

Greenbook

LBO Analysis of Enacted Transportation Budget – Part II

Public Works Commission
Department of Development
Ohio Turnpike and Infrastructure Commission
Local Government Provisions

Jared Cape, Budget Analyst
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TABLE OF CONTENTS

Introduction	1
Public Works Commission	1
Local Transportation Improvement Program	1
LTIP grants (ALI 150701)	1
Grant application and award process	2
LTIP operating support (ALI 150402)	2
State Capital Improvement Program	2
Department of Development	2
Roadwork Development Program	2
Ohio Turnpike Infrastructure Commission	3
Overview	3
OTIC operating and capital budgets for CY 2023	3
Operating budget	3
Capital budget	4
Transportation budget provisions affecting local government	5
Motor fuel tax distributions.....	5

Highway Transportation Safety Fund	6
Force accounts	6
Transportation Improvement Districts	6
State Infrastructure Bank.....	7
Sale of Cincinnati Southern Railway	7
Regional transit authority audits	8
Aggregate mining.....	8
Other state agencies.....	8
Department of Public Safety.....	8
Ohio State Highway Patrol (OSHP) pay schedule changes	8
Plug-in hybrid electric motor vehicle fee.....	8
Enhanced driver’s licenses and identification cards	9
Noncommercial trailer permanent registration	9
Traffic cameras.....	9
Department of Education	9
Public Utilities Commission of Ohio.....	9
Wayside detectors	9
Two-person freight train crews.....	10
Hazardous waste transportation report	10
Railroad safety technology report	10

Attachments:

 PWC Appropriation Spreadsheet

 DEV Appropriation Spreadsheet

LBO Greenbook

Transportation Budget – Other Agencies

Introduction

Part II of this Greenbook covers the two other state agencies funded in the transportation budget for FY 2024-FY 2025: the Public Works Commission (PWC) to operate the Local Transportation Improvement Program and the Department of Development (DEV) for the Roadwork Development Grant Program. This section also gives an overview of the Ohio Turnpike and Infrastructure Commission (OTIC) and its operating and capital budget for calendar year (CY) 2023. OTIC is a state agency but is not appropriated money from any state funds included in the transportation budget or the main operating budget. Finally, the section summarizes the statutory and uncodified law changes in the transportation budget affecting other state agencies and political subdivisions, along with their fiscal effects.

Public Works Commission

Local Transportation Improvement Program

The bill provides appropriations of \$60.3 million in FY 2024 and \$64.3 million in FY 2025 to fund the Local Transportation Improvement Program (LTIP), through which PWC provides grant funding to local governments for road and bridge projects. The program is funded by approximately 2.3% Ohio motor fuel tax (MFT) revenue which is transferred to the Local Transportation Improvement Program Fund (Fund 7052). The funding for LTIP in this budget encompasses program year (PY) 37 and PY 38 of the program.

Fund/ALI	FY 2023 Actual	FY 2024 Appropriation	FY 2025 Appropriation
Fund 7052 ALI 150701, Local Transportation Improvement Program	\$59,022,691	\$60,000,000	\$64,000,000
% change	--	1.7%	6.7%
Fund 7052 ALI 150402, Local Transportation Improvement Program – Operating	\$315,452	\$328,705	\$323,792
% change	--	4.2%	-1.5%
LTIP Total:	\$59,338,143	\$60,328,705	\$64,323,792
% change	--	1.7%	6.6%

LTIP grants (ALI 150701)

The transportation budget provides funding of \$60.0 million in FY 2024 and \$64.0 million in FY 2025 to award grants to local governments for road and bridge projects. Although the number of projects funded by LTIP varies from year to year, PWC anticipates that the

recommended funding levels will cover awards for approximately 350 projects over the course of the FY 2024-FY 2025 biennium. Continuing temporary law allows for prior years' unused funds to be reappropriated. Consequently, there may be more residual funding available for LTIP grants in FY 2024 and FY 2025 beyond the amounts provided in the transportation budget.

Grant application and award process

LTIP funding is allocated annually on a per-capita basis to each of the 19 district public works integrating committees (DPWICs), consisting of local officials representing all levels of government. LTIP grants cover up to 100% of project costs. Eligible costs include property and facility acquisition, engineering and design, and construction. Each DPWIC has some discretion in evaluating and scoring applications using a locally developed methodology based on certain statutory criteria. After evaluating and scoring the projects, a DPWIC creates a list of high-priority projects. PWC reviews the project selection and evaluation methodology to ensure fair and objective decision making.

LTIP operating support (ALI 150402)

This ALI supports LTIP's administrative expenses, which are funded by investment income generated by the holdings in Fund 7052. Administrative expenses include costs for project monitoring, processing disbursement requests, maintaining PWC's information systems, and preparing financial reports. PWC typically maintains an active portfolio of approximately 350 ongoing LTIP projects, notwithstanding a decrease to roughly 300 projects during the COVID-19 pandemic years.

LTIP comprises about 20% of total administrative costs among the three infrastructure programs under PWC's purview. The other 80% is paid under the operating ALIs for PWC's other grant programs: the State Capital Improvement Program (60%) and the greenspace component of the Clean Ohio Conservation Program (20%). Operating appropriations covering the administrative costs for those programs are in the main operating budget bill. All of these projects will be tracked using PWC's new IT platform which was rolled out during the FY 2022-FY 2023 biennium.

State Capital Improvement Program

In addition to funding LTIP, the transportation budget for the FY 2024-FY 2025 biennium contains additional funding for the State Capital Improvement Program (SCIP), which in contrast to LTIP, is funded by bonds. Specifically, H.B. 23 amends H.B. 687 of the 134th General Assembly, the capital budget for the FY 2023-FY 2024 biennium, to increase Fund 7038 ALI C15000, Local Public Infrastructure/State CIP by \$10.0 million, and earmarks that amount for grants under PWC's Emergency Program to help communities complete road-slip emergency projects on nonstate roads or locally maintained routes and portions of interstates.

Department of Development

Roadwork Development Program

The transportation budget also provides funding for the Roadwork Development Program overseen by the Department of Development (DEV). This funding is appropriated under the

transportation budget because it comes from a portion of motor fuel tax (MFT) proceeds transferred from the Highway Operating Fund (Fund 7002).

Fund/ALI	FY 2023 Actual	FY 2024 Appropriation	FY 2025 Appropriation
4W00 ALI 195629, Roadwork Development	\$11,128,363	\$15,200,000	\$15,200,000
% change	--	36.6%	0.0%

The bill provides continuation funding of \$15.2 million each fiscal year for the Roadwork Development Grant Program, the same as has been appropriated since FY 2012. The program is funded by quarterly transfers of MFT revenue to the Roadwork Development Fund (Fund 4W00) under the DEV budget from the Highway Operating Fund (Fund 7002) used by the Ohio Department of Transportation (ODOT). Eligible costs include widening, paving, road construction and reconstruction, and right-of-way infrastructure improvements such as sewer or utility lines, as well as work on roads leading to and on the grounds of public airports. All Roadwork Development Grants are subject to Controlling Board approval.

Ohio Turnpike Infrastructure Commission

Overview

The Ohio Turnpike Infrastructure Commission (OTIC) is a state agency but is not appropriated money from any state funds included within the transportation or main operating budget bills. However, R.C. 5537.17 requires the Commission to submit its budget to the Office of Budget and Management, the General Assembly, and the Legislative Service Commission for review.

OTIC operating and capital budgets for CY 2023

Operating budget

The Commission's CY 2023 operating budget was adopted on December 19, 2022. Table 1 below displays actual operating revenues and expenditures for CY 2021, as well as the amounts budgeted for CY 2022 and CY 2023. The budget projects \$391.3 million in operating revenue for CY 2023. Operating expenditures are slated to be around \$143 million per year in total.

Net operating profits are used to finance OTIC's capital improvement program, including both the bonds issued to fund Turnpike capital projects and the additional bond debt for ODOT infrastructure projects. Of the \$248.0 million in expected CY 2023 operating profits, around \$134.8 million will be used for debt service payments.

Table 1. OTIC Operating Budgets, CY 2021-CY 2023 (\$ millions)				
	CY 2021 Actual	CY 2022 Actual	CY 2023 Adopted Budget	% of Total CY 2023 Budget*
Revenue Sources				
Tolls	\$344.8	\$354.7	\$350.3	89.5%
Concessions	\$15.1	\$14.7	\$15.9	4.1%
Investments	-\$0.0*	\$0.6	\$12.6	3.2%
Fuel Tax Allocation	\$3.4	\$3.3	\$9.3	2.4%
Other	\$7.9	\$9.2	\$3.2	0.8%
Coronavirus Grant Revenue	\$1.2	--	--	--
Total Revenue	\$372.4	\$382.5	\$391.3	
Operating Expenditures				
Services & Toll Operations	\$52.1	\$42.1	\$57.6	40.2%
Roadway & Structure Maintenance	\$22.6	\$32.0	\$48.6	33.9%
Administration & Insurance	\$8.7	\$13.4	\$19.7	13.7%
Traffic Control, Safety, Patrol, & Communications	\$12.7	\$14.8	\$17.4	12.1%
Total Expenditures	\$96.1	\$102.3	\$143.3	
Net Operating Profit	\$276.3	\$280.2	\$248.0	

*There was a negligible investment loss of \$42,000 in CY 2021.

Capital budget

OTIC's capital budget was adopted under Resolution 92-2022. It outlines \$226.0 million in spending for maintenance and construction for CY 2023. Under the resolution, approximately \$202.9 million is for certain capital projects and \$23.1 million is for unidentified capital funding needs that may arise. Table 2 below breaks down the capital program costs for CY 2023 by purpose.

Table 2. OTIC Capital Program Allocations, CY 2023		
Capital Program	Amount Allocated (\$ millions)	% of Total Capital Budget
Bridge Repair and Resurfacing	\$53.9	23.8%
Road Resurfacing	\$39.0	17.3%
Toll Collection System Modernization	\$36.4	16.1%
Pavement Replacement	\$34.8	15.4%

Capital Program	Amount Allocated (\$ millions)	% of Total Capital Budget
Uncommitted	\$23.1	10.2%
Equipment and Facilities	\$19.6	8.7%
Small Projects and Others	\$13.5	6.0%
Service Plaza Improvements	\$5.7	2.5%
Total	\$226.0	

Core maintenance, including road and bridge repair, replacement, and resurfacing, together make up about \$127.7 million in planned spending, or 56.5% of capital costs for CY 2023. Rounding out capital expenses and accounting for \$38.8 million, or 17.2% of the capital budget, are expenditures for maintenance vehicles and equipment, toll and service plaza upgrades, computer and communications equipment, and slope and drainage repairs. Uncommitted funds, which provide for additional project expenditures and for future projects, accounts for \$23.1 million, or 10.2% of the total capital budget.

The Toll Collection System Modernization Program expenditure for CY 2023 accounts for \$36.4 million, or 16.1% of the overall capital budget. The modernization project began in 2019 and is planned for completion in 2023, and entails the addition of two new toll plazas, the removal of nine others, the removal of nearly all E-ZPass[®] toll lane entrance and exit gates, and some other improvements. The total project cost is projected to be around \$274.4 million. In the long run, OTIC estimates savings of \$257.0 million in operating costs from these improvements over 30 years.

Transportation budget provisions affecting local government

Motor fuel tax distributions

The transportation budget includes temporary law provisions, ongoing from previous biennia, that affect the distribution of motor fuel tax (MFT) revenue and the amounts that the Ohio Department of Transportation (ODOT) and political subdivisions will receive during the FY 2024-FY 2025 biennium. The first of these provisions is Section 757.10 of the bill. It allows the first 2% of MFT revenue to be deposited into the Highway Operating Fund (Fund 7002) for use by ODOT before any of the statutory distributions of the revenue governed under R.C. 5735.051 occur.

The second provision, Section 757.30 of the bill, requires cash transfers of around \$166.1 million in FY 2024 and \$168.9 million in FY 2025 from the Highway Operating Fund (Fund 7002) to the Gasoline Excise Tax Fund, which is used to distribute MFT revenue to political subdivisions under statutory formula allocations. Under this formula, municipalities receive 42.86% of the distributions, counties receive 37.14%, and townships receive 20.00%. Prior transportation budget acts have contained a similar provision, but in different annual dollar amounts. These distributions occur in equal monthly increments over the biennium.

Highway Transportation Safety Fund

The transportation budget contains new Ohio Highway Transportation Safety Fund (Fund 5X10) ALI 772504, Ohio Highway Transportation Safety, and appropriates \$2.7 million in FY 2024 and \$1.6 million in FY 2025 for specific public safety projects in transportation districts where a community's local government fund (LGF) distributions were reduced under provisions of the traffic photo-monitoring devices law. Fund 5X10 consists of cash transfers from Fund 7002 equating to the amounts of LGF allocations to communities that were reduced due to their use of traffic photo-monitoring devices.

Force accounts

The bill increases the current law statutory force account limits for local jurisdictions to undertake certain roadwork projects using their own labor as follows:

1. For unchartered municipal corporations, from \$30,000 to \$70,000 for road construction and repair;
2. 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; and
3. 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 and reconstruction.

These limits will increase annually with a 5% cap, rather than biennially with a 3% cap as under current law, with ODOT notifying county engineers or other appropriate engineers of these increased amounts. This provision will provide political subdivisions with greater flexibility in determining whether to undertake work using their own personnel or to solicit bids. Additionally, the provision exempts county engineers from having to complete the State Auditor force account assessment for township projects in cases where those estimated project costs are less than $\frac{1}{3}$ of the total force account limit thresholds.

Transportation Improvement Districts

The transportation budget authorizes any county, municipal corporation, or township to make appropriations to pay costs incurred by a Transportation Improvement District (TID), rather than only the local governments that are part of the TID as in current law. This provision allows for cost sharing between political subdivisions that are part of a TID and areas benefiting from, but that are not part of, a TID.

The bill also grants various authorities to a TID in Hamilton County regarding any road or bridge projects. These authorities include entering a TID into an agreement with a Regional Transportation Agency (RTA), funding projects related to the provision of service by the RTA, and issuing bonds to fund these joint projects. The RTA is authorized to levy, pledge and assign sales and use taxes to reimburse the TID for debt service on qualifying bonds issued by the TID, or to similarly pay debt service on county, municipal, and township bonds to fund qualifying projects. These provisions enable the Southwestern Ohio Regional Transit Authority (SORTA) to use its county sales and use tax receipts to back debt issued by the Hamilton County TID to build a replacement Western Hills viaduct.

Additionally, the transportation budget 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 for projects that are both: (1) partially or wholly within any county that is a party to the agreement, and (2) partially funded with federal money. This provision enables the Lucas County TID to undertake transportation system improvements benefiting Lucas, Wood, Ottawa, and Sandusky counties if these counties win a federal Safe Streets and Roads for All grant to do this work.

Finally, H.B. 23 eliminates the authorization for the Senate President to appoint a nonvoting member to a TID's board of trustees.

State Infrastructure Bank

The transportation budget requires any loan that is made to a small city from the State Infrastructure Bank (SIB) to carry zero interest. Qualifying cities will experience savings on new SIB loans. The interest on SIB loans is 3% and have terms up to 30 years. Small cities are designated under ODOT's Small City Program and are defined as cities of 5,000 to 24,999 people that are located outside of a metropolitan planning organization.

Sale of Cincinnati Southern Railway

The bill 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 a municipal corporation for rehabilitating, modernizing, or replacing existing municipal infrastructure. The proposed sale may only be submitted to electors one time, at either a general election or a primary election in 2023 or 2024. The ballot language must identify the ultimate parent company of the purchasing entity rather than the buyer.

This provision pertains specifically to the proposed sale of the Cincinnati Southern Railway (CSR) that runs from Cincinnati to Chattanooga to the Norfolk Southern Corporation for \$1.6 billion. The line was constructed by Cincinnati and completed in 1880. In October 1881, the city entered into a lease agreement with what is today a subsidiary of the Norfolk Southern Corporation (NSC) to run the railway. This lease is scheduled to expire in 2026. The bill makes the necessary law modifications to facilitate the outright sale of the CSR to NSC. Cincinnati receives \$25.0 million a year from the current lease agreement with the NSC subsidiary. If approved, the proposed sale price is approximately \$1.6 billion.

Under the bill, the proceeds would be deposited into a trust fund overseen and invested by the CSR Board of Trustees. Cincinnati would receive scheduled payments from those investment earnings to be used only for the upkeep, repair, or replacement of existing infrastructure. The money Cincinnati collected from the lease would go into the city's designate bond debt retirement fund. If the principal amount of the fund decreases by 25% or more as measured against the principal amount of the trust fund certified in the previous fiscal year, payments to the municipal corporation must be suspended until the trust fund has fully recouped its losses.

Regional transit authority audits

The bill eliminates a requirement that the Auditor of State, at least once a year, audit the accounts and transactions of one large and two small regional transit authorities (RTAs). In accordance with current performance audit procedures, the selected regional transit authorities pay the costs of this performance audit. These payments are deposited into the Public Audit Expense – Local Government Fund (Fund 4220). While eliminating the annual three-RTA audit quota, the bill retains the general requirement that the State Auditor review the accounts of all RTAs pursuant to the law governing the audit of public agencies.

Aggregate mining

The transportation budget requires a county or township to allow aggregate mineral surface mining activities in any zoning district as either a permitted use or a conditional use through the board of zoning appeals when those activities are to be added to an existing mineral mining operation as authorized by a permit issued by the Ohio Department of Natural Resources (ODNR).

Other state agencies

Department of Public Safety

Ohio State Highway Patrol (OSHP) pay schedule changes

With respect to schedule E-1 for exempt state employees that takes effect on July 1, 2023, H.B. 23 establishes pay range 19 with six steps ranging from \$57.83 per hour (\$120,286 annually) to \$75.79 per hour (\$157,643 annually) and step value 7 in existing pay range 17 (\$65.97 per hour, \$137,217 annually), instead of requiring DAS to adopt rules to establish them as under H.B. 462 of the 134th General Assembly. Under H.B. 23, exempt employees other than a captain or equivalent OSHP officer are prohibited from being placed in step value 7 in pay range 17 of schedule E-1.

Also beginning on July 1, 2023, H.B. 23 places exempt OSHP sergeants or equivalent officers in pay range 14 of schedule E-1 (current law assigns lieutenants, captains, majors, and lieutenant colonels to specific pay ranges), which ranges from \$35.74 per hour (\$74,339 annually) to \$51.03 per hour (\$106,142 annually).

As a result of these changes, OSHP payroll costs will increase beginning in FY 2024 by several millions of dollars as eligible employees are placed in the new pay range 19 (lieutenant colonels) and step value 7 of pay range 17 (captains), and sergeants are placed in pay range 14.

Plug-in hybrid electric motor vehicle fee

Beginning January 1, 2024, the bill reduces from \$200 to \$150, the additional registration fee applicable to plug-in hybrid electric motor vehicles. The estimated resulting revenue loss would be up to \$600,000 in FY 2024 and up to \$1.4 million in FY 2025. The actual revenue loss may be lower or higher than the estimated amounts due to uncertainties related to the future development of the market for these types of vehicles. Of the total revenue loss, about 55% would be borne by the state Highway Operating Fund (Fund 7002) and the remaining 45% by local governments (i.e., counties, municipalities, and townships).

Enhanced driver’s licenses and identification cards

The bill requires the Director of Public Safety to enter into an agreement with the U.S. Department of Homeland Security to issue enhanced driver’s licenses, enhanced commercial driver’s licenses (CDL), and enhanced identification (ID) cards, all of which facilitate land and sea border crossings between the U.S. and Canada, Mexico, and the Caribbean, and requires the Registrar of Motor Vehicles to adopt rules governing the issuance and security of those enhanced documents. Under the bill, an applicant for an enhanced document is required to comply with specified application requirements, including providing proof of citizenship, and pay an additional \$25 fee. Additionally, the bill specifies that the Ohio laws applying to driver’s licenses, CDLs, and ID cards apply to their enhanced versions, unless otherwise specified.

As a result, the Bureau of Motor Vehicles (BMV) may experience an increase in costs to issue the enhanced driver’s license, CDL, or ID card, the magnitude of which will depend on demand. The costs incurred by the BMV are expected to be offset by the collection of the \$25 fee authorized by the bill.

Noncommercial trailer permanent registration

The bill authorizes the permanent registration of a noncommercial trailer and establishes a one-time permanent registration fee that is the equivalent of eight times the taxes and fees imposed to register the noncommercial trailer for a single year. As a result, the state and political subdivisions may experience a potential initial increase, and subsequent decrease over time, in the amount of registration taxes and fee revenue collected. The magnitude of which will depend on the number of permanent noncommercial trailer registrations issued, as well as the district of registration for each noncommercial trailer.

Traffic cameras

The bill requires townships and counties that choose to operate a traffic camera civil enforcement program to only use handheld traffic cameras. As a result, counties and townships that currently operate such programs but do not use handheld traffic cameras may experience a potential revenue loss as a result of discontinuing or reducing program enforcement, or expenditure increase to purchase handheld traffic cameras.

Department of Education

The transportation budget also amends Section 265.325 of H.B. 110 of the 134th General Assembly to permit a recipient of a school bus purchasing grant awarded in FY 2022 or FY 2023 to use the funds through FY 2024.

Public Utilities Commission of Ohio

Wayside detectors

The bill also created several new requirements that apply to rail operators doing business in Ohio. The requirements are as follows:

1. Rail companies doing businesses in Ohio must collaborate with ODOT and the Public Utilities Commission of Ohio (PUCO) to ensure wayside detector systems are operational, effective, and current;

2. ODOT and PUCO must investigate the safety practices of rail companies that do not work in good faith and, when warranted, issue a report to the Federal Railroad Administration recommending enforcement action with copies sent to the Governor, Senate President, Speaker of the House, and the minority leader in both the House and Senate;
3. All wayside detector systems must be installed generally ten miles apart, but if terrain does not allow for that, no more than 15 miles apart; and
4. A person who receives a message regarding a defect from a wayside detector must immediately notify the operator of the flagged equipment.

These requirements may minimally increase expenditures for PUCO and ODOT. PUCO would cover these expenses from the Public Utilities Fund (Fund 5F60) and the Department of Transportation would cover these expenses from the Highway Operating Fund (Fund 7002).

Two-person freight train crews

The transportation budget requires a freight train or light engine to have at least a two-person crew and allows PUCO to assess a civil penalty against a person who violates this requirement. Under this provision, the Attorney General's Office (AGO) must bring forward a civil action to collect the penalty when PUCO requests it to do so. Penalties collected under the provision may range from \$250 to \$10,000 depending in part on the number of violations previously found. Revenue collected from penalties will be deposited into Fund 5F60.

Hazardous waste transportation report

The bill requires PUCO, in collaboration with the Ohio Environmental Protection Agency (EPA), to compile and submit a written report to the General Assembly within 90 days of the bill's effective date, pertaining to the transportation of hazardous materials and waste. This report will include (1) current applicable state and federal laws, (2) recommendations to strengthen safety requirements for the transportation of hazardous materials and waste, and (3) recommendations to enhance related civil and criminal penalties for violating those transportation safety requirements. The costs would most likely be paid from Fund 5F60.

Railroad safety technology report

The transportation budget requires PUCO to examine both current uses of and best practices for the use of hot boxes and hot bearing detectors, acoustic bearing detectors, and cameras installed on or alongside railroad tracks or wayside detector systems. The report must be submitted to the chairperson and ranking member of the specified legislative committees. Again, any costs incurred for working on this report would be paid from Fund 5F60.