a financed motor vehicle to affirmatively choose between receiving a physical certificate of title or having the title remain electronic upon completion of all payments financing the motor vehicle.
- Requires the lender to have a physical certificate of title delivered to the purchaser, without any additional fee, if the purchaser elects to have a physical certificate of title.

Enhanced driver's licenses and ID cards

- Requires the Director of Public Safety to enter into an agreement with the U.S. Department of Homeland Security in order to obtain approval to issue enhanced driver's licenses, enhanced commercial driver's licenses (CDL), and enhanced identification (ID) cards.
- Requires the Registrar of Motor Vehicles to adopt rules governing the issuance and security of enhanced driver's licenses, CDLs, and ID cards, all of which facilitate land and sea border crossings between the U.S. and Canada, Mexico, and the Caribbean.
- Requires an applicant for an enhanced driver's license, CDL, or ID card to comply with specified application requirements, including providing proof of citizenship and paying an additional $25 fee.
- Stipulates that the Ohio laws applying to driver's licenses, CDLs, and ID cards apply to their enhanced versions, unless otherwise specified.

Third-party motor vehicle history reports

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

Pay ranges for Highway Patrol lieutenants, other employees

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

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

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

The act repeals a requirement established in H.B. 462 of the 134th General Assembly, effective April 3, 2023, that the DAS Director adopt rules establishing pay range 19 and step value seven in pay range 17. Under that law, the Director had to identify in the rules the hourly and annual pay for step value seven in range 17, which had to be proportionally higher than the pay for step value six. For pay range 19 the law required the minimum annual salary to be $101,935 and the maximum to be $122,465. The Director also was to create step values within the range and determine the hourly and annual pay for each step.

The act prohibits the DAS Director from taking any action with respect to the repealed rule adoption requirement. The repeal takes effect July 1, 2023.

Beginning July 1, 2023, the act also requires sergeants in the Highway Patrol who are paid in accordance with the exempt employee salary schedules, to be paid in accordance with pay range 14 in schedule E-1, which prescribes a minimum annual salary of $70,075 and a maximum of $100,048. Under continuing law, lieutenants, staff lieutenants, captains, majors, and lieutenant colonels in the Highway Patrol, or their equivalents, must be paid in accordance with the following pay ranges from schedule E-1:

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

Schedule E-1 generally applies to employees who are part of the state job classification plan and who are not subject to the Public Employees' Collective Bargaining Law.

Noncommercial trailer registration

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

The act requires the Registrar of Motor Vehicles to authorize an owner or a lessee of a noncommercial trailer to register that trailer permanently. Under prior law, the owner or lessee of a noncommercial trailer could only register the trailer annually or for up to five years under the multi-year registration program available to most motor vehicles.

Permanent registration costs

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

1. Eight times the annual registration tax for a noncommercial trailer (the annual tax ranges from $16 to $140, depending on the unladen weight of the trailer up to 10,000 pounds);[11]

[11] R.C. 4503.04(E), not in the act.

2. Eight times the annual Bureau of Motor Vehicles fee (the annual fee is $11);
3. Eight times the amount of any local motor vehicle taxes (the annual taxes range from $0 to $30, depending on the taxes levied in the registrant's jurisdiction);[12] and
4. Eight times the deputy registrar/BMV service fee (the fee is $5).

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

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

Permanent registration requirements

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

Plug-in hybrid electric motor vehicle additional registration fee

(R.C. 4503.10 and 4503.103; Section 803.10)

Beginning January 1, 2024, the act reduces, from $200 to $150, the additional motor vehicle registration fee that a person must pay when registering a plug-in hybrid electric motor vehicle. A plug-in hybrid electric motor vehicle is a passenger car powered in part by a battery cell energy system that can be recharged via an external source of electricity.

The act retains the existing additional registration fees on other alternative fuel vehicles, as follows:

- $200 for a battery electric motor vehicle (a passenger car powered wholly by a battery cell energy system that can be recharged via an external source of electricity); and

[12] R.C. Chapter 4504. A local jurisdiction may exempt noncommercial trailers weighing 1,000 pounds or less, at the discretion of the local jurisdiction. R.C. 4504.20, not in the act.

- $100 for a hybrid motor vehicle (a passenger car powered by an internal propulsion system consisting of both a combustion engine and a battery cell energy system that cannot be recharged via an external source of electricity but can be recharged by other vehicle mechanisms that capture and store electric energy).

Military license plate program documentation

(R.C. 4503.29)

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

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

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

Removable windshield placard expiration

(R.C. 4503.44)

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

[13] R.C. Chapter 119.

[14] R.C. 317.241, not in the act.

than six months. Those with either a disability lasting longer than ten years or a permanent disability will now need to renew the standard placard every ten years, instead of five.

Motor vehicle certificate of title

(R.C. 4505.131)

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

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

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

Enhanced driver's licenses and ID cards

(R.C. 4506.01, 4506.072, 4506.11, 4507.01, 4507.021, 4507.061, 4507.063, 4507.13, 4507.511, and 4507.52)

Enhanced driver's licenses, which are issued by states, provide proof of identity and U.S. citizenship. They are issued through a secure process, include technology that makes travel easier, and have been approved by the U.S. Secretary of Homeland Security. While they function as a driver's license, they also provide holders with an alternative to a passport for purposes of entering the United States from Canada, Mexico, or the Caribbean through a land or sea port of entry. Currently, states that issue enhanced driver's licenses include Michigan, Minnesota, New York, Vermont, and Washington.

An enhanced driver's license makes it easier for a U.S. citizen to cross the border into the U.S. because it includes:

1. A vicinity radio frequency identification (RFID) chip that enables the person's biographic and biometric data to be brought up for inspection by a U.S. Customs and Border Protection officer as the person approaches a border inspection booth; and
2. A machine-readable zone or barcode that the officer can read electronically if equipment to utilize the RFID chip is not available.

Similarly, an "enhanced commercial driver's license" is a commercial driver's license (CDL) that has the characteristics listed above. An "enhanced identification card" is an identification (ID) card that also has those characteristics, but does not authorize the holder to drive.

Memorandum of understanding and adoption of rules

The act requires the Director of Public Safety to enter into a memorandum of understanding with the U.S. Department of Homeland Security (DHS) or other designated federal agency for purposes of obtaining approval to issue an enhanced driver's license, enhanced CDL, and enhanced ID card. The memorandum of understanding must provide that an enhanced license or ID card is acceptable as proof of identity and citizenship for Ohio residents entering the United States at authorized land and sea ports. In conjunction with DHS or the other designated federal agency, the Director may enter into an agreement with Mexico, the Caribbean countries, Canada, or any Canadian province for purposes of implementing a border-crossing initiative.

Pursuant to the memorandum of understanding, the Registrar of Motor Vehicles, subject to approval by the Director, must adopt rules governing the issuance of an enhanced driver's license, enhanced CDL, and enhanced ID card. The rules must establish:

1. Acceptable proof of identity and citizenship for applicants;
2. Reasonable security measures to prevent counterfeiting and to protect against unauthorized disclosure of personal information that is contained in an enhanced license or ID card (including the use of a one-to-many biometric match system or RFID technology);
3. Any other additional characteristics, as the Registrar determines necessary.

The Registrar also may adopt any other rules necessary to implement issuance of an enhanced driver's license, enhanced CDL, and enhanced ID card.

Issuance of enhanced licenses and ID cards

The act requires the Registrar or any deputy registrar to issue an enhanced license or ID card to eligible applicants pursuant to the memorandum of understanding between the Director and DHS or other designated federal agency, and in accordance with the rules adopted by the Registrar. An eligible applicant must:

1. Provide satisfactory proof of the applicant's identity and citizenship;
2. Submit a biometric identifier, as required by rule;
3. Sign a declaration on a form prescribed by the Registrar acknowledging the use of the one-to-many biometric match and radio frequency identification or other security features of the license;
4. Pay a fee of $25, in addition to the other fees Ohio law prescribes for issuance of a driver's license, CDL, or ID card; and

5. Comply with all other conditions, qualifications, and requirements for issuance of a driver's license, CDL, or ID card.

Status and use of enhanced licenses and ID cards

All provisions in the Revised Code relating to a drivers' license, a CDL, or an ID card include and apply to the enhanced versions.

Third-party motor vehicle history reports

(R.C. 4517.262)

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

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

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

Continuing law requires a person who is selling a motor vehicle at retail or wholesale to execute a contract with the buyer that includes a written description of the motor vehicle, the vehicle identification number, the mileage on the motor vehicle's odometer, a statement declaring the odometer's accuracy, and other terms pertaining to the sale.[15]

[15] R.C. 4517.26(A), not in the act.

LOCAL GOVERNMENT

Cincinnati Southern Railway

- Permits a railway board of trustees created under the Ferguson Act of 1869 to sell a railroad or portion of a railroad upon approval by the electorate, including when and in what amount the proceeds are to be periodically disbursed to the city.
- Provides that any proceedings pending or in progress on the act's June 30, 2023, effective date are deemed to be taken in conformity with the act's provisions.
- Provides that a board may submit a question of sale to the voters in a primary or general election in 2023 or 2024, and may submit the question only one time, until otherwise authorized by the General Assembly.
- Permits a board to establish a trust fund to invest the proceeds of the sale of the railway.
- Clarifies that all net earnings and income under a lease of a municipally owned railway must be paid into the city's treasury to the credit of the sinking fund or bond retirement fund.
- Requires the city to spend the proceeds from the trust fund only on the rehabilitation, modernization, or replacement of existing infrastructure improvements, and prohibits the city from using the proceeds to pay for construction of new infrastructure improvements.
- Prohibits the city from using the proceeds of the trust fund to pay debt service, unlike other revenues from a municipally owned railway.
- Requires board members appointed after the act's June 30, 2023, effective date to be residents of the municipal corporation that owns the railway.
- Requires the board to administer the trust fund according to the prudent investor standard of care, to retain at least one independent financial advisor, and to adopt policies and objectives for the investment of the trust fund, which must be made public.
- Permits the board to hire staff and retain advisors as appropriate, if reasonably related to the assets and purpose of the trust fund, and requires that they, as well as the cost of administering the trust fund, be paid from the investment earnings of the trust fund.
- Prohibits board members from having conflicts of interest, from borrowing funds or deposits from the board, or from being an indorser, surety, or obligor for moneys loaned by or borrowed from the board.
- Requires a board to report to the city annually, and to periodically disburse earnings from the fund to the city, in a frequency and amount to be determined by the board in consultation with the fiscal officer of the city, and which must meet the minimum disbursement criteria as determined by the voters.

- Provides that, if the principal amount of the fund decreases by 25% or more, payments to the municipal corporation are suspended until the trust fund has fully recouped its losses.

Force accounts

- Increases the statutory force account limits for local authorities as follows:
  - For unchartered municipal corporations, from $30,000 to $70,000 for road construction and repair;
  - For counties, from $30,000 per mile to $70,000 per mile for highway construction and reconstruction, and from $100,000 to $233,000 for bridge construction and reconstruction;
  - For townships, from $45,000 to $105,000 per project for road maintenance and repair, and from $15,000 to $35,000 per mile for road construction or reconstruction.
- Increases those statutory limits annually, rather than biennially as under prior law, based on ODOT's construction cost index, with a 5% cap, rather than the prior 3% cap.
- Requires ODOT to notify the county engineer or other appropriate engineer of the increased amount.

Traffic cameras

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

Transportation improvement districts

Agreement with a RTA

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

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

Local government spending

- Authorizes any county, municipal corporation, or township to make appropriations to pay costs incurred by a TID.

County cooperation

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

TID board of trustees

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

Aggregate minerals mining zoning

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

Cincinnati Southern Railway

The act permits a railway board of trustees created under the Ferguson Act of 1869 to sell a municipally owned railway, upon approval of the electorate, and invest the proceeds in a trust fund. In practice, the act applies only to the Cincinnati Southern Railway Board of Trustees. The act provides that any proceedings pending or in progress on the act's June 30, 2023, effective date are deemed to be taken in conformity with the act's provisions.[16]

Background

The City of Cincinnati owns and leases the Cincinnati Southern Railway, the only municipally owned interstate railway in the country. The railway, completed in 1879, begins in

[16] Section 601.51 of the act.

Cincinnati and runs south through Lexington (KY), Danville (KY), Somerset (KY), Oneida (TN), Oakdale (TN), and Dayton (TN) before ending in Chattanooga on the southern border of Tennessee. The railway is leased to the Cincinnati, New Orleans and Texas Pacific Railway, a subsidiary of the Norfolk Southern Corporation.[17]

The Cincinnati Southern Railway was authorized by the General Assembly with the passage of the Ferguson Act.[18] The Ferguson Act created the Cincinnati Railway Board of Trustees, which governs the Cincinnati Southern Railway. The board consists of five members, no more than three of whom can be of the same political party, appointed by the Mayor of Cincinnati and approved by the city council. Trustees serve five-year terms, and have no term limits.[19]

The Ferguson Act, as subsequently amended, explained the former process by which the city could sell railway property.[20]

Procedures to sell railway property

The act creates new procedures to sell railway property, upon approval by the electorate, and repeals the former sales provisions. These steps are outlined below.

Resolution proposing a sales agreement

(R.C. 746.02(A)(1))

Under the act, the board may solicit or receive offers for all or any portion of a railway. Then, the board may approve and enter into a sales agreement by adopting a resolution that includes the terms of the proposed sale, including the method to be used to determine the minimum annual amount to be transmitted to the municipal corporation. This annual amount may only be amended upon consultation with the municipality's fiscal officer. The amount transferred each year must equal or exceed the amount approved by the voters, if ultimately approved. (See "**Periodic disbursements to the city**," below, for more details on disbursements under the trust fund).

Resolution setting a date of election

(R.C. 746.02(A)(2) and (B), (C), (D), (E), and (F))

After the board has adopted a resolution with the proposed sale terms, the board may adopt a second resolution setting the date of the election in which the question of approval of

[17] See the Cincinnati Southern Railway's website, which is available at cincinnatisouthernrailway.org.

[18] "An act relating to cities of the first class having a population exceeding one hundred and fifty thousand inhabitants" passed May 4, 1869, (66 O. L. p. 80).

[19] Cincinnati Code of Ordinances Sec. 205-1.

[20] H.B. 1 of the 100th General Assembly, Am. S.B. 200 of the 98th General Assembly, Am. H.B. 314 of the 102nd General Assembly, S.B. 562 of the 104th General Assembly, and H.B. 69 of the 112th General Assembly.

the sale is to be submitted to the municipal corporation's electors, along with the applicable ballot language. The election must be a primary or general election in 2023 or 2024. The board may submit this question to the electors only once. It may not submit the question to the electors again until otherwise authorized by the General Assembly.

The board must then certify this resolution to the legislative authority and fiscal officer of the municipal corporation. The legislative authority, upon receiving a copy of the resolution, must certify the resolution to the board of elections no less than 90 days before the election date specified in the resolution. The board of elections must then submit the resolution for the approval or rejection of the voters at the election specified in the resolution.

The act specifies the applicable ballot language, including the terms of the proposed sale: a description of the railway or portion of the railway to be sold, the name of the parent company of the proposed purchaser, the purchase price to be paid, including the amount and due date of any installments of the purchase price, the minimum annual disbursement to the city from the trust fund, and the permissible uses of the funds. The funds may only be used for the purpose of the rehabilitation, modernization, or replacement of existing streets, bridges, municipal buildings, parks and green spaces, site improvements, recreation facilities, improvements for parking purposes, and any other public facilities owned by the municipal corporation, and to pay for the costs of administering the trust fund.

The legislative authority must provide notice of the election, by publishing it in a newspaper of general circulation within the municipal corporation for the two consecutive weeks before the election, and the board of elections must post it on the board of elections' website no later than 30 days before the election, if the board of elections maintains a website.

The notice must state the time and place of the election, and include the terms of the proposed sale, as described above.

If the question is approved by a majority of the electors voting on it, the railway board of trustees may proceed to complete the sale. The net proceeds from the sale are deposited into the railway proceeds trust fund established by the act. If the question is not approved by the voters, the board may not move forward with the sale. Authorization from the General Assembly would be necessary to put the question on the ballot a second time.

Former railway sale process

(Section 610.50, repealing Ohio General Code section 15149, S.B. 200 of the 98th General Assembly (1949), and H.B. 69 of the 112th General Assembly (1977))

Under the former process repealed by the act, the proceeds from selling a portion of the railroad must have been paid into the treasury of the municipal corporation, to the credit of a sinking fund or bond retirement fund, and applied to the reduction of the municipal corporation's bonded debt until the debt is extinguished. Additionally, former law provided that the railroad could be sold only upon approval of the electorate, the question to be submitted in the first general election that occurred 40 days after the announcement of the proposed sale by the board. This requirement did not apply to "property adjacent to the railroad having no major affect, influence, or importance to its operation."

The act preserves continuing law permitting the board to sell "any property, land, right-of-way, or easement which is a part of its line of railway but which is no longer needed, in the opinion of such board, in the operation thereof . . . ."[21] Under the act, the board continues to be able to sell *unneeded* property without requiring approval from the electorate.

Railway proceeds trust fund

(R.C. 746.03(A), 746.06, and 746.07; Section 610.50, repealing Ohio General Code section 15149, S.B. 200 of the 98th General Assembly (1949), and H.B. 69 of the 112th General Assembly (1977))

The act establishes the railway proceeds trust fund, to consist of net proceeds from the sale of all or part of a railway, to be administered by board. The sole beneficiary of the trust fund is the municipality that owned the railway or portion before the sale. Funds in the trust fund are not considered part of the unencumbered balance or revenue of the municipality for the purposes of certifying available revenue for tax levies.[22]

Under law repealed by the act, proceeds from the sale of all or part of a railway must be paid to the municipal treasury to the credit of the sinking fund or bond retirement fund, for the purpose of paying on debt service.

The act clarifies that, under continuing law, all net earnings and income under a lease of a municipally owned railway must still be paid into the municipal treasury to the credit of the sinking fund or bond retirement fund. But under the act, proceeds from the sale of all or part of a railway may not be used to pay debt service, and instead must be deposited into the trust fund, to be invested as the board determines, the earnings of which are periodically disbursed (see "**Periodic disbursements**," below). "Debt service" means the principal, interest, and redemption premium payments, and any deposits pertaining to them, required with respect to bonds.

The municipal corporation must spend the proceeds from the trust fund only on the rehabilitation, modernization, or replacement of existing infrastructure improvements. It is prohibited from using the proceeds to pay for construction of new infrastructure improvements. Under the act, "existing infrastructure improvements" is defined as streets, bridges, municipal buildings, parks and green space, site improvements, recreation facilities, improvements for parking purposes, and any other public facilities that are owned by a municipal corporation with a useful life of five or more years.

[21] Am. H.B. 314 of the 102nd General Assembly (1957).

[22] See R.C. 5705.35 and 5705.36, not in the act.

Board duties

(R.C. 746.03(B) and (C) and 746.04)

The act puts the railway board of trustees in charge of the trust fund, and makes other changes to the board. Under the act, any board members appointed after the act's June 30, 2023, effective date must be residents of the municipal corporation.

The board must manage and administer the trust fund, in accordance with the act's provisions and with ordinances passed by the legislative authority of the municipal corporation not in conflict with the act. The investment of the trust fund is not subject to the Uniform Depository Act or any other conflicting provisions of the Revised Code.

The act permits the board to invest and reinvest the moneys and assets held in the trust fund, holding them to the "prudent investor" standard of care. This standard requires the trustees, when investing, to consider the purposes, terms, distribution requirements, and other circumstances of the trust, exercising reasonable care, skill, and caution, among other things.[23]

The act also requires the board to retain at least one independent financial advisor to assist it in investing the trust fund. In order to fulfill the board's duties and responsibilities in administering the trust fund, the board may hire managers, administrative staff, agents, attorneys, and employees, and engage advisors, as are appropriate and reasonable in relation to the assets of the trust fund, the purposes of the trust, and the skills and knowledge of the board members. The board must provide for payment of these and other reasonable expenses of administering the trust fund from the investment earnings on the trust fund.

The act also requires the board, in consultation with the fiscal officer of the municipal corporation, to adopt management and investment policies containing objectives and criteria designed to ensure the trust fund is administered efficiently and self-sustaining, and that the money and assets in the trust fund are not diminished while providing the municipal corporation its periodic disbursements (see "**Periodic disbursements**," below). The policies must address asset allocation targets and ranges, risk factors, asset class benchmarks, eligible investments, time horizons, total return objectives, a strategy for long-term growth of the principal of the trust fund, competitive procurement processes, fees and administrative expenses, and performance evaluation guidelines. The board must make these policies public upon their adoption.

The board also must make an annual report to the fiscal officer of the municipal corporation, in form and content as reasonably requested by the fiscal officer, showing the fiscal transactions of the trust fund for the calendar year, the amounts of accumulated moneys and securities, and the most recent balance sheet showing the financial condition of the fund by means of audited financial statements.

Additionally, the act prohibits certain conflicts of interest within the board: no board member may have any direct or indirect interest in the gains or profits of any investment made

[23] See R.C. 5809.02, not in the act, for a complete description of the prudent investor standard of care.

by the board, and no member, and no person directly or indirectly connected with the board, for self or as an agent or partner of others, may borrow any of the funds or deposits of the board or trust fund, or in any manner use the funds except to make current and necessary payments as authorized by the board. No member or agent of the board may become an indorser or surety or become in any manner an obligor for moneys loaned by or borrowed from the board.

Periodic disbursements

(R.C. 746.05)

The beneficiary of the trust fund is the municipal corporation that owned the railway that was all or partly sold. To this end, the board must periodically, at least annually, disburse a certain amount of proceeds of the trust fund to the municipal corporation, unless the disbursements are suspended due to a loss in the principal of the fund of 25% or greater (see below).

No later than September 30 each year, the board must certify to the municipal corporation the principal amount remaining in the trust fund, and the amount of funds the board will disburse to the municipal corporation over the course of the municipal corporation's following fiscal year. During that year, with such frequency and in such installments as may be determined by the board after consultation with the fiscal officer of the municipal corporation, the board must transmit the certified amount to the municipal corporation.

The amount transferred must be no less than the amount approved by the voters when they voted to approve the sale of the railway (see "**Procedures to sell railway property**," above). It must increase each year in the manner set forth in the methodology approved by the voters.

The amount must be paid from investment earnings of the trust fund, after paying the expenses incurred in administering the trust fund. If there are not sufficient investment earnings in a year to pay the certified amount, the board must pay the remainder of the certified amount from the principal amount of the trust fund.

However, if the principal amount in the trust fund, as certified by the board in its annual certification, has decreased by 25% or more as compared to the previous year, the board must cease making disbursements from the trust fund to the municipal corporation. The board must resume making disbursements when it certifies to the municipal corporation that the principal amount in the trust fund equals or exceeds the principal amount it certified in the fiscal year before the fiscal year in which disbursements ceased − i.e., when the trust fund has fully recouped its losses.

Force accounts

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

The act alters the existing force account laws concerning road, highway, bridge, and culvert construction and repair projects undertaken by a board of county commissioners, a board of township trustees, and the legislative authority of an unchartered municipal corporation (local authority). "Force account" is a term used to establish whether a

governmental agency may use its own labor force to complete a project or whether it must use competitive bidding. Otherwise put, a force account threshold is a threshold amount that, once exceeded, a governmental agency must use competitive bidding.

The act increases the local authority force account statutory limits as follows:

- From $30,000 per project to $70,000 per project for an unchartered municipal corporation's highway construction and repair projects.
- From $30,000 per mile to $70,000 per mile for a county's highway construction and reconstruction projects.
- From $100,000 per project to $233,000 per project for a county's bridge and culvert construction and reconstruction projects.
- From $45,000 per project to $105,000 per project for a township's road maintenance and repair projects.
- From $15,000 per mile to $35,000 per mile for a township's road construction or reconstruction projects.

The act automatically increases the statutory limits annually by the lesser of 5% or the percentage amount of any increase in ODOT's construction cost index for the previous calendar year. The ODOT Director must notify each appropriate engineer of the increased amount. Under prior law, the local government statutory force account limits were increased biennially by the lesser of 3%, or the percentage amount of any increase in ODOT's construction cost index as annualized and totaled for the prior two calendar years.

Under continuing law, a local authority must use the State Auditor force account project assessment form when it undertakes a project by force account. If the State Auditor finds a local authority violated its force account threshold limit, the Auditor must reduce the force account threshold limits for that local authority for one to two years (based on the number of violations). Under prior law, those reductions were specified dollar amounts. The act instead reduces a local authority's limits to one-third of its established limits to account for the gradual automatic increases to the local limits.

Traffic cameras

(R.C. 4511.093)

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

Transportation improvement districts

Agreement with an RTA

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

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

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

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

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

Local government spending

(R.C. 5540.02)

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

County cooperation

(R.C. 5540.03)

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

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

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

TID board of trustees

(Section 5540.02)

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

Aggregate minerals mining zoning

(R.C. 303.02 and 519.02)

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

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

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

DEPARTMENT OF TAXATION

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

Motor fuel tax allowances and refunds

(Section 757.20)

Since FY 2008, each motor fuel dealer that properly files and pays monthly motor fuel excise taxes may deduct from the payment the tax otherwise due on 1% of the fuel the dealer received, minus 0.5% of the fuel sold to retail dealers.[24] This allowance is to cover the costs of filing the report and to compensate for evaporation, shrinkage, and other "unaccounted for" losses. Under permanent codified law, however, the percentages are 3% and 1%, respectively.[25] But each of the last eight transportation appropriation acts reduced the 3% discount to 1% (minus 0.5% of fuel sold to retail dealers). The act continues the allowance at the reduced 1% level throughout the FY 2024-2025 biennium.

Retail fuel dealers who have purchased fuel on which the excise tax has been paid may receive a refund to account for evaporation and shrinkage.[26] In permanent codified law, the refund equals 1% of the taxes paid on the fuel each semiannual period. But, as with the dealer shrinkage allowance, the retailer refund has been reduced to 0.5% for each fiscal year from 2008 through 2023 by uncodified provisions in the last eight transportation appropriation acts. The act continues the reduced percentage at this level through the FY 2024-2025 biennium.

HISTORY

Action	Date
Introduced	02-15-23
Reported, H. Finance	03-01-23
Passed House (74-21)	03-01-23
Reported, S. Transportation	03-23-23
Passed Senate (30-0)	03-23-23
House refused to concur in Senate amendments (16-79)	03-23-23
Senate requested conference committee	03-23-23

[24] Section 757.20 of H.B. 74 of the 134th General Assembly.

[25] R.C. 5735.06(B)(1)(c), not in the act.

[26] R.C. 5735.141, not in the act.

Action	Date
House acceded to request for conference committee	03-28-23
Senate agreed to conference committee report (30-1)	03-29-23
House agreed to conference committee report (93-2)	03-29-23

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