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**134<sup>th</sup> General Assembly**

## Final Analysis

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## DEPARTMENT OF PUBLIC SAFETY

### Temporary motor vehicle license registration

- Changes the name of the temporary license placard or windshield sticker issued after the purchase of a vehicle to temporary motor vehicle license registration.
- Generally requires, rather than authorizes, Ohio motorized bicycle dealers and licensed motor vehicle dealers to issue temporary motor vehicle license registrations by electronic means via computer equipment the dealer must buy and maintain.
- Eliminates both of the following:
  - The requirement that a dealer notify the Registrar of Motor Vehicles within 48 hours of the issuance of a temporary license placard by electronic or other Registrar-approved means; and
  - The \$5 service fee that applies when a dealer notifies the Registrar of the issuance of a placard by nonelectronic means.
- Authorizes, rather than requires, the Registrar to adopt rules specifying procedures for reporting information from temporary license registration applications and for providing that information to law enforcement.

### Farm bus registration

- Increases the period of validity of a motor vehicle registration for a farm bus from 210 days to 310 days.

### Commercial trailer and semitrailer registration

- Beginning January 1, 2022, requires the owner or lessee of a trailer or semitrailer that is registering it for the first time in Ohio to pay a one-time \$50 registration tax.
- Retains the requirement that an owner or lessee of a trailer or semitrailer that has previously registered the trailer or semitrailer in Ohio prior to 2022, pay the preexisting annual \$25 registration tax.
- Makes conforming changes in the multi-year and permanent registration options for trailers and semitrailers.
- Requires the Registrar to collect certain information regarding new registrations of trailers and semitrailers that result from the act's changes and provide a report to the Governor, Senate President, Speaker of the House, and Director of the Legislative Service Commission by March 15, 2023.

### Vehicle registration reminder notices: E-Check

- Clarifies that battery electric motor vehicles are excluded from the requirement to undergo an emissions inspection under the motor vehicle inspection and maintenance program (E-Check).

- Specifies that a battery electric motor vehicle is a passenger car powered wholly by a battery cell energy system that can be recharged via an external source of electricity.
- Requires the Registrar to include a statement in vehicle registration renewal notices that battery electric vehicles are not subject to E-Check.

### **Production of validation and county stickers**

- Allows the Registrar to adopt rules permitting third parties to print or produce validation and county identification stickers.
- Retains the authority for the Registrar to adopt rules permitting the Registrar or deputy registrars to produce the stickers, and retains the requirement that Ohio Penal Industries produce the stickers if the Registrar does not adopt the rules.

### **Issuance of registration certificates and stickers**

- Expands the methods by which the Registrar may deliver a certificate of registration for a motor vehicle to include electronic delivery.
- Removes the requirement that a validation sticker be issued for and displayed on a nonapportioned commercial tractor or any apportioned motor vehicle.
- Allows the Registrar to issue a county identification sticker that identifies the county of registration either by name or number, rather than only by name.

### **Specialty license plates**

- Defines specific license plates created through legislation, and that include a combination of words, markings, logos, or other artwork in addition to the items generally required by law, as “specialty license plates.”
- Specifies that the fees for renewing a specialty license plate must be the same as the fees for initial issuance.
- Eliminates a prior intent statement that all applicants for a specialty license plate must pay the standard motor vehicle registration taxes and fees.
- Eliminates the minimum annual sales requirement that had to be met for continued issuance of a specialty license plate.
- Eliminates the annual report that certain school districts and schools were required to submit to the Department of Mental Health and Addiction Services and to the Registrar regarding the use of the contributions derived from that district or school’s specialty license plate.
- Makes technical changes to the specialty license plate law.

## **Salvage certificates of title**

- Permanently prohibits a clerk of court from issuing a salvage certificate of title if the only basis for issuing the title is information reported from the National Motor Vehicle Title Information System.

## **Electronic certificates of title**

- Specifies that “certificate of title” and “title” include both physical and electronic copies of a motor vehicle certificate of title.
- Authorizes the use of an electronic certificate of title for a casual sale of a motor vehicle.
- Requires the Registrar to develop an assignment form that may be used instead of a physical certificate of title for certain casual sales of a motor vehicle and in certain sales of a motor vehicle to a salvage dealer.
- Authorizes the Registrar and a deputy registrar to confirm proof of ownership electronically when a person first registers a motor vehicle.

## **Transfer of ownership by law**

- Authorizes two persons who wish to establish joint ownership with right of survivorship to an all-purpose vehicle or off-highway motorcycle to make a joint application for the certificate of title.
- Specifies that ownership to an all-purpose vehicle or off-highway motorcycle that is titled between two owners who have joint ownership with right of survivorship passes immediately to the surviving owner upon the death of the other owner.
- Authorizes owners of a motor vehicle, all-purpose vehicle, off-highway motorcycle, watercraft, and outboard motor who have title through joint ownership with right of survivorship to transfer that title through a transfer-on-death designation.

## **Online renewal of driver’s license and identification card**

- Authorizes the Registrar to allow online renewal of a driver’s license and state identification card (ID) for an eligible applicant.
- Specifies eligibility requirements for online renewal (e.g., the current license or ID was processed in person, the applicant is applying for a four-year license, and the applicant is not applying for a federally compliant Real ID).
- Specifies that the Registrar may require applicants to submit digital copies of any required identification or supporting documents as required by state or federal law.
- Requires all applicants to comply with all other related driver’s license and ID laws (e.g., pay any necessary fees).
- Requires applications for other forms of identification issued by the BMV to be submitted in person (e.g., first issuance of a federally compliant Real ID, commercial driver’s license, or nonrenewable license).

- Makes conforming changes in the driver's license and ID laws.

### **Sharing digital driver's license photos**

- Authorizes the Department of Public Safety (DPS) to release digitalized photographic records to the American Association of Motor Vehicle Administrators.
- Specifies that the purpose of this authorization is to allow other state departments of motor vehicles that participate in certain association programs to use the records for identity verification purposes.

### **Single credential**

- Prohibits a person from receiving a temporary instruction permit or ID until a person surrenders any permit or ID issued by another jurisdiction.
- Prohibits a person from possessing more than one valid temporary instruction permit or ID.
- Requires a person who becomes an Ohio resident to surrender any temporary instruction permit or ID issued by another state to the Registrar or a deputy registrar within 30 days of becoming a resident.
- Prohibits a new Ohio resident who fails to obtain a temporary instruction permit (or driver's license) within the 30-day period from operating a motor vehicle.
- Applies the existing criminal penalty to any violation of the prohibitions (a misdemeanor of the first degree).
- Requires the Registrar to report both of the following to an issuing state other than Ohio:
  - The cancellation of any temporary instruction permit or ID; and
  - Information that a temporary instruction permit or ID has now been issued to the person in Ohio.
- Requires the Registrar or a deputy registrar to destroy cancelled permits and IDs if not returned to the other state's issuing authority.
- Specifies that a Registrar or deputy registrar may only issue an ID or temporary identification card to a person who does not hold an ID from another jurisdiction.

### **Behind-the-wheel driver's training**

- Regarding driver training courses, requires the completion of the eight hours of behind-the-wheel instruction to occur after completion of all 24 hours of classroom or online instruction.

## **Remedial driver instruction courses**

- Eliminates the requirement that a remedial driver training course approved by the Director of Public Safety be conducted at least 50% in person, and provides instead that courses may be entirely in person, entirely remote, or a combination of the two.
- Requires the Director to approve a course in any of the three instruction methods if it is capable of meeting the instructional standards established by the Director.

## **Seizure of license plates after OVI offense**

- Eliminates the requirement that an arresting law enforcement officer remove the license plates on a vehicle seized as part of an arrest for an OVI offense and, instead, requires the license plates to remain on the vehicle unless ordered by a court.

## **Personal delivery devices**

- Increases the maximum empty-weight limit of personal delivery devices authorized to be used in Ohio from 200 pounds to 550 pounds.
- Authorizes personal delivery devices to transport cargo, in addition to property.

## **Preschool school zones**

- Authorizes the creation of a school zone around a preschool operated by an educational service center that is located on a street or highway with a speed limit of 45 m.p.h. or more, provided the educational service center requests the county engineer to establish the school zone.
- As a result, prohibits a person from driving a motor vehicle faster than 20 m.p.h. in the school zone during recess or when children are going to or leaving the preschool during opening or closing hours.

## **Temporary motor vehicle license registration**

(R.C. 4503.182, 2913.71, 4503.21, 4511.454, 4511.751, and 4519.10)

The act changes the name of a temporary license placard or windshield sticker to temporary motor vehicle license registration. This type of registration is issued to a vehicle buyer after the purchase of a vehicle and is valid for 45 days. The temporary placard issued along with the registration is usually made of cardboard or paper. After the 45-day time period, the purchaser must fully register the vehicle and obtain a license plate for it.

Under prior law, Ohio-licensed motor vehicle dealers and motorized bicycle dealers were authorized, but not required, to issue a registration along with a temporary license placard or sticker by electronic means via computer equipment the dealers own and maintain. The act requires electronic issuance, unless a dealer is authorized by the Registrar of Motor Vehicle to issue the registration in another manner. The act also eliminates requirements that applied to those dealers, including:

1. A requirement that the dealer notify the Registrar within 48 hours of the issuance of a temporary license placard by electronic or other Registrar-approved means; and
2. A requirement to pay a \$5 service fee when notifying the Registrar of the issuance of a temporary license placard by nonelectronic means.

Finally, the act authorizes, rather than requires, the Registrar to adopt rules specifying procedures for reporting information from temporary license registration applications and for providing that information to law enforcement.

## Farm bus registration

(R.C. 4503.04)

The act increases the validity period of a motor vehicle registration for a farm bus from 210 days to 310 days, beginning on the date the license plates are issued for the bus. A farm bus is a bus used only for transporting agricultural employees for farm operation purposes.

## Commercial trailer and semitrailer registration

(R.C. 4503.042 and 4503.103; Section 755.20)

Under continuing law, the owner or lessee of a commercial trailer or semitrailer may register that trailer or semitrailer annually, for multiple years (up to eight years), or permanently. The act revises the fee structure for a commercial trailer or semitrailer registered in Ohio for the first time on or after January 1, 2022. Specifically, it replaces the annual state \$25 tax with a one-time \$50 registration tax. The registrants must continue to pay the other annual state and local taxes and fees, as reflected in the following table:

Commercial trailer and semitrailer registration <sup>1</sup>		
Tax or Fee	Previously registered (before 2022)	First registered on or after January 1, 2022
1. Annual registration tax	\$25	–
2. One-time registration tax	–	\$50
3. Annual local motor vehicle taxes	\$0 to \$30	\$0 to \$30
4. Annual additional BMV fee	\$11	\$11
5. Deputy registrar/BMV fee	\$5	\$5

<sup>1</sup> R.C. 4503.038, 4503.042(C), 4503.10(C)(1), and Chapter 4504.

For example, a person that first registered their trailer in Ohio in 2018 paid \$25 in annual registration taxes for 2018, 2019, and 2020. The person will continue to pay the \$25 tax for each subsequent registration year. A person who first registers their trailer in 2022 will pay the one-time \$50 registration tax and will never pay that tax again as long as the trailer is registered in that person's name.

The following table shows a cost comparison between what a current registrant pays annually and what a new registrant will pay annually for a commercial trailer or semitrailer registration (assuming no local motor vehicle registration tax is levied).

Cost comparison for annual registration (state taxes and fees)		
Year of Registration	Current Registrant	New Registrant
First year of registration	\$41 (\$25 registration tax + \$11 BMV fee + \$5 service fee)	\$66 (\$50 registration tax + \$11 BMV fee + \$5 service fee)
Each subsequent year of registration	\$41 (\$25 registration tax + \$11 BMV fee + \$5 service fee)	\$16 (\$11 BMV fee + \$5 service fee)

The act also makes conforming changes to the multi-year and permanent registration options for commercial trailers and semitrailers to reflect the change in the annual registration tax for new registrants.

### Registrar report

The act requires the Registrar to collect the following information in 2022:

1. The number of new annual trailer and semitrailer registrations under the new registration tax;
2. The number of new multi-year and permanent trailer and semitrailer registrations under the new registration tax;
3. The number of new trailer and semitrailer registrations that are registered by a person or entity that is located or based in Ohio;
4. The number of new trailer and semitrailer registrations when the trailer or semitrailer was previously registered in another state or is a new registration by a person or entity that is otherwise located or was previously located in another state; and
5. The total number of commercial trailers and semitrailers registered in Ohio.

By March 15, 2023, the Registrar must provide a report to the Governor, the President of the Senate, the Speaker of the House, and the Director of the Legislative Service Commission. The report must provide all of the information collected, as described above.

## **Vehicle registration reminder notices: E-Check**

(R.C. 3704.14, 4501.01, 4503.10, and 4503.102)

The act clarifies that battery electric motor vehicles are excluded from the requirement to undergo an emissions inspection under the motor vehicle inspection and maintenance program (E-Check). A battery electric motor vehicle is a passenger car powered wholly by a battery cell energy system that can be recharged via an external source of electricity. Prior to the act, these vehicles were already exempt from E-Check, but were required to undergo a one-time visual inspection.

The act requires the Registrar to include a statement in motor vehicle registration renewal notices that battery electric vehicles are not subject to E-Check. Under continuing law, the Registrar must mail the notices no less than 45 days before the expiration date of any motor vehicle registration.

## **Production of validation and county stickers**

(R.C. 4503.191 and Section 205.20)

The act allows the Registrar to adopt rules permitting third parties to print or produce validation and county identification stickers. It retains the authority for the Registrar to adopt rules permitting the Registrar or deputy registrars to produce the stickers. It also retains the requirement that Ohio Penal Industries produce the stickers if the Registrar does not adopt the rules.

## **Issuance of registration certificates and stickers**

(R.C. 4503.19, 4503.191, 4503.21, and 4503.83)

When a person registers a motor vehicle with the Registrar or a deputy registrar, the person is given multiple items:

1. A certificate of registration (a portion of which must be kept in the registered vehicle);
  2. A license plate (if the person does not have one issued or the current one is damaged, lost, stolen, etc.);
  3. A county sticker (if the person does not have one or is registering in a new county);
- and
4. A validation sticker (to be placed on the license plate and indicating the registration's expiration date).

The act makes a few adjustments to several of these items. It expands the methods by which the Registrar may deliver a certificate of registration to include electronic delivery. The Registrar also may continue to issue a certificate in person or by regular mail.

The act also removes the requirement that a validation sticker be issued for and displayed on a nonapportioned commercial tractor or any apportioned motor vehicle (meaning, a vehicle registering under the International Registration Plan). Validation stickers still must be issued for and displayed on all other vehicles.

Additionally, the act allows the Registrar to issue a county identification sticker that identifies the county of registration either by the county's name or by the county's identifying number. Under prior law, the Registrar had to issue a county identification sticker identifying the county only by name for standard license plates. The Registrar was already allowed to issue the sticker identifying the county by name or number for specialty license plates (because of spacing issues with the words and logos on those plates).

## **Specialty license plates**

(R.C. 4501.01, 4503.511 (repealed), 4503.512 (repealed), 4503.77 (repealed), 4503.772 (repealed), 4503.79 (repealed), and 4503.791 (renumbered 4503.79); with conforming changes in 4501.21, 4503.19, 4503.29, 4503.51, 4503.513, 4503.573, 4503.581, 4503.591, 4503.593, 4503.67, 4503.68, 4503.69, 4503.771 (renumbered 4503.77), 4503.78, 4503.871, 4503.873, 4503.874, 4503.875, 4503.876, 4503.877, 4503.878, 4503.879, 4503.88, 4503.892, 4503.901, 4503.902, 4503.903, 4503.904, 4503.905, 4503.906, 4503.907, 4503.908, 4503.909, 4503.951, 4503.952, 4503.953, 4503.954, and 4503.955)

Continuing law establishes numerous license plates as alternatives to the standard-issue Ohio license plate. These alternative license plates display words or insignia representative of various organizations, causes, interests, and deeds.

### **Defining “specialty license plates”**

Under prior law, alternative license plates created by legislation were referred to and defined variously, including as “collegiate license plates” and “nonstandard license plates.” The act eliminates the various terms and defines all such plates as “**specialty license plates.**” That is, any license plate, authorized by the General Assembly, that displays a combination of words, markings, logos, or other graphic artwork that is in addition to the words, images, and distinctive numbers and letters typically required on license plates.

### **Fees and taxes for specialty license plates**

The act specifies that the contribution for any specialty license plate is the same each year, regardless of whether the application is for initial issuance or renewal. Each specialty license plate has a standard contribution for its issuance and renewal. The computer system used by the BMV for organizing specialty license plates is adjusted to handle different contributions required for different plates (i.e., a \$20 contribution for the Ohio Agriculture license plate and a \$30 contribution for the Solon City School license plate). However, the system does not allow for a different contribution for the initial issuance and then the renewal of the same plate (i.e., a \$22 contribution the first year and then an \$11 contribution thereafter).

The act also removes a prior intent statement contained in the law. That statement expressed the General Assembly's intent that no legislation creating a new license plate or affecting an existing license plate may be approved by a General Assembly if that legislation does not provide for payment by persons requesting the license plate of all taxes and fees that are normally charged and collected in issuing special license plates. Future General Assemblies, however, are not bound by such intent statements. And, recent General Assemblies specifically

established exemptions from the requirement to pay registration taxes and fees for disabled veterans and Gold Star families.<sup>2</sup>

### **Specialty license plate termination**

Specialty license plates are created by legislation, and then typically implemented after the Registrar receives written statements from at least 150 individuals expressing interest in purchasing the specific specialty license plate. The act does not change these procedures.

It does, however, eliminate a statutory process that allowed the Registrar to terminate a special license plate program administratively if a minimum of 25 license plates of a particular type were not issued annually.

Under that prior process, during any calendar year, if the total number of motor vehicle registrations for a particular specialty license plate was less than 25, including both new and renewal registrations, the Registrar, between January 1 and January 15 of the following year, had to send a written notice to the sponsor organization of the license plate (if one existed) informing the sponsor of that fact. During the calendar year in which the notice was sent, if the total number of motor vehicle registrations for that license plate again was less than 25, the program involving that license plate was terminated on December 31. Beginning the following January 1, no new registration applications for that type of license plate were accepted, but previously issued license plates could continue to be renewed as long as the plates were serviceable.

If a particular license plate program was terminated under the prior process, the sponsor could reestablish the program by applying to the Registrar with at least 25 persons signing a new petition indicating that they would purchase the license plates.

According to DPS, the prior process to terminate a specialty license plate was more time-consuming and costly than simply allowing the specialty license plate to continue to exist. Once a specialty license plate has been designed and created, it is printed at the time it is requested (rather than preprinted, as it used to be under former printing processes).

### **School reporting requirements**

The act eliminates reporting requirements that applied regarding certain high school and school district license plates. Under prior law, those districts and schools had to deliver an annual report to the Department of Mental Health and Addiction Services and the Registrar. The report listed the total money received from license plate contributions that year, a list of expenditures made using those funds, and the total percentage of spending used to provide services for mental and emotional well-being (based on the required uses of the contributions for the plates).

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<sup>2</sup> R.C. 4503.29; R.C. 4503.41 and 4503.546, not in the bill.

If a school failed to submit the report by the end of each year, the Registrar was required to transmit the contribution made for each specialty license plate to the GRF until the report was received.

### **Technical changes**

The act also makes technical changes to several of the specialty license plates in order to standardize language and the types of vehicles that may be issued specialty license plates.

### **Salvage certificates of title**

(R.C. 4505.22)

The act makes permanent a temporary provision (that expired on January 1, 2021) prohibiting a clerk of court from issuing a salvage certificate of title if the only basis for issuing the title is information reported from the National Motor Vehicle Title Information System (NMVTIS). The clerk may, however, use information reported from the NMVTIS to issue a salvage certificate of title, provided that at least one of the following conditions also apply:

1. The clerk receives information from the automated title processing system indicating that a previously issued certificate of title in Ohio was a salvage certificate of title;
2. The vehicle was previously titled in another state and the previous certificate of title indicated that the vehicle was considered or categorized as salvage; or
3. An entity that is authorized to apply for a salvage certificate of title applies for the salvage title.

### **Electronic certificates of title**

(R.C. 4503.10, 4505.01, 4505.032, 4505.06, 4505.11, and 4505.19)

### **Casual sales and assignment form**

Electronic certificates of title have been recorded and tracked through the automated title processing system in Ohio for nearly 20 years. An electronic certificate of title can be used in lieu of a physical certificate of title when a motor vehicle is either purchased or sold by a motor vehicle dealer. However, under prior law, a casual transfer of a motor vehicle between two individuals who were not motor vehicle dealers had to be completed with a physical certificate of title. If a physical certificate of title had not been issued for that motor vehicle (because previous transactions involved a motor vehicle dealer), the current owner of the motor vehicle had to obtain one from a clerk of court in order to make the transfer.

The act authorizes casual sales between two individuals without a physical certificate of title. In order to effectuate the transfer, the current owner must present sufficient proof of the owner's identity and complete and sign an assignment form (created and made available by the Registrar) to give to the new owner. The new owner then must give the assignment form, a completed application for a certificate of title, any use taxes due from the sale not already paid, and the certificate of title fees to a clerk of a court of common pleas. If an electronic certificate of title was issued previously for the motor vehicle, either the prior or the new owner may notify the clerk of the transfer via electronic means (in a manner approved by the Registrar)

and the transfer becomes complete when the clerk enters the information into the automated title processing system. The fees for an electronic certificate of title are the same as the fees for a physical certificate of title.

In addition to casual sales, the new assignment form may also be used to assign a motor vehicle to a salvage dealer when the assignor is not an insurance company. The act makes conforming changes in the certificate of title laws to account for the new assignment form and to specify that any reference to a certificate of title includes both physical as well as electronic copies of that title.

### **Proof of ownership at registration**

When a person initially applies for registration of a motor vehicle, that person must prove ownership of the motor vehicle being registered. The act authorizes the Registrar or a deputy registrar to confirm the applicant's ownership of the motor vehicle electronically, as an alternative to the applicant providing physical proof of ownership with the application.

### **Transfer of ownership by law**

(R.C. 2131.12, 2131.13, 4519.55, and 4519.60)

### **Joint ownership with right of survivorship**

Continuing law authorizes two persons who wish to establish joint ownership with right of survivorship to a motor vehicle, watercraft, or outboard motor to make a joint application for the certificate of title. The act expressly extends the right to establish joint ownership with right of survivorship to two people who own an all-purpose vehicle or an off-highway motorcycle. (Prior law was silent regarding whether a joint ownership with right of survivorship could be established for those vehicles). By having joint ownership with right of survivorship, if one of the owners dies, the deceased owner's interest to the all-purpose vehicle or off-highway motorcycle passes automatically to the other owner outside of the probate process.<sup>3</sup>

### **Transfer-on-death designation**

The act authorizes owners of a motor vehicle, all-purpose vehicle, off-highway motorcycle, watercraft, and outboard motor who have title showing joint ownership with right of survivorship to transfer the title to a person or persons other than the owners through a transfer-on-death (TOD) designation. Prior law authorized only an individual with sole ownership to transfer the title through a TOD designation and only with regard to a motor vehicle, watercraft, or outboard motor. Prior law was also silent regarding whether a sole owner of an all-purpose vehicle or off-highway motorcycle could transfer that vehicle through a TOD designation.

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<sup>3</sup> Without joint ownership with right of survivorship, a motor vehicle, all-purpose vehicle, off-highway motorcycle, watercraft, or outboard motor could still potentially be transferred outside of the probate process if it were a part of a trust or a similar nonprobate asset.

A TOD designation is a mechanism to transfer title to property, both real property and certain forms of personal property, outside of the probate process after the property owner dies. The designation is noted on the certificate of title. Specifically, the words “transfer-on-death” or the abbreviation “TOD” is placed after the name of the current owner and before the name or names of the TOD beneficiary or beneficiaries on the certificate of title. The designation of a TOD beneficiary has no effect on the ownership until the owner dies, and the owner may change or cancel the designation at any time before his or her death.

## **Online renewal of driver’s license and identification card**

(R.C. 4507.06, 4507.061, 4507.12, 4507.21, and 4507.51)

The act authorizes the Registrar, beginning July 1, 2022, to allow online renewals of a driver’s license or state identification card (ID) for eligible applicants. Prior to the act, online renewals were only authorized for members of the military and their dependents.<sup>4</sup> The act specifies that an applicant is eligible for online renewal if all of the following apply:

1. The applicant’s current driver’s license or ID was processed in person at a deputy registrar office;
2. The applicant has a photo on file with the Bureau of Motor Vehicles (BMV) from the applicant’s current driver’s license or ID;
3. The applicant’s current driver’s license or ID expires on the applicant’s birthday four years after it was issued;
4. The applicant is applying for a four-year driver’s license or ID;
5. The applicant’s current driver’s license or ID is unexpired or expired up to six months prior to the date of the application;
6. The applicant is a U.S. citizen and a permanent Ohio resident;
7. The applicant is between the ages of 21 and 65;
8. The applicant’s current driver’s license or driving privileges are not suspended, cancelled, revoked, or restricted, and the applicant is not otherwise prohibited by law from obtaining a driver’s license or ID;
9. The applicant has no changes to the applicant’s name or personal information, other than a change of address; and
10. The applicant has no medical restrictions (as specified by the Registrar) that would require an in-person application.

The Registrar may require applicants to submit digital copies of any required identification or supporting documents as required by state or federal law. Additionally, the vision-screening requirement is waived for an applicant who renews a driver’s license online.

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<sup>4</sup> R.C. 4507.18, not in the bill.

Effectively, an eligible applicant who takes advantage of the online renewal will receive a vision screening once every eight years, instead of every four years. Except for the vision screening, applicants are required to comply with all other related driver's license and ID laws when renewing online. For instance, an applicant must pay the typical fees for a driver's license or ID.

While the act expands online renewal options, an applicant must still apply for all of the following in person at a deputy registrar office:

1. A temporary instruction permit;
2. A commercial driver's license or a commercial driver's license temporary instruction permit;
3. An initial issuance of an Ohio driver's license or identification card;
4. An initial issuance of a federally compliant driver's license or identification card;
5. An ignition interlock license; or
6. A nonrenewable license.

The act authorizes the Registrar to adopt rules to implement and administer the online renewals. It also makes conforming changes in the driver's license and ID laws.

## **Sharing digital driver's license photos**

(R.C. 4507.53)

The act authorizes DPS to release its digitalized photographic records (i.e., ID photos) to the American Association of Motor Vehicle Administrators. The new authorization is to allow other state departments of motor vehicles that participate in the association's State-to-State Verification Services and Digital Image Access and Exchange Program to use the photographic records for identity verification purposes.

Previously, DPS could only release its digitalized photographic records to state, local, or federal government agencies, for criminal justice purposes, or to any court.

## **Single credential**

(R.C. 4507.02, 4507.213, and 4507.50)

The act prohibits both of the following:

1. A person from receiving a temporary instruction permit or ID, until the person surrenders any permit or ID issued by another jurisdiction; and
2. A person from possessing more than one valid temporary instruction permit or ID.

The act also requires a person who becomes an Ohio resident to surrender any temporary instruction permit or ID issued by another state to the Registrar or a deputy registrar within 30 days of becoming a resident. Accordingly, the new Ohio resident is prohibited from operating a motor vehicle if the resident fails to obtain a temporary instruction permit (or driver's license) within the 30-day period.

Under continuing law, a person is subject to all of the same prohibitions and requirements with respect to driver's licenses. The act applies the criminal penalty for those offenses, a first degree misdemeanor, to any violation of the prohibitions with respect to temporary instruction permits or IDs.

For the above prohibitions and requirements, the Registrar must report both of the following to an issuing state other than Ohio:

1. The cancellation of any temporary instruction permit or ID; and
2. Information that a temporary instruction permit or ID has now been issued to the person in Ohio.

The Registrar or a deputy registrar must destroy cancelled permits and IDs if not returned to the other state's issuing authority. Continuing law requires the Registrar or a deputy registrar to do the same regarding driver's licenses. Finally, the act specifies that the Registrar or a deputy registrar may only issue an ID or temporary ID when the person does not hold an ID from another jurisdiction.

## **Behind-the-wheel driver's training**

(R.C. 4508.02)

The act modifies the behind-the-wheel instruction that is required as part of driver's training courses. Under prior law, the eight hours of behind-the-wheel instruction could begin after two hours of online classroom instruction and at any time during in-person classroom instruction. The act requires, instead, that all behind-the-wheel instruction occur after the completion of all 24 hours of either online or in-person classroom instruction. The Director of Public Safety must adopt rules reflecting this requirement.

## **Remedial driver instruction courses**

(R.C. 4510.037)

Under continuing law retained by the act, a person may complete a remedial driver training course if the person has at least two points but fewer than 12 points on the person's driving record. By completing the course, the person receives a two-point credit.

The act eliminates the requirement that a remedial driver instruction course approved by the Director include at least 50% in person instruction and up to 50% instruction in any other manner, including via video teleconferencing or the internet. The act instead specifies that any remedial driver instruction course approved by the Director must require instruction in one of the following ways:

- Entirely in-person instruction;
- Any combination of in-person and video teleconferencing or internet instruction; or
- Entirely remote instruction via video teleconferencing or internet instruction.

The act requires the Director to approve a course in any instruction method described above if it is capable of meeting the instructional standards established by the Director.

## **Seizure of license plates after OVI offense**

(R.C. 4511.195)

The act requires license plates on a vehicle seized as part of an arrest for an OVI offense (impaired driving) to remain on the vehicle unless otherwise ordered by a court. Under continuing law, vehicle seizure is required when the vehicle is registered in the arrested person's name and one of the following applies:

1. Within ten years of the alleged OVI violation, the person previously has been convicted of or pleaded guilty to one or more OVI offenses or one or more other specified equivalent offenses; or
2. The person previously has been convicted of or pleaded guilty to an OVI offense under circumstances in which the violation was a felony.

Prior law required the arresting law enforcement officer to remove the license plates and the officer's agency to safely keep them separate from the vehicle.

## **Personal delivery devices**

(R.C. 4511.513)

The act increases the maximum allowable empty weight of a personal delivery device from 200 pounds to 550 pounds. It also authorizes a personal delivery device to transport cargo, in addition to property. A personal delivery device is an electrically powered device that is designed to operate on sidewalks and crosswalks, has a maximum speed of 10 m.p.h., and can be operated either with or without active control and monitoring by a human operator.

## **Preschool school zones**

(R.C. 4511.21)

The act authorizes the designation of a school zone around a preschool when:

1. The preschool is operated by an educational service center (which is an entity that contracts with a school district to provide preschool services);
2. The preschool is located on a street or highway with a speed limit of 45 m.p.h. or more; and
3. The educational service center requests in writing that the county engineer create the school zone.

Thus, a person driving a motor vehicle may not operate the motor vehicle at a speed that exceeds 20 m.p.h. in the school zone during school recess or when children are going to or leaving school during opening or closing hours. Generally, speeding in a school zone is a minor misdemeanor, but the penalty may be enhanced if the offender has prior speeding violations.

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## DEPARTMENT OF TRANSPORTATION

### Bridge inspections

- Specifies that bridges must be inspected at least once every two years according to a schedule set by the Director of the Department of Transportation (ODOT), rather than at least once every year as in prior law.

### Load limits on highways and bridges

- Removes the general vehicle weight exemption for a vehicle that runs on stationary rails or tracks.
- Narrows the vehicle weight exemption that applies to all fire department vehicles (e.g., a fire engine) to certain fire department vehicles under specified conditions.
- Requires the Director or local authority to issue an overweight vehicle permit for a fire department vehicle with a five-year expiration date (rather than the standard one year) and at no cost to the municipal, township, or volunteer fire department.

### Outdoor advertising devices

- Limits application of the Outdoor Advertising Law to any type of outdoor sign or billboard to which both of the following apply:
  - It is owned or operated by a person or entity that earns compensation for the placement of a message on it; and
  - It is visible from the main traveled way of any highway on the interstate system or primary system in this state.
- Specifies that compensation is the exchange of anything of value including money, securities, real property interests, goods, services, a promise of future payment, or forbearance of a debt.
- Eliminates all restrictions regarding the placement of noncompensated signs within the vicinity of a highway on the interstate system or primary system.

### Scenic byways

- Expands the authority of the Director to designate a scenic byway to include any portion of a state, county, municipal, or township road or highway.

### Transportation Review Advisory Council (TRAC) funding for rail lines

- Requires the Director, in the process to select and prioritize major new transportation capacity projects, to include a policy that makes the purchase and replacement of rail lines used for public passenger commuter rail service, in a qualified county, eligible for funding approval by the Transportation Review Advisory Council (TRAC).

- Specifies that a qualified county is one with a population between 1,100,000 and 1,300,000 in which an existing public passenger rail service is operated that does not operate in any other county.
- States that TRAC purchases of rail lines under the policy are other statutory highway purposes for which revenue from motor fuel taxes and other motor vehicle-related taxes may be spent under the Ohio Constitution.

## **Highway maintenance and snow removal**

- States that ODOT has the responsibility to maintain all interstate highways in Ohio.
- Permits the Director to enter into an agreement with a political subdivision to allow it to remove snow and ice from and to maintain, repair, improve, or provide lighting on interstate highways located within the political subdivision or to reimburse the political subdivision for such improvements.
- Continues the Catastrophic Snowfall Program to provide monetary aid for snow removal costs for municipal corporations, counties, and townships that receive 16 or more inches of snow in a 24-hour period.

## **Commercial motor vehicle parking**

- Requires ODOT, in conjunction with the State Highway Patrol, to reopen at least two permanently closed weigh stations per year beginning in 2021 and ending in 2024 to make them available for commercial motor vehicle overnight parking.
- Through June 30, 2023, 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 Director to enter into indefinite delivery indefinite quality (IDIQ) contracts for up to two projects in FYs 2022 and 2023.
- 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.

## **Bridge inspections**

(R.C. 723.54, 5501.47, 5501.48, and 5543.20)

The act changes the mandated minimum inspection time for all bridges in Ohio, including toll bridges, from at least annually to at least once every 24 months, according to a schedule set by the Director of Transportation. A local authority, such as a municipal corporation or board of county commissioners, however, may still require a more frequent bridge inspection, at its discretion. Bridge inspections are conducted by the county engineer, a

professional engineer, or other qualified person under the supervision of a professional engineer and are done in accordance with the standards in the Manual of Bridge Inspection.

## **Load limits on highways and bridges**

(R.C. 5577.02 and 5577.045)

Generally, a person is prohibited from operating a vehicle on highways and bridges when the vehicle and its load exceed certain weight limitations, unless the person has a special permit. However, prior law exempted a vehicle that runs on stationary rails or tracks and all fire department vehicles (e.g., a fire engine, fire truck, or similar vehicles) that exceeded the weight limits from the permit requirement. The act removes the exemption for a vehicle that runs on stationary rails or tracks (thus, an owner or driver of the vehicle will need to obtain a permit if the vehicle is over the weight limits), and narrows the weight exemption for fire department vehicles.

The following municipal, township, and volunteer fire department vehicles remain exempt from the weight requirements (and do not require a permit) while discharging their functions:

1. A two-axle fire department vehicle, with a front axle maximum weight of 24,000 pounds and rear axle maximum weight of 33,500 pounds and a minimum wheelbase of 15 feet; and
2. A fire department vehicle with a maximum gross vehicle weight of 86,000 pounds while operating on the interstate highway system and within one road mile of an interstate entrance or exit ramp.

Therefore, any other fire department vehicle that is above the weight limits listed above will require a permit. The act, however, requires the Director of Transportation or any local authority issuing an overweight vehicle permit for a fire department vehicle to issue that permit at no cost to the municipal, township, or volunteer fire department. Additionally, it prolongs the validity of permits for a fire department vehicle to five years after the date of issuance, rather than one year, as with permits for other overweight vehicles.

## **Outdoor advertising devices**

(R.C. 5516.01, 5516.02, 5516.05, 5516.06, 5516.061, and 5516.11)

The act limits the application of the Outdoor Advertising Law to any type of outdoor sign or billboard (device, figure, painting, drawing, message, placard, poster, or any other contrivance) to which both of the following apply:

1. It is owned or operated by a person or entity that earns compensation for the placement of a message on it; and
2. It is visible from the main traveled way of any highway on the interstate system or primary system in this state.

The act specifies that compensation, for outdoor advertising devices, is the exchange of anything of value including money, securities, real property interests, goods, services, a promise of future payment, or forbearance of a debt.

Prior law applied the Outdoor Advertising Law to any advertising device, compensated or uncompensated. The Law specified that an advertising device was any type of outdoor sign or billboard intended to advertise and visible from the main traveled way of any highway on the interstate system or primary system in this state.

Because the act applies the Outdoor Advertising Law only to compensated signs, it eliminates the Director's authority to order nonconforming uncompensated signs to be removed. This change attempts to resolve a potential constitutional conflict with the prior regulatory scheme. Specifically, prior law may have violated the free speech provisions of the First Amendment to the U.S. Constitution because ODOT may have needed to assess the speech content of a sign in order to determine whether the sign complied with the law.<sup>5</sup> It is unclear if the changes made by the act fully address this potential First Amendment conflict.

Further, the distinction in the act between compensated and uncompensated signs is problematic because it is not a distinction made in federal law. Federal highway funding may be at risk because of this potential conflict (see **COMMENT**).

## **Scenic byways**

(R.C. 5516.05)

The act expands the authority of the Director to designate a scenic byway to include any portion of a state, county, municipal, or township road or highway. Continuing law also authorizes the Director to designate highways on the interstate, national, or primary system as scenic byways.

## **Transportation Review Advisory Council funding for rail**

(R.C. 5512.11)

The act requires the Director to include a policy that makes the purchase and replacement of rail lines used for public passenger commuter rail service operated in a qualified county eligible for funding from the Transportation Review Advisory Council (TRAC). A qualified county is a county with a population of between 1,100,000 and 1,300,000 as of the most recent federal census (Cuyahoga and Franklin) in which an existing public passenger rail service is operated that does not operate in any other county.

The Director must include the policy as part of the general written process regarding the prioritization of major new capacity projects (projects that exceed \$12 million). The act states that purchases of rail lines under this policy is a statutory highway purpose for which revenue

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<sup>5</sup> See *Thomas v. Bright*, 937 F.3d 721 (6<sup>th</sup> Cir. 2019).

from motor fuel taxes and other motor vehicle-related taxes (e.g., annual motor vehicle registration taxes) may be spent under the Ohio Constitution, Article XII, Section 5a.

It is unclear whether the General Assembly can specify that rail lines are an “other statutory highway purpose” for which these funds may be spent under the Constitution. While the Ohio Supreme Court has found uses of these funds for nonhighway purposes unconstitutional, it has not specifically examined whether the legislature may define the parameters of a “statutory highway purpose.”<sup>6</sup>

## **Maintenance of interstate highways**

(Section 203.70)

The act states that ODOT has the responsibility to maintain all interstate highways in Ohio. It authorizes the Director to enter into an agreement with a political subdivision to allow the political subdivision to remove snow and ice from and to maintain, repair, improve, or provide lighting on interstate highways located within the political subdivision’s boundaries in order to meet federal highway requirements. Additionally, if there is a written agreement between the Director and the legislative authority of the political subdivision, ODOT may reimburse that political subdivision for all or part of the costs incurred by the political subdivision for maintaining, repairing, lighting, and removing snow and ice from the interstate highways in their boundaries. This permissive authority is an extension and revision of the authority granted to the Director in 2019 through H.B. 62 of the 132<sup>nd</sup> General Assembly (the prior transportation budget). The prior authority only applied to municipal corporations and not to political subdivisions generally.

## **Catastrophic Snowfall Program**

(Section 755.40)

The act continues, through FY 2023, the Catastrophic Snowfall Program. In the new biennium, the program will provide monetary aid for snow removal costs for municipal corporations, counties, and townships that receive 16 or more inches of snow in a 24-hour period and that request the aid. The Director must establish procedures for implementing and administering the program. The procedures must include:

1. An application process;
2. A system for verifying the amount of snow the applicant received; and
3. A process for administering snow removal aid to a qualified applicant.

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<sup>6</sup> Ohio Constitution, Article XII, Section 5a. *Beaver Excavating Co. v. Testa*, 134 Ohio St.3d 565 (2012).

## **Commercial motor vehicle parking**

(R.C. 5529.02; Section 509.30)

### **Weigh stations**

The act requires ODOT, in conjunction with the State Highway Patrol, to reopen certain weigh stations that were previously permanently closed. The weigh station must be reopened for the space to be used for commercial motor vehicle overnight parking. Specifically, ODOT must reopen at least two weigh stations every year beginning in 2021 and ending in 2024. As a result, eight previously closed stations must be reopened by the end of 2024. The Director must ensure that each weigh station area remains open and is clearly marked as being for overnight parking, not the standard weight checks.

### **ODOT rest areas**

The act stipulates that, during FYs 2022 and 2023, 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 and 2021.

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

(Section 203.100)

The act requires the Director to advertise, seek bids for, and award indefinite delivery indefinite quantity (IDIQ) contracts for up to two projects in FYs 2022 and 2023. 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.

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## **TAXATION**

### **Transit authority membership and taxation**

- Temporarily reauthorizes a special procedure to allow certain subdivisions to join, with voter approval, a regional transit authority (RTA) that levies property tax and satisfies certain population criteria.
- Authorizes the ballot question to include a proposal to repeal all RTA property taxes and to instead levy an RTA sales and use tax.

## **Taxpayer information to verify grant or loan eligibility**

- Allows the Department of Taxation to disclose to the Ohio Rail Development Commission confidential taxpayer information for the purposes of verifying eligibility for grants or loans administered by the Commission and ensuring compliance with Ohio tax law.

## **Motor fuel tax allowances and refunds**

- 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.

## **Transit authority membership and taxation**

(R.C. 306.322)

### **Membership expansion**

The act temporarily reauthorizes and modifies a special procedure that previously expired in 2013 to allow a county, municipal corporation, or township to join a regional transit authority (RTA) that (1) levies a property tax and (2) includes in its membership political subdivisions located in a county with a population of at least 400,000 (referred to in this analysis as a “qualifying RTA”). The Toledo Area RTA appears to be the only RTA that meets both of these criteria.

Under the authorization that expired in 2013, a municipality or township could adopt a resolution proposing to join a qualifying RTA for a limited period of three years or without a time limit. If a majority of the subdivisions comprising the RTA approved the inclusion of the additional township or municipality, a ballot question could be submitted to the voters in the subdivision proposing to join the RTA. If the question was approved, the inclusion of the additional subdivision was effective six months from the date the result was certified, and the RTA could extend its existing property tax levy to the new territory. If the subdivision was added to the RTA for only three years, no further action was needed to remove the territory added and reduce the RTA to its previous size. The RTA, as reduced, was entitled to levy and collect any previously authorized and unexpired property taxes, as if the enlargement had not occurred.

The act reauthorizes this process through the end of 2022, and, in addition to a municipality or township, also allows a county to join its territory to a qualifying RTA in this manner.

### **Tax conversion**

Instead of authorizing a vote in the joined subdivision to expand the qualifying RTA’s property tax to the new territory, the act alternatively authorizes the RTA to submit a combined question to voters in the entire RTA territory, as it would be enlarged, to not only allow the new subdivision to join, but to repeal all property taxes levied by the RTA and to instead levy a sales and use tax. Under continuing law, an RTA that includes all area of the most populous county

that is part of the RTA may levy a sales and use tax of up to 1.5%. This combined question was not authorized as part of the joinder process that expired in 2013. This option is only available if the new territory is proposed to be joined permanently, rather than just for three years.

To initiate this process, the RTA must adopt and certify to the board of elections a resolution that includes (1) the date the territory is to be added to the RTA, (2) the last tax year the RTA will levy property tax, and (3) the sales and use tax rate and date that levy will commence. The additional subdivision may not be joined until the property taxes levied by the RTA are repealed, and the RTA may not concurrently levy property tax and sales and use tax. (However, property tax may continue to be levied in the original territory of the RTA to the extent necessary to pay off debt instruments issued in anticipation of collecting the tax.)

The ballot question must be submitted to all voters in the RTA, including the subdivision proposing to join the RTA. If a majority of the voters approve the ballot question, the RTA may proceed with adding the new territory, repealing RTA property taxes, and levying an RTA sales and use tax, as provided in the resolution.

## **Disclosing taxpayer information to verify grant or loan eligibility**

(R.C. 5703.21(C)(20))

The act authorizes the Department of Taxation to disclose to the Ohio Rail Development Commission confidential taxpayer information, except information prohibited from being disclosed under federal law, for the purposes of verifying the taxpayer's eligibility for grants or loans administered by the Commission and ensuring compliance with Ohio tax law. The Commission, in turn, may disclose such information only if necessary to evaluate a taxpayer's eligibility for the loan or grant.

Continuing law permits disclosure of certain taxpayer information in the Department of Taxation's possession to other state agencies and offices under specified circumstances to aid in the implementation of Ohio law. Otherwise, the Department may not disclose such information, and any Department agent or employee that does so is subject to employment termination and a fine.

## **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.<sup>7</sup> This allowance is to cover the costs of filing the report and to compensate for evaporation, shrinkage, and other "unaccounted for" losses. Under permanent codified law, however, the percentages are 3% and 1%, respectively.<sup>8</sup> But each of the last seven transportation appropriation acts reduced the 3% discount to 1%

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<sup>7</sup> Section 757.20 of H.B. 166 of the 133<sup>rd</sup> General Assembly.

<sup>8</sup> R.C. 5735.06(B)(1)(c), not in the bill.

(minus 0.5% of fuel sold to retail dealers). The bill continues the allowance at the reduced 1% level throughout the FY 2022-2023 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.<sup>9</sup> In permanent codified law, the refund equals 1% of the taxes paid on the fuel each semiannual period. But, as with the dealer shrinkage allowance, the retailer refund has been reduced to 0.5% for each fiscal year from 2008 through 2021 by uncodified provisions in the last seven transportation appropriation acts. The act continues the reduced percentage at this level through the FY 2022-2023 biennium.

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## OTHER PROVISIONS

### Retail installment contracts

- Allows a retail seller to charge an additional fee (or similar additional expense) as part of an installment contract if the fee or expense is expressly authorized by law.

### Force accounts

- Allows an increase to local political subdivision force account limits every two years that is the lesser of either:
  - 3%; or
  - The percentage increase in ODOT's construction cost index (CCI) as annualized and totaled for the prior two calendar years.
- Requires the Director of Transportation to notify the appropriate local engineer or public official about the increased CCI amounts.
- Creates the Joint Committee on Force Accounts made up of appointed members from the General Assembly and local political subdivision representative organizations, all of whom must be selected by April 2, 2021.
- Requires the Committee to study, take testimony regarding, and discuss issues surrounding force accounts for the local political subdivisions.
- Requires the Committee to submit a report of its findings and a summary of testimony by May 15, 2021, to the President, the Speaker, and the Minority Leaders of the Senate and the House.
- Dissolves the committee after submission of the report.

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<sup>9</sup> R.C. 5735.141, not in the bill.

## **Transportation improvement district board of trustees**

- Removes a requirement that members of the General Assembly serve on a transportation improvement district board of trustees.

## **Regional transportation improvement projects (RTIPs)**

- Authorizes the governing board of a regional transportation improvement project (RTIP) to negotiate and enter into voluntary agreements that impose assessments on property located within a transportation financing district (TFD) designated by the board.
- Provides that assessments imposed pursuant to such agreements are collected in the same manner as real property taxes and are enforceable against current and future owners of the property.
- Requires all revenue from the assessments be used for transportation improvements described in the cooperative agreement that governs the RTIP.

## **Fireworks manufacturer and wholesaler licenses**

- Allows current and future fireworks manufacturer and wholesaler licensees to transfer their licenses from one geographic location to another upon application to, and approval from, the State Fire Marshal.
- Specifies that certain ownership transfers of fireworks manufacturer and wholesaler licenses are not subject to the current moratorium on new licenses if the transfer is through inheritance or a sale approved by the State Fire Marshal.

## **Trade secrets in insurance filings**

- Exempts trade secrets contained in filings, and related supporting information, insurers submit to the Superintendent of Insurance from public inspection, and prohibits their release.

## **Land conveyance**

- Authorizes the Governor to convey state-owned land in Jefferson County to the state for the benefit of the Jefferson Soil and Water Conservation District.

## **Retail installment contracts**

(R.C. 1317.07)

Generally, a retail seller is prohibited from charging any additional fee (or a similar expense) as part of an installment contract. The act modifies this general prohibition by authorizing the seller to add a fee or similar additional expense when the seller is expressly authorized by law to add that fee or expense. Thus, if a retail seller is authorized either under codified law or by rules to charge the additional fee or expense (presumably for a rendered service under the contract), that seller will be able to do so.

## **Force accounts**

(R.C. 723.52, 723.53, 5543.19, and 5575.01; Sections 755.90 and 812.15)

### **Automatic escalation**

“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 force account limits under continuing law are as follows:

1. For highway projects undertaken by an unchartered municipal corporation – \$30,000 per project;
2. For highway maintenance and repair undertaken by a township – \$45,000 per project;
3. For highway construction and reconstruction undertaken by a township – \$15,000 per mile;
4. For highway construction or reconstruction undertaken by a county – \$30,000 per mile
5. For construction, reconstruction, improvement, maintenance, or repair of bridges and culverts undertaken by a county – \$100,000 per project.

The act adds an automatic increase in all of the above thresholds every two years, similar to the automatic increase that occurs for ODOT’s force account threshold. Specifically, the force account limits will automatically increase by the lesser of either 3% or the percentage increase in ODOT’s construction cost index as annualized and totaled for the prior two calendar years. The Director of Transportation must inform the engineer of each political subdivision of the increased amount.

### **Joint Committee on Force Accounts**

The act also creates a Joint Committee on Force Accounts, composed of the following members:

1. Three members appointed by the President of the Senate, two from the majority party and one from the minority party;
2. Three members appointed by the Speaker of the House, two from the majority party and one from the minority party;
3. One industry representative appointed jointly by the President and the Speaker;
4. One member appointed by the Ohio County Engineer’s Association;
5. One member appointed by the Ohio Township Association;
6. One member appointed by the Ohio Municipal League; and
7. One member appointed by the Ohio County Commissioners Association of Ohio.

The President and the Speaker each must appoint a joint-chair of the committee from the members they appoint. Additionally, the various organizations must submit the name of their appointee to the President and Speaker in writing by April 2, 2021.

The act requires the Committee to study, take testimony regarding, and discuss issues surrounding force accounts for the local political subdivisions. The study, testimony, and discussion must include the increase in construction costs and the impact of current thresholds on the types of projects the political subdivisions are capable of completing under force account.

The Committee must submit a report of its findings and a summary of testimony by May 15, 2021, to the President, the Speaker, and the Minority Leaders of the Senate and the House. The Committee is dissolved after submission of the report. Because of the quick report turnover, the act specifies that the provisions governing the Committee took effect March 31, 2021.

## **Transportation improvement district board**

(R.C. 5540.02)

The act removes the requirement that members of the General Assembly serve on the board of trustees of a transportation improvement district (TID). Under prior law, a TID board of trustees was structured in one of two ways. In the first structure, the members of the General Assembly whose districts are a part of the TID were automatically included on the board as nonvoting, ex officio members. In the second structure, the President of the Senate and the Speaker of the House each appointed a member from their chamber to serve as a nonvoting member on the TID board.

The act also makes a conforming change by requiring the longest serving member of the board of county commissioners establishing the TID to set the time and location of the organizational meeting for the TID board of trustees. Prior law required the longest serving member of the General Assembly that was a TID board member to determine the time and location of that meeting.

## **Regional transportation improvement projects (RTIPs)**

(R.C. 5595.04, 5709.48, 5709.481, and 5709.50)

### **Voluntary assessments**

The act establishes a new method by which the governing board of the regional transportation improvement project (RTIP) located in Stark, Carroll, and Columbiana Counties may acquire revenue for transportation improvements. It allows the board to negotiate and enter into voluntary agreements whereby the owner of property located within a transportation financing district (TFD) agrees to subject that property to an assessment (see “**Background**,” below for an explanation of RTIPs and TFDs). The amount and duration of the assessment are specified by the agreement. Regardless of duration, the assessment terminates upon dissolution of the RTIP.

One agreement may impose an assessment on more than one parcel if the owner of each parcel approves the agreement. New parcels may be added to an existing agreement with the approval of the board and the owner of each new parcel. Rescinding the agreement, or amending it for any purpose other than adding new parcels, requires approval of the board and the owner of each parcel subject to the agreement. The board may agree to as many assessments as are necessary or useful in serving the purposes of the RTIP.

### **Collection and enforcement**

The assessments authorized by the act are collected in the same manner as real property taxes and treated as such for all purposes. Each year, the board must certify the amount of the assessment to the property owner and to the county auditor. Once collected, the assessed amount is paid immediately by the county treasurer to the board. The board may use such amounts only for the purposes described by the cooperative agreement that governs the RTIP.

The assessment is a covenant running with the property and is fully binding against the property owner and any person that subsequently acquires an interest in the property. The board may enforce an unpaid assessment in the same manner as delinquent taxes, including by foreclosure. The lien priority associated with an assessment is the same that applies for real property taxes.

### **Background**

RTIPs are arrangements between two or more counties for the purposes of completing transportation improvements. An RTIP is governed by a cooperative agreement that describes the scope of the project and includes a comprehensive plan for its completion. The agreement is administered by a governing board consisting of one county commissioner and the county engineer from each participating county. The governing board does not have direct taxing authority, but it may solicit and receive revenue pledges from the state, participating counties, and political subdivisions and taxing units located within those counties. The governing board is permitted to issue securities backed by that revenue.

RTIPs created before March 23, 2018, are authorized to create TFDs. The rules and procedures associated with TFDs are similar to those that apply to tax increment financing (TIF) incentive districts. They generate funding for transportation improvements by exempting the increase in assessed value of nonresidential parcels from property taxation and collecting service payments from the property owners. Only the RTIP in Stark, Carroll, and Columbiana Counties is eligible to create a TFD.

### **Fireworks manufacturer and wholesaler licenses**

(R.C. 3743.04, 3743.17, and 3743.75, with conforming changes in R.C. 3743.01 and 3743.15)

Current law imposes a general moratorium on the issuance of fireworks manufacturer and wholesaler licenses for a particular plant or location except to persons who possessed a license for that plant or location immediately prior to June 29, 2001. Current law also generally prohibits existing licensees from moving their plant or location to a new site. Both the new-license and geographic-transfer moratorium are scheduled to expire on December 31, 2021.

## **Geographic transfer of operations**

The act allows current fireworks manufacturers and wholesalers, that meet certain criteria specified in the act, to transfer their licenses from one geographic location to another upon application to, and approval from, the State Fire Marshal. The act establishes procedures for those applications and approvals, and those procedures will apply to future licensees who obtain their licenses after the new license moratorium expires.

## **Ownership transfers**

The act specifies that certain ownership transfers of fireworks manufacturer and wholesaler licenses are not subject to the current moratorium on new licenses if the transfer is through inheritance or a sale approved by the State Fire Marshal.

## **Trade secrets in insurance filings**

(R.C. 3935.04 and 3937.03)

Under continuing law, insurers must file with the Superintendent of Insurance certain documents that they propose to use: every form of a policy, endorsement, rider, manual, minimum class rate, rating schedule, rating plan, and rating rule, along with modifications of those items. Continuing law excepts documents for inland marine risk insurance from this requirement. Generally, the filings must include the information supporting the filing, or that information must be provided separately.

Under prior law, all filings and supporting information were open to public inspection after the filings became effective. The act establishes that trade secrets contained in filings and supporting information are not open to public inspection, are not public records, and must not be released. The act applies the definition of “**trade secrets**” contained in Ohio’s implementation of the Uniform Trade Secrets Act. That is: information, including the whole or any portion or phase of any scientific or technical information, design, process, procedure, formula, pattern, compilation, program, device, method, technique, or improvement, or any business information or plans, financial information, or listing of names, addresses, or telephone numbers, that satisfies both of the following:

- It derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use.
- It is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.<sup>10</sup>

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<sup>10</sup> R.C. 1333.61, not in the bill.

## Land conveyance

(Section 753.10)

The act authorizes the Governor to convey approximately 369.57 acres of state-owned land in Jefferson County to the state, to be held for the benefit of the Jefferson County Soil and Water Conservation District. The authorization to convey the property expires June 30, 2024.

The deed prepared for the conveyance must include conditions prohibiting use of the property in a manner that impacts current or future operation, or that impedes the safe operation, of the rail line that runs through or adjacent to the property.

Consideration for the conveyance is to be the previous payment, by the District, for the land descriptions necessary to identify the land to be conveyed and facilitate the conveyance. The District must pay all costs associated with the purchase, closing, and conveyance of the property. Any net proceeds of the sale must be deposited into the state treasury to the credit of the Rail Development Fund.

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## COMMENT

### Outdoor advertising devices

The act limits the Director of Transportation's authority to regulate uncompensated highway advertising devices. Prior law authorized the Director to order certain nonconforming uncompensated advertising devices to be removed if located within 660 feet of the edge of the right-of-way of a highway on the interstate or primary system (or outside of the 660-foot zone in nonurban areas).<sup>11</sup>

Under the federal Highway Beautification Act, any advertising device is generally prohibited from being located within 660 feet of the edge of the right-of-way of a highway on the interstate or primary system (or outside of the 660-foot zone in nonurban areas). If a state does not comply with this requirement, the U.S. Secretary of Transportation must reduce that state's federal highway funding by 10%. Federal law does not differentiate between compensated and uncompensated signs.<sup>12</sup> By failing to enforce the federal law on uncompensated signs, Ohio may risk losing federal highway funding.

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<sup>11</sup> R.C. 5516.08, not in the bill.

<sup>12</sup> 23 United States Code § 131.

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## HISTORY

Action	Date
Introduced	02-09-21
Reported, H. Finance	03-03-21
Passed House (87-8)	03-04-21
Reported, S. Transportation	03-24-21
Passed Senate (32-0)	03-24-21
House concurred in Senate Amendments (86-9)	03-25-21

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