



Final Analysis

*Linda S. Crawford
and other LSC staff*

Legislative Service Commission

Am. Sub. H.B. 68*

126th General Assembly

(As Passed by the General Assembly)

(Excluding appropriations, fund transfers, and similar provisions)

Reps. T. Patton, Calvert, Flowers, Martin, S. Patton, Buehrer, Cassell, Collier, Daniels, DeBose, Domenick, C. Evans, Garrison, Gibbs, Hagan, Hartnett, Hughes, Kearns, Key, Latta, Law, Mason, Redfern, Reidelbach, Schlichter, Setzer, S. Smith, Williams, Yuko

Sens. Armbruster, Gardner, Mallory, Spada, Harris, Hagan, Wilson, Dann, Zurz, Roberts

Effective date: June 29, 2005; certain sections effective March 29, 2005; certain provisions effective July 1, 2005

ACT SUMMARY

- Gives to the Director of Public Safety authority to prescribe the form for application for licensure as a Class A, B, or C private investigator or security guard provider and for registration as an employee of a licensed private investigator or security guard provider and revises certain application procedures as follows:
 - Requires an applicant for licensure or registration to provide fingerprints for a criminal records check directly to the Superintendent of the Bureau of Criminal Identification and Investigation and to notify the Superintendent of any intent to carry a firearm.
 - Requires the Superintendent to conduct a criminal records check of all applicants for licensure as a private investigator or security guard provider or for registration as an employee of a licensee and directs the Superintendent to request information related to that person from the FBI.

** This analysis does not address appropriations, fund transfers, and similar provisions. See the Legislative Service Commission's Budget in Detail spreadsheet and Comparison Document for Am. Sub. H.B. 68 for an analysis of such provisions.*

- Establishes a procedure and fee for the annual renewal registration as an employee of a licensed private investigator or security guard provider.
- Changes five fees related to the licensure of private investigators and security guard providers and the registration of employees.
- Revises the Commercial Driver's License Law as follows:
 - Establishes new prohibited alcohol concentrations for blood plasma and serum and urine that apply to the operator of a commercial motor vehicle (.048 of 1% or more per 100 milliliters of blood serum or blood plasma, and .056 of 1% or more per 100 milliliters of urine).
 - Modifies some CDL law definitions, including "commercial motor vehicle," "conviction," "disqualification," "hazardous materials," "motor vehicle," "out-of-service order," and "serious traffic violation," and defines "fatality" and "imminent hazard."
 - Provides that exceptions established under prior law are exceptions to the general CDL prohibitions rather than the entire chapter.
 - Provides that a "serious traffic violation" includes a single charge of any speed in excess of 15 miles per hour over the speed limit; a charge of operating a commercial motor vehicle without having the proper class or endorsement on one's commercial driver's license (CDL); and a charge of operating a commercial motor vehicle without having one's CDL in one's possession unless the person shows proof of having such a license.
 - Eliminates the existing provision that provides that there is no fee for the annual issuance of a waiver for farm-related service industries, and imposes a \$25 fee for such issuance.
 - Requires a CDL applicant who schedules an appointment to take one or more, but not all, portions of the skills test to pay an appointment fee.
 - Permits a CDL medical examination to be given by a doctor of chiropractic.
 - Modifies some of the CDL classes and endorsements.

--Enacts new prohibitions relating to actions that CDL holders are not permitted to perform.

--Modifies the disqualification and implied consent provisions.

--Requires an applicant for employment as a commercial motor vehicle driver to submit certain specified information to the prospective employer.

- Allows a commercial driver's license (CDL) with a hazardous materials endorsement to be issued for a period of less than four years if the applicant has undergone a required federal security threat assessment to obtain the endorsement and the assessment expires less than four years after the application date, and prorates the \$25 CDL fee based on the number of years for which the license is issued.
- Establishes a \$4 fee for each certificate of completion provided to a driver training school by the Department of Public Safety and requires a driver training school to issue a certificate of completion to each person who successfully completes a training course necessary to obtain or maintain a driver's license.
- Permits the Director of Public Safety to impose fines of not more than \$10,000 per occurrence on holders of, and applicants for, driver training school licenses and driver training instructor licenses for certain violations.
- Increases the fee for a written motor vehicle registration information report from \$1.50 to \$2.
- Redirects the fees for personalized and initial reserved license plates from the Highway Operating Fund to the State Highway Safety Fund.
- Authorizes the issuance of "Fish Lake Erie" license plates, limits the issuance of those plates to persons who have made a \$15 contribution and paid a \$10 processing fee for them, and requires the contribution to be used by the Ohio Sea Grant College Program for Lake Erie area research projects.
- Specifies that a county or township must conduct two public hearings prior to adopting any resolution concerning the levy of a local motor vehicle license tax.

- Allows a minor's parent or guardian to appear before a clerk of courts or notary public and sign a form authorizing the minor to conduct a motor vehicle transaction.
- Permits an electronic motor vehicle dealer to buy or sell a motor vehicle for which an electronic certificate of title has been issued without first obtaining a physical certificate to the vehicle.
- Provides that in the case of a title application that is submitted to a clerk of court electronically, the clerk must issue an electronic certificate of title instead of a physical certificate of title unless the applicant requests a physical certificate.
- Requires the Registrar of Motor Vehicles to adopt rules to permit any person or lessee who owns or leases two or more commercial trailers or semitrailers to register them for up to five years.
- Provides that when a driver's license applicant surrenders a license from another jurisdiction, the Registrar of Motor Vehicles must report to the other issuing authority the surrender of the license and the issuance of an Ohio license and must destroy the surrendered license if it is not returned to the other issuing authority.
- Provides that where the boundary between two local authorities rests on the centerline of a highway, the speed limit for the shared part of the highway is to be either of the speed limits permitted by law or a properly altered speed limit, as agreed by the two authorities.
- Renames the Unidentified Motor Vehicle Receipts Fund as the Unidentified Public Safety Receipts Fund; provides that it is to be used for receipts of the Department of Public Safety, not just the Bureau of Motor Vehicles; and eliminates the Highway Patrol Fee Refund Fund.
- Requires investment earnings of the Security Deposit Fund to be credited to the existing Roadwork Development Fund.
- Eliminates the Film Production Reimbursement Fund.
- Establishes procedures for the debarment of applicants for special hauling permits, and establishes grounds for debarment.

- Increases the deduction of certain amounts from local government distributions of state motor fuel tax revenues when the additional fuel use tax is eliminated.
- Permits counties and municipal corporations to pledge and obligate money received from the state motor vehicle license and fuel taxes, and from TIF service payments in lieu of taxes, for the repayment of State Infrastructure Bank obligations issued for public transportation projects.
- Specifies that the amount certified by the Treasurer of State as being necessary to meet all payments of debt service and financing costs due during the fiscal year from the Highway Capital Improvement Bond Service Fund is to be transferred from the Highway Operating Fund to the Bond Service Fund in equal monthly installments from September to February of that fiscal year, rather than as the money becomes available.
- Requires ODOT to develop and maintain a pavement management system that minimizes annual maintenance of the state highway system and promotes longer pavement life spans.
- Establishes that if ODOT keeps its cost estimate for a construction project confidential until bids are received, the requirement for contracts to be awarded at not more than the estimated cost plus 5% does not apply.
- Eliminates the requirement that the information ODOT bidders must furnish detailing their pending work be printed and made under oath.
- Establishes not more than five years as the warranty period for ODOT bridge painting projects that are bid requiring a warranty.
- Permits the Director of Transportation, notwithstanding the general requirement for Controlling Board approval of certain nonbid contracts, to enter into agreements with an agency of the United States government for the purpose of dedicating staff to the review of environmentally related documents submitted by ODOT that are necessary for the approval of federal permits, and requires the Director to report such agreements to the Controlling Board.
- Allows the Director of Transportation to sell, by any method most advantageous to the Department, including an Internet auction, personal

property that is unfit for use or not needed by the Department of Transportation.

- Extends through June 30, 2007 an uncodified law allowing the Director of Transportation or a local authority to issue special permits for transporting three or fewer steel coils in a single load on a state or local highway so long as the gross vehicle weight of the transport vehicle, including the coils, does not exceed 92,000 pounds.
- Specifically allows the Ohio Turnpike Commission to issue a special permit to allow the operation of a motor vehicle transporting two or fewer steel coils on any turnpike project.
- Moves the date for the Ohio Turnpike Commission annual report from on or before April 1 to on or before July 1.
- Provides that the county engineer is not required to perform any of the duties of the county building inspector or any duties relating to the county building code, but permits the engineer to perform any of these duties pursuant to an agreement between the engineer and the board of county commissioners.
- Permits a county engineer to dispose of scrap construction materials that remain from a road or bridge improvement if the total value of the scrap does not exceed \$25,000, and requires the engineer to keep records of all such dispositions.
- Authorizes, rather than requires, a county engineer to survey lands sold for taxes.
- Changes the deadline for the county engineer's annual road reports to the board of county commissioners and boards of township trustees from April 1 to June 1.

TABLE OF CONTENTS

Licensure and registration of private investigators, security guard providers, and employees.....	8
Renewal of employee registration	9
Changes in fees	9
Changes to the commercial driver's license law	10
Prohibited alcohol concentrations.....	10

CDL definitions.....	10
Exceptions to the CDL provisions	12
Conditions for driving a commercial motor vehicle	12
CDL application fees.....	13
CDL testing	13
CDL physical qualifications.....	14
The commercial driver's license.....	14
CDL classes and endorsements	14
CDL expiration provisions.....	15
Specific prohibitions	15
Out-of-service and disqualification.....	16
CDL implied consent law.....	18
Employer duties	18
Authority of a peace officer	19
Commercial driver's license with a hazardous materials endorsement.....	19
Driver education certificate of completion fee	20
Imposition of fines by the Director of Public Safety on driver training schools and instructors	20
Motor vehicle registration information report fee.....	21
License plate fees	21
"Fish Lake Erie" license plates	21
Levy of local motor vehicle license tax	22
Minor's application for a certificate of title.....	23
Transfer of an electronic certificate of title when an electronic motor vehicle dealer is involved	24
Electronic certificate of title when applied for electronically.....	24
Five-year registration for commercial trailers and semitrailers.....	25
Surrendered drivers' licenses.....	25
Speed limits on roads with centerline boundaries.....	26
Department of Public Safety refund funds.....	26
Investment earnings of the Security Deposit Fund	27
Elimination of the Film Production Reimbursement Fund.....	27
Debarring of special hauling permit applicant.....	27
Increased deduction of local gas tax revenues when fuel use tax is eliminated	28
Municipal and county repayment of State Infrastructure Bank obligations with certain motor vehicle related taxes and TIF payments	29
Transfers from the Highway Operating Fund to the Highway Capital Improvement Bond Service Fund	31
Pavement management system	32
Confidential cost estimate for ODOT projects	32
ODOT bidding requirements	32
ODOT bridge paint warranty period.....	33
Payments by ODOT to the federal government.....	33

ODOT sale of personal property.....	33
Transportation of loads or two or three steel coils.....	35
Ohio Turnpike Commission annual report date.....	35
Duties of the county engineer	35
Background.....	35
Changes made by the act.....	36
Disposal of scrap construction material by the county engineer	37
County engineers and certain surveys.....	37
Deadline for the county engineer's annual road reports.....	37

CONTENT AND OPERATION

Licensure and registration of private investigators, security guard providers, and employees

(R.C. 109.572, 4749.03, 4749.06, and 4749.10)

Continuing law requires private investigators and security guard providers to be licensed by the Director of Public Safety and their employees to be registered with the Director. The act changes selected aspects of the application procedures for licensure and registration. Under prior law, an applicant for licensure or registration submitted an application to the Director of Public Safety along with a set of fingerprints for use in a criminal records check. The Director then requested the Bureau of Criminal Identification and Investigation to conduct a criminal records check for a person applying for licensure. Under prior law, the Director was authorized to request a criminal records check for a person applying for registration as an employee. Under the act, a person still submits an application for licensure or registration to the Director (the act gives the Director specific authority to prescribe the form of the application) but the applicant provides the fingerprints directly to the Superintendent of the Bureau. The applicant also provides the information the Superintendent requires on a form the Superintendent provides and pays any fee the Superintendent imposes. The Superintendent conducts a criminal records check of all applicants for licensure and registration and reports the findings to the Director, who makes the licensure or registration decision.

Continuing law prohibits a licensed private investigator or security guard provider, or a registered employee thereof, from carrying a firearm in the course of business unless the Director approves and registers that person to do so. Continuing law provides procedures and standards for that approval and registration. The act requires that an applicant for licensure or registration who plans to carry a firearm in the course of business also notify the Superintendent of that intent. The act directs the Superintendent to request information related to

that person from the FBI, review the information the FBI provides, and report the findings to the Director of Public Safety. The Director then makes the decision regarding approval and registration to carry a firearm.

Renewal of employee registration

Prior law did not provide for the renewal of registration as an employee of a licensed private investigator or security guard provider. The act establishes that the registration of an employee expires on the one-year anniversary of its issuance, requires that an annual renewal be made pursuant to procedures the Director establishes by rule, and requires an annual renewal fee to be determined by the Director, not to exceed \$35. The act prohibits the approval of a renewal if the employee no longer meets the requirements for registration. An additional background check is not required for an annual renewal, but the act requires the employee to report any conviction for a felony to the employer and to the Director.

Changes in fees

The act changes five fees related to licensure and registration of private investigators and security guard providers and provides for one new fee (registration renewal, discussed above). Prior law specified exact fees, but the act authorizes the Director to establish fees for the activities, not to exceed an amount the act specifies. The following table summarizes the fee changes and addition.

Activity for which a fee is charged	Prior fee	New fee
Examination fee for Class A, B, or C license	\$250	Director determines fee, not to exceed \$375
Annual renewal of Class A, B, or C license	\$250	Director determines fee, not to exceed \$275
Registration as an employee	\$18	Director determines fee, not to exceed \$40
Annual renewal of registration as an employee	no provision for renewal	Director determines fee, not to exceed \$35
Application to carry firearm	\$10	Director determines fee, not to exceed \$15
Annual requalification certificate to carry firearm	\$5	Director determines fee, not to exceed \$15

The act requires the Director to implement electronic licensing and registration procedures not later than December 31, 2006. Until then, prior application procedures are to continue.



Changes to the commercial driver's license law

(R.C. Chapter 4506.)

The act makes a number of changes to the commercial driver's license (CDL) law, some of which are to conform Ohio law to federal requirements (R.C. Chapter 4506.).

Prohibited alcohol concentrations

(R.C. 4506.15)

Continuing law prohibits any person from driving a commercial motor vehicle while having an alcohol concentration of .04 of 1% or more per 100 milliliters of whole blood or per 210 liters of breath. The act retains this prohibition but adds two new prohibitions: it prohibits any person from driving a commercial motor vehicle while having an alcohol concentration of (1) .048 of 1% or more per 100 milliliters of blood plasma or blood serum, or (2) .056 of 1% or more per 100 milliliters of urine.

CDL definitions

(R.C. 4506.01)

The act amends a number of the CDL definitions as follows:

(1) Revises the description of one type of commercial motor vehicle to include a vehicle designed to transport 16 or more passengers including the driver but excludes a vehicle that is placarded for hazardous materials, which is covered in another definition.

(2) Expands "conviction" to include a plea of guilty or *nolo contendere* accepted by a court.

(3) Revises "disqualification" to mean any of the following:

(a) The suspension, revocation, or cancellation of a person's privileges to operate a commercial motor vehicle;

(b) Any withdrawal of a person's privileges to operate a commercial motor vehicle as the result of a violation of state or local law relating to motor vehicle traffic control other than parking, vehicle weight, or vehicle defect violations;

(c) A determination by the Federal Motor Carrier Safety Administration that a person is not qualified to operate a commercial motor vehicle under federal law.

(4) Defines "fatality" as "the death of a person as the result of a motor vehicle accident occurring not more than 365 days prior to the date of death."

(5) Updates "hazardous materials" to mean any material that has been designated as hazardous under federal law and that federal law requires to be placarded, or any quantity of a material listed under federal law as a select agent or toxin.

(6) Defines "imminent hazard" to mean "the existence of a condition that presents a substantial likelihood that death, serious illness, severe personal injury, or a substantial endangerment to health, property, or the environment may occur before the reasonably foreseeable completion date of a formal proceeding begun to lessen the risk of that death, illness, injury, or endangerment."

(7) Expressly defines "motor vehicle" to mean "a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power used on highways, except for a vehicle, machine, tractor, trailer, or semitrailer operated exclusively on a rail."

(8) Redefines "out-of-service order" to mean "a declaration by an authorized enforcement officer of a federal, state, local, Canadian, or Mexican jurisdiction declaring that a driver, commercial motor vehicle, or commercial motor carrier is out of service" as defined in federal law.

(9) Revises and expands "serious traffic violation" to mean a conviction arising from a single charge of operating a commercial motor vehicle in violation of the continuing general CDL prohibitions or a conviction arising from the operation of any motor vehicle that involves any of the following new or amended provisions:

(a) A single charge of any speed in excess of the posted speed limit by 15 miles per hour or more;

(b) A reckless operation offense, but not the offense of operating a vehicle without reasonable control;

(c) Violation of the Revised Code section that contains the general CDL prohibitions or a substantially similar municipal ordinance or county or township resolution, or of any similar law of another state or political subdivision of another state, that involves the operation of a commercial motor vehicle without a valid commercial driver's license with the proper class or endorsement for the specific vehicle group being operated or for the passengers or type of cargo being transported;

(d) Violation of the Revised Code section that contains the general CDL prohibitions, a substantially similar municipal ordinance or county or township resolution, or any similar law of another state or political subdivision of another state, that involves the operation of a commercial motor vehicle without a valid commercial driver's license being in the person's possession;

(e) A violation of the Revised Code sections that prescribe the rules for driving in marked lanes or the proper space between moving vehicles, or any municipal ordinance or county or township resolution substantially similar to either of those sections, or any substantially similar law of another state or political subdivision of another state.

The act also relocates and eliminates other defined terms.

Exceptions to the CDL provisions

(R.C. 4506.02 and 4506.03)

Prior law provided that the CDL law did not apply to persons who operate certain vehicles, such as a farm truck, fire equipment, a public safety vehicle, a recreational vehicle, and a vehicle owned by the Department of Defense and operated by any member or uniformed employee of the United States armed forces or their reserve components, including the National Guard, except for United States reserve technicians. (R.C. 4506.02.)

The act moves these exceptions substantially intact from R.C. 4506.02 to R.C. 4506.03 and repeals outright R.C. 4506.02. The general CDL prohibitions are contained in R.C. 4506.03. The result is that under the act the exceptions of prior R.C. 4506.02 are exceptions not to the entire CDL chapter but to the general CDL prohibitions of R.C. 4506.03.

Continuing law provides that generally no person may drive a commercial motor vehicle on a highway in this state unless the person holds a valid CDL with proper endorsements for the motor vehicle being driven. The act requires the holder of a CDL to have it in the person's possession when operating a commercial motor vehicle.

Conditions for driving a commercial motor vehicle

(R.C. 4506.05)

One condition a person must meet in order to drive a commercial motor vehicle within this state is that the person has a valid CDL issued by any state in accordance with the applicable minimum federal standards. The act adds a CDL issued by any jurisdiction.

CDL application fees

(R.C. 4506.08)

Previously there was no fee for the annual issuance of a waiver for farm-related service industries. The act establishes a \$25 fee for the annual issuance of this waiver, the same amount that is charged for a CDL.

CDL testing

(R.C. 4506.09)

Waiver. Under continuing law the CDL skills test consists of a pre-trip inspection, off-road maneuvering, and on-road driving. The Director of Public Safety may authorize the waiver of the CDL skills test if an applicant meets certain criteria dating back two years. The act adds one new criterion: within the preceding two years, the person seeking the waiver has taken and passed an equivalent skills test given by a state with a classified licensing and testing system in which the test was behind-the-wheel in a representative vehicle for the applicant's CDL classification.

Appointment for entire test. A person who makes a CDL license skills test appointment must pay an appointment fee, which serves as the skills test fee if the person appears and takes all elements of the test. The act provides that the appointment fee is not refunded if the person makes an appointment to take all portions of the skills test and appears to take the test, but then declines or is unable to take all portions of the test.

Appointment for partial test. Prior law allowed a person to schedule an appointment to take one or more, but not all, portions of the skills test, but no appointment fee was required. Under the act, such a person is required to pay an appointment fee equal to the costs of each test when scheduling such an appointment. If the applicant appears at the time and location specified for the appointment and takes all the portions of the skills test that the applicant was scheduled to take, the appointment fee serves as the skills test fee. If the applicant schedules an appointment to take one or more, but not all, portions of the skills test and fails to appear at the time and location specified for the appointment, no portion of the appointment fee will be refunded. If the applicant schedules an appointment to take one or more, but not all, portions of the skills test and appears at the time and location specified for the appointment, but declines or is unable to take all portions of the skills test that the applicant was scheduled to take, no portion of the appointment fee will be refunded. If the applicant cancels a scheduled appointment 48 hours or more prior to the time of the appointment time, none of the applicant's fee is to be forfeited.

CDL physical qualifications

(R.C. 4506.10)

Prior law provided that a person was qualified to drive a Class B commercial motor vehicle with a school bus endorsement if the person had been certified as medically qualified in accordance with Department of Education rules. The act modifies this by providing that a person is qualified to drive a school bus if the person holds a valid CDL along with the proper endorsements and if the person has been certified as medically qualified in accordance with Department of Education rules.

The medical examination that is required of all CDL applicants may be performed by a physician, a physician assistant authorized by a supervising physician, or a certified nurse practitioner, clinical nurse specialist, or certified nurse-midwife. The act permits a doctor of chiropractic also to perform the required exam.

The commercial driver's license

(R.C. 4506.11)

A CDL must bear a color photograph of the licensee. The act requires the color photograph to show the licensee's uncovered face.

CDL classes and endorsements

(R.C. 4506.12)

Under the act, a "Class C" commercial motor vehicle is any single vehicle or combination of vehicles that is not a Class A or B vehicle but that is designed to transport 16 or more passengers including the driver, or for transporting hazardous materials in an amount that requires placarding, or any school bus with a gross vehicle weight rating of less than 26,001 pounds that is designed to transport fewer than 16 passengers, including the driver.

The act affects a number of the CDL endorsements and restrictions. Under the act:

(1) "H" authorizes the driver to drive a vehicle transporting hazardous materials "in an amount requiring placarding."

(2) "T" authorizes the driver to drive a vehicle configured with double or triple trailers "that create more than one articulation point for the combination."

(3) "P" authorizes the driver to drive vehicles "designed to transport 16 or more passengers, including the driver."

(4) "P1" authorizes the driver to drive Class A vehicles "designed for fewer than 16 passengers, including the driver," and all lesser classes of vehicles without restriction as to the designed passenger capacity of the vehicle.

(5) "P2" authorizes the driver to drive Class A or B vehicles "designed for fewer than 16 passengers, including the driver," and all lesser classes of vehicles without restriction as to the designed passenger capacity of the vehicle.

(6) "S" authorizes the driver to drive school buses "transporting children."

(7) "X" authorizes the driver to drive tank vehicles transporting hazardous materials in a quantity requiring placarding.

The act eliminates the "P3" restriction, which restricted the driver to driving Class B school buses.

CDL expiration provisions

(R.C. 4506.14)

A CDL generally expires on the licensee's birthday in the fourth year after the date of issuance. The act permits the Registrar or a deputy registrar to issue a license that expires on a date earlier than that date if the licensee has undergone a security threat assessment required by federal law to obtain a hazardous materials endorsement and the assessment will expire before that date.

Previously, a CDL was renewable 90 days before its expiration date; the act extends this time period to 180 days. The act also provides that each person applying for a transfer (not just a renewal) of a CDL must complete the application form and provide all required certifications.

Specific prohibitions

(R.C. 4506.15)

The act amends several of the existing specific CDL prohibitions and enacts two new prohibitions. Under the act, no person may do any of the following:

(1) Drive a motor vehicle while under the influence of a controlled substance. (Prior law limited this prohibition to commercial motor vehicles.)

(2) Use a motor vehicle in the commission of a felony. (Prior law limited this prohibition to commercial motor vehicles.)

(3) Operate a commercial motor vehicle while the person's commercial driving privileges are revoked, suspended, canceled, or disqualified;

(4) Cause a fatality through the negligent operation of a commercial motor vehicle, including the offenses of aggravated vehicular homicide, vehicular homicide, and vehicular manslaughter;

(5) Drive a commercial motor vehicle in the commission of a felony involving the possession with intent to manufacture, distribute, or dispense a controlled substance;

(6) Violate any of the prohibitions while transporting hazardous materials.

The act eliminates existing provisions that (1) prohibit any person from knowingly leaving the scene of an accident involving a commercial motor vehicle driven by the person, and (2) prohibit any person from violating an out-of-service order.

Out-of-service and disqualification

(R.C. 4506.16 and 4506.26)

The act relocates, without substantive change, the out-of-service provisions of R.C. 4506.26 to divisions (A) and (B) of R.C. 4506.16. It then amends several disqualification provisions and enacts several new such provisions. The act requires the Registrar to disqualify any holder of a commercial driver's license, or any operator of a commercial motor vehicle for which a commercial driver's license is required, from operating a commercial motor vehicle as follows:

(1) Upon a first conviction for a violation of any of the specific CDL prohibitions contained in R.C. 4506.15(A)(2) to (9), or a state OVI violation, a state violation relating to leaving the scene of an accident, or a similar law of another state or a foreign jurisdiction, one year;

(2) Upon a second conviction for a violation of any of the specific CDL prohibitions contained in R.C. 4506.15(A)(2) to (9), or a state OVI violation, a state violation relating to leaving the scene of an accident, or any combination of such violations arising from two or more separate incidents, disqualification for life or for any other period of time as determined by the United States Secretary of Transportation and designated by the Director of Public Safety by rule;

(3) Upon a first conviction for a violation of any of the specific CDL prohibitions contained in R.C. 4506.15(A)(2) to (11) while transporting hazardous materials or a similar law of another state or a foreign jurisdiction, three years;

(4) Upon conviction for using a motor vehicle in the commission of a felony involving the manufacture, distribution, or dispensing of a controlled substance or the possession with intent to manufacture, distribute, or dispense a controlled substance, or a similar law of another state or a foreign jurisdiction, disqualification for life;

(5) Upon conviction of two serious traffic violations involving the operation of a motor vehicle by the person and arising from separate incidents occurring in a three-year period, disqualification for 60 days if the conviction results in the suspension, cancellation, or revocation of the holder's commercial driver's license or noncommercial motor vehicle driving privileges (prior law limited this prohibition to the operation of a commercial motor vehicle);

(6) Upon conviction of three serious traffic violations involving the operation of a motor vehicle by the person and arising from separate incidents occurring in a three-year period, disqualification for 120 days if the conviction results in the suspension, cancellation, or revocation of the holder's commercial driver's license or noncommercial motor vehicle driving privileges (prior law limited this prohibition to the operation of a commercial motor vehicle);

(7) Upon a first conviction involving the operation of a commercial motor vehicle without stopping at a highway railroad grade crossing or a similar law of another state or foreign jurisdiction, not less than 60 days;

(8) Upon a second conviction involving the operation of a commercial motor vehicle without stopping at a highway railroad grade crossing or a similar law of another state or foreign jurisdiction within three years of the first such conviction, not less than 120 days;

(9) Upon a third or subsequent conviction involving the operation of a commercial motor vehicle without stopping at a highway railroad grade crossing or a similar law of another state or foreign jurisdiction within three years of the first such conviction, not less than one year;

(10) Upon receiving notification from the Federal Motor Carrier Safety Administration, disqualification of any commercial motor vehicle driver whose driving is determined to constitute an imminent hazard as defined under federal motor carrier safety regulations.

For purposes of these provisions, conviction of disqualifying offenses committed in a noncommercial motor vehicle are included if either of the following applies:

- (1) The offense occurred after the person obtained the person's commercial driver's license.
- (2) The offense occurs on or after September 30, 2005.

The act provides that if a person commits a serious traffic violation by operating a commercial motor vehicle without having the person's CDL in the person's possession and the person then submits proof to either the enforcement agency that issued the citation for the violation or to the court with jurisdiction over the case before the date of the person's initial appearance that shows that the person held a valid commercial driver's license at the time of the violation, the violation is not deemed to be a serious traffic violation.

CDL implied consent law

(R.C. 4506.17)

Law generally retained by the act provides that any person who "drives a commercial motor vehicle" within this state is deemed to have given consent to a test or tests of the person's whole blood, blood serum or plasma, breath, or urine for the purpose of determining the person's alcohol concentration or the presence of any controlled substance. The act modifies this provision to provide that any person who "holds a commercial driver's license or operates a commercial motor vehicle requiring a commercial driver's license" within this state is deemed to have given consent to such tests.

For purposes of the CDL implied consent provisions, the applicable prohibited alcohol concentration level is .04 of 1% or more per 100 milliliters of whole blood or breath. The act retains this concentration level, but adds two new prohibited alcohol concentration levels: (1) .048 of 1% or more per 100 milliliters of blood plasma or blood serum, and (2) .056 of 1% or more per 100 milliliters of urine.

Employer duties

(R.C. 4506.20)

CDL law generally requires each employer to require every applicant for employment as a driver of a commercial motor vehicle to provide certain information. The act specifies that each such employer must require every such applicant to provide the applicant's employment history for the ten years preceding

the date the employment application is submitted to the prospective employer. The required information includes the following:

- (1) A list of the names and addresses of the applicant's previous employers for which the applicant was the operator of a commercial motor vehicle;
- (2) The dates the applicant was employed by these employers;
- (3) The reason the applicant left each of these employers.

An employer is prohibited from knowingly permitting or authorizing any driver in the employer's employ from driving a commercial motor vehicle if certain circumstances apply. The act enacts a new circumstance: the commercial motor vehicle the driver is driving or the motor carrier operation is subject to an out-of-service order in any state or foreign jurisdiction.

Authority of a peace officer

(R.C. 4506.23)

Under law generally unaffected by the act, a peace officer, within the jurisdictional limits of the officer's appointing authority, must stop and detain any person found violating any of the specific CDL prohibitions contained in R.C. 4506.15 without obtaining a warrant. When there is reasonable ground to believe that such a violation has been committed and a test or tests of the person's blood, breath, or urine is necessary, the peace officer is required to take the person to an appropriate place for testing. If the person submits to the chemical test and it discloses the presence of a controlled substance or an alcohol concentration of .04 of 1% or more per 100 milliliters of blood or breath, the peace officer must require that the person immediately surrender the person's commercial driver's license to the peace officer.

The act retains these provisions, but adds two additional prohibited alcohol concentration levels: .048 of 1% or more per 100 milliliters of blood serum or blood plasma, and .056 of 1% or more per 100 milliliters of urine.

Commercial driver's license with a hazardous materials endorsement

(R.C. 4506.08 and 4506.14)

Generally, a commercial driver's license (CDL) expires on the licensee's birthday in the fourth year after it is issued and costs \$25, plus other fees. The act allows the Registrar or a deputy registrar to issue a license that expires in less than four years if the licensee has undergone a security threat assessment required by federal law to obtain a hazardous materials endorsement and the assessment

expires in less than four years. The act prorates the cost of a CDL with a hazardous materials endorsement at \$18.75 for a three-year license, \$12.50 for a two-year license, and \$6.25 for a one-year license.

Driver education certificate of completion fee

(R.C. 4508.10)

Continuing law requires each person under 18 who is applying for a driver's license to present satisfactory evidence of having completed an approved driver education course (R.C. 4507.21, not in the act). The Department of Public Safety administers the law regulating driver training schools, including inspecting the facilities and equipment and licensing the instructors. By rule, the Department previously required each driver training school to issue a certificate of completion to beginning drivers under 18 who successfully complete the required classroom and behind-the-wheel instruction (Ohio Admin. Code 4501-7-13).

The act requires a driver training school to issue a certificate of completion to each person who successfully completes a training course necessary to obtain or maintain a driver's license, which is defined by reference to existing law as a license to operate a vehicle other than a commercial motor vehicle (R.C. 4507.01, not in the act). The Department of Public Safety is required to provide each driver training school with the certificate of completion forms at a fee of \$4 for each certificate of completion. The act requires the Director of Public Safety to deposit the fees collected into the State Highway Safety Fund.

Imposition of fines by the Director of Public Safety on driver training schools and instructors

(R.C. 4501.06 and 4508.06)

The Director of Public Safety licenses driver training schools and driver training instructors. The Director may refuse to issue, or may suspend or revoke, a license in any case in which the Director finds an applicant or licensee has violated any of the laws or regulations governing driver training schools and instructors. A person whose license has been suspended or revoked for any such violation must return the license to the Director. Failure to do so is a minor misdemeanor, except that on a second or subsequent offense within two years after a first offense, such a violation is a fourth degree misdemeanor.

The act permits the Director to impose a fine of not more than \$10,000 per occurrence in any case in which the Director finds an applicant or licensee has violated any of the laws governing driver training schools and instructors or any of the applicable rules, and to suspend or revoke a license if the applicant or licensee

fails to pay a fine the Director imposes. The Director must deposit the revenue from all these fines into the state treasury to the credit of the existing State Highway Safety Fund.

Motor vehicle registration information report fee

(R.C. 4503.26)

Under law generally unaffected by the act, the Registrar of Motor Vehicles, upon application of any person and payment of the proper fee but subject to any restrictions imposed by law, may search the motor vehicle registration records of the Bureau of Motor Vehicles and make reports of the information they contain and photocopies of those records.

The applicable fees are as follows:

(1) For searches of the records and written reports, \$1.50 for each name, number, or fact searched or reported on;

(2) For photocopies of records and attestations of them, under the Registrar's signature and seal, \$2 per copy. Any such copy is prima-facie evidence of the facts it contains.

The act increases the fee for searches of the motor vehicle registration information records and written reports from \$1.50 to \$2 for each name, number, or fact searched or reported on.

License plate fees

(R.C. 4503.40 and 4503.42)

The act requires the Registrar of Motor Vehicles to deposit \$30 of the \$35 fee for personalized license plates and \$2.50 of the \$10 fee for initial reserved license plates into the State Highway Safety Fund, rather than the Highway Operating Fund as under prior law. The act does not affect the remaining balance of both fees, which is deposited into the Bureau of Motor Vehicles Fund and used to compensate the Bureau of Motor Vehicles for additional services in issuing the license plates.

"Fish Lake Erie" license plates

(R.C. 4501.21 and 4503.85)

Under the act, the owner or lessee of any passenger car, noncommercial motor vehicle, motor home, or other vehicle of a class approved by the Registrar

of Motor Vehicles, when registering the vehicle, may apply to the Registrar for the issuance of "Fish Lake Erie" license plates. The application for those license plates may be combined with a request for a special reserved license plate provided under current law. Upon compliance with the act's requirements (see below), the Registrar must issue to the applicant the appropriate vehicle registration, a set of "Fish Lake Erie" license plates, and a validation sticker, or a validation sticker alone in the case of renewal of the plates.

In addition to the letters and numbers ordinarily inscribed on the license plates, "Fish Lake Erie" license plates must be inscribed with identifying words or markings designed by the Ohio Sea Grant College Program and approved by the Registrar. "Fish Lake Erie" license plates must bear county identification stickers that identify the county of registration by name or number.

Under the act, "Fish Lake Erie" license plates and a validation sticker or, when applicable, a validation sticker alone must be issued upon receipt of an application for registration of a motor vehicle submitted under the act and a \$15 contribution (see below), payment of the regular license tax prescribed in continuing law, any applicable motor vehicle license tax, and an additional \$10 fee, and compliance with all other applicable laws relating to the registration of motor vehicles. If the application for "Fish Lake Erie" license plates is combined with a request for a special reserved license plate, the license plates and validation sticker or validation sticker alone must be issued upon payment of the fees and taxes referred to or established by the act plus the additional fee for a special reserved license plate.

The act requires the Registrar, for each application for registration and registration renewal that the Registrar receives under the act, to collect a contribution of \$15. He must deposit this contribution into the state treasury to the credit of the existing License Plate Contribution Fund. The contribution then must be paid to the Ohio Sea Grant College Program to be used for Lake Erie area research projects.

The additional \$10 fee must be for the purpose of compensating the Bureau of Motor Vehicles for additional services required in issuing "Fish Lake Erie" license plates. The Registrar must deposit that fee into the state treasury to the credit of the existing State Bureau of Motor Vehicles Fund.

Levy of local motor vehicle license tax

(R.C. 4504.02, 4504.15, 4504.16, and 4504.18)

Continuing law authorizes counties and townships to levy permissive motor vehicle license taxes by resolution adopted by the respective governing board. In

considering a local motor vehicle license tax, a board of county commissioners or board of township trustees may do any of the following: (1) adopt a resolution levying a tax, which cannot take effect sooner than 30 days following its adoption and is subject to the referendum, (2) adopt such a resolution as an emergency measure, which goes into immediate effect but requires the affirmative vote of all board members, or (3) adopt a resolution directing the board of elections to submit the question of levying the permissive motor vehicle license tax to the electors. Prior law specified that the respective boards must conduct two public hearings "prior to the adoption of any resolution levying" a county or township tax. The act specifies that the respective boards must conduct two public hearings prior to the adoption of any resolution concerning a local motor vehicle license tax; in so doing, it requires two public hearings regardless of whether the board levies the tax subject to the referendum, as an emergency measure not subject to the referendum, or by submitting the question to the electors. No resolution other than an emergency resolution becomes effective sooner than 30 days after its adoption.

Minor's application for a certificate of title

(R.C. 4505.031)

Under prior law, no person under 18 could acquire or dispose of a motor vehicle unless the application for a certificate of title was accompanied by a prescribed form signed by one of the minor's parents, a guardian, or other person having custody of the minor, authorizing the transaction. The adult who signed the form also had to be present when the certificate of title application was submitted and had to provide acceptable identification establishing that the adult was the individual whose signature appeared on the form. If the adult did not provide such identification, the application had to be refused.

The act requires the form authorizing the minor's motor vehicle transaction to be signed by the adult in the presence of a common pleas clerk or deputy clerk or any notary public. The adult must provide identification when signing the form but is not required to be present when the application for the certificate of title is submitted. As under prior law, no interest in a motor vehicle may be acquired by or from a minor unless the required form accompanies the application for a certificate of title. The act eliminates a requirement for the Registrar to prescribe the acceptable forms of identification.

Transfer of an electronic certificate of title when an electronic motor vehicle dealer is involved

(R.C. 4505.032)

Law generally retained by the act provides that if a person who is not an electronic motor vehicle dealer owns and sells to a licensed motor vehicle dealer a motor vehicle for which a physical certificate of title has not been issued, the person is not required to obtain a physical certificate of title in order to transfer ownership to the dealer. The person instead may present the dealer with sufficient proof of the person's identity and complete and sign a prescribed form attesting to the person's identity and assigning the motor vehicle to the dealer. The motor vehicle dealer must present the assignment form to any clerk of a court of common pleas together with an application for a certificate of title and payment of the required fees.

However, if the motor vehicle dealer is an electronic motor vehicle dealer (not all dealers are), the dealer, instead of submitting the assignment form to a clerk of court, may inform the clerk via electronic means of the sale of the motor vehicle and assignment of ownership of the vehicle to the dealer. The clerk must enter the information relating to the assignment into the Automated Title Processing System (ATPS), and when this occurs ownership of the vehicle passes to the dealer. The dealer is not required to obtain a certificate of title to the vehicle in the dealer's name. A clerk charges and collects a \$5 fee from the dealer for each motor vehicle so assigned to the dealer.

Under the act, in a case in which an electronic certificate of title has been issued for a motor vehicle and either the buyer *or seller* is an electronic motor vehicle dealer, the dealer, instead of submitting the assignment form to a clerk, may inform the clerk via electronic means of the sale of the motor vehicle and assignment of ownership of the vehicle. The clerk still must enter the assignment information into the ATPS and charge and collect a \$5 fee from the dealer for each assignment sent by the dealer to the clerk. The dealer is not required to obtain a physical certificate of title to the vehicle in the dealer's name.

Electronic certificate of title when applied for electronically

(R.C. 4505.021, 4505.06, 4505.08, and 4519.58)

An application for a certificate of title for a motor vehicle, off-highway motorcycle, or all-purpose vehicle may be submitted in person at the office of a clerk of a court of common pleas or electronically to a clerk. Only motor vehicle dealers submit such applications electronically. Ownership may be evidenced by a physical (paper) certificate of title or be in electronic form (an electronic

certificate of title) within the Automated Title Processing System; in neither case is ownership affected. In all cases, the clerk must issue a physical certificate of title unless the applicant specifically requests the clerk not to issue a physical certificate of title and instead to issue an electronic certificate.

The act establishes an exception by providing that in the case of a title application that is submitted to a clerk electronically, the clerk must issue an electronic certificate of title unless the applicant requests a physical certificate.

Five-year registration for commercial trailers and semitrailers

(R.C. 4503.103)

Continuing law permits the Registrar of Motor Vehicles to adopt rules to permit any person or lessee, other than a person who receives an apportioned license plate under the International Registration Plan, who owns or leases one or more motor vehicles to file a written application for registration for no more than five succeeding registration years. The rules may designate the classes of motor vehicles that are eligible for the multi-year registration. At the time of application, the person must pay all annual taxes and fees for each year for which the person is registering.

The act requires the Registrar to adopt rules to permit any person or lessee who owns or leases two or more commercial trailers or semitrailers to file a written application for registration for no more than five succeeding registration years. At the time of application, the person must pay all annual taxes and fees for each year for which the person is registering.

Surrendered drivers' licenses

(R.C. 4506.03 and 4507.02)

No person is permitted to have more than one valid driver's license at a time. If a person receives an Ohio driver's license, or a motorcycle operator's endorsement of a driver's or commercial driver's license, the person must first surrender to the Registrar of Motor Vehicles all valid licenses that have been issued to the person by another issuing authority recognized by Ohio. Under prior law, the Registrar returned the surrendered license to the other issuing authority and notified it that an Ohio license had been issued. Under the act, the Registrar must instead report to the other issuing authority that the license has been surrendered and that an Ohio license has been issued and, in addition, must destroy the surrendered license if it is not returned to the other issuing authority.

Speed limits on roads with centerline boundaries

(R.C. 4511.21)

The act provides that if the boundary of two local authorities lies on the centerline of a highway and both local authorities have jurisdiction over the highway, the speed limit along the shared part of the highway is to be either of the following speed limits as agreed to by the two authorities: (1) either prima facie speed limit permitted by law, or (2) an altered speed limit that was determined and posted in accordance with statutory requirements. For example, the speed limit on a state route within a municipality outside a business district is 35 miles per hour, and the speed limit for a state route outside a municipality is 55 miles per hour. If a municipality and a township sharing a highway cannot agree on which of the two speed limits should be adopted for the shared part of the highway, then the speed limit will be as provided in prior law. Thus, the speed limit for traffic traveling in one direction could be 35 miles per hour and the speed limit for traffic traveling in the other direction could be 55 miles per hour if the local authorities cannot agree on either speed limit. The act also allows the local authorities to agree to a previously altered speed limit. For example, if the speed limit for a state route outside a municipality was properly altered from 55 miles per hour to 45 miles per hour and posted at that rate, the two local authorities could agree to that speed limit for their shared road. The act prohibits either local authority from altering the speed limit on its shared portion of the highway unless both authorities agree, on the basis of an engineering and traffic investigation, that the speed limit is greater than is reasonable or safe under the conditions that exist there and unless the altered speed limit is not more than 55 nor less than 25 miles per hour.

Department of Public Safety refund funds

(R.C. 4501.12 and 4501.26)

The act modifies the Unidentified Motor Vehicle Receipts Fund, which is a depository for money that is provisional in nature or for which proper disposition cannot immediately be determined. The act renames the fund as the Unidentified Public Safety Receipts Fund and provides that it is to be for receipts of the entire Department of Public Safety, not just the Bureau of Motor Vehicles. The act also repeals the law creating the Highway Patrol Fee Refund Fund, which previously consisted of contingent money received by the State Highway Patrol for various services, including license or inspection fees and copies of evidentiary material, and was used to make refunds of such money.

Investment earnings of the Security Deposit Fund

(R.C. 4509.27)

The Registrar of Motor Vehicles can require an uninsured motorist who is involved in an accident to make a security deposit to cover the amount for which the motorist may be liable. This money is credited to the Security Deposit Fund and is either paid to the party who suffered a loss in the accident for which the uninsured motorist is liable after a judgment is rendered or is returned to the uninsured motorist if it is not needed to satisfy any such judgment. Under prior law, all investment earnings on the cash balance of the fund were credited to the fund. The act requires the investment earnings to be credited to the existing Roadwork Development Fund instead.

Elimination of the Film Production Reimbursement Fund

(R.C. 4501.35)

The act eliminates the Film Production Reimbursement Fund. The Department of Public Safety previously deposited into the fund money it received from other agencies for services and supplies it provided for the production of public service announcements, media materials, and training materials. This money will instead be credited to the existing State Highway Safety Fund.

Debarring of special hauling permit applicant

(R.C. 4513.34)

The act allows the Director of Transportation to debar an applicant from applying for a special permit to operate oversize or overweight vehicles "upon a finding based on a reasonable belief" that the applicant has done any of the following:

- (1) Abused the process by repeatedly submitting false information or false travel plans or by using another name, insurance, or escrow account without proper authorization;
- (2) Failed to comply with the terms and conditions of a previously issued special permit;
- (3) Refused to provide required information or documents;
- (4) Accumulated repeated performance complaints under a previously issued special permit or failed to obtain a special permit when required;

(5) Attempted to influence a public employee to breach ethical conduct standards;

(6) Been convicted of a specified criminal offense related to the application or the applicant's integrity or commercial driver's license;

(7) Accumulated repeated convictions under a state or federal safety law governing commercial motor vehicles;

(8) Accumulated repeated convictions under a traffic law;

(9) Failed to pay any special permit fees;

(10) Deliberately or willfully submitted false or misleading information in connection with the special permit.

If the Director debar an applicant that is a partnership, association, or corporation, the Director also may debar any partner of the partnership, or the officers, directors, or employees of the association or corporation being debarred.

The act establishes notice and hearing requirements for a proposed debarment, which must be in accordance with the Administrative Procedure Act. The debarment period may be of any length of time determined by the Director, and the Director may modify or rescind the debarment at any time. During the period of debarment, the Director is prohibited from issuing a special permit to any partnership, association, or corporation that is affiliated with a debarred person. After the debarment period expires, the person, and any partnership, association, or corporation affiliated with the person, may reapply for a special permit.

The act allows the Director to adopt rules governing the debarment of an applicant in accordance with the Administrative Procedure Act.

Increased deduction of local gas tax revenues when fuel use tax is eliminated

(R.C. 5735.23)

Ohio law levies an additional fuel tax on the amount of fuel consumed by commercial trucks in Ohio that was purchased outside Ohio. The additional fuel use tax is 2¢ per gallon (R.C. 5728.06, not in the act), but this use tax will be completely eliminated as of July 1, 2005. However, the total elimination of the

additional tax may not occur on that date if the fuel tax cancellation trigger goes into effect.¹

In order to deal with the revenue loss that the Department of Transportation would otherwise incur because of the elimination of the tax, the act provides that the following amounts be deducted from local government shares of the state motor fuel tax beginning in August, 2005:

- \$745,875 each month from the amounts distributed to municipal corporations based on numbers of vehicles registered in the various municipal corporations (increases the amount deducted under current law by \$497,250);
- \$263,250 each month from the amounts distributed equally among all townships (increases the current amount deducted by \$175,500);
- \$745,875 each month from the amounts distributed equally among all counties (increases the current amount deducted by \$497,250).

The money deducted from municipal corporation, township, and county distributions is credited to the Highway Operating Fund. No provision in the act addresses a scenario in which the fuel tax cancellation trigger goes into effect. If such a scenario would occur, the increased amounts would still be deducted as though the 2¢ additional fuel use tax had been eliminated.

Municipal and county repayment of State Infrastructure Bank obligations with certain motor vehicle related taxes and TIF payments

(R.C. 4501.04, 4503.02, 5531.09, 5531.10, 5735.05, 5735.25, 5735.27, 5735.28, and 5735.29)

Continuing law provides for the establishment of the State Infrastructure Bank (SIB). The SIB consists of, among other amounts, money received from the federal government in the form of grants, awards and assistance, and proceeds of obligations issued by the Treasurer of State for state infrastructure projects or to

¹ *The reduction in the fuel use tax will not occur if both of the following occur: (1) the Director of Transportation determines that the amount of federal motor fuel excise taxes appropriated to this state and available for basic highway programs is equal to or greater than 95% of the amount of federal fuel taxes paid within this state, and (2) the Director of Transportation determines that this state no longer receives a net loss of federal fuel tax returns caused by any federal tax reduction, tax rebate, or tax assistance on behalf of ethanol-based or alcohol-based motor fuels. (R.C. 5735.292, not in the act.)*

provide financial assistance for other types of projects for which the SIB was created.²

The Director of Transportation has authority to use the SIB to:

- Encourage public and private investment in transportation facilities that contribute to the multi-modal and intermodal transportation capabilities of the state;
- Develop a variety of financing techniques designed to expand the availability of funding resources and to reduce direct state costs;
- Maximize private and local participation in financing projects; and
- Improve the efficiency of the state transportation system by using and developing the particular advantages of each transportation mode to the fullest.

To further these purposes, the Director may use the SIB to provide financial assistance to public and private entities for qualified projects.³ The assistance may be in the form of loans, loan guarantees, letters of credit, leases, lease-purchase agreements, interest rate subsidies, debt service reserves, and other forms of aid the Director determines. If obligations are issued by the Treasurer of State with respect to raising funding for financial assistance for state infrastructure projects or to directly fund such projects, the holders or owners of such obligations previously had no right to have money raised by taxation by the state of Ohio obligated or pledged for the payment of bond service charges.

Continuing law also provides formulas for the distribution of revenue from the annual state license tax levied on the operation of motor vehicles on public roads and highways and the motor fuel excise tax to municipal corporations and counties.

The act provides an exception to the prohibition against pledging or obligating money raised from state taxation for the payment of bond service charges. Under the exception, municipal corporations and counties may pledge and obligate the license and fuel tax money described above that they receive to the payment of amounts payable by those municipal corporations and counties to

² "State infrastructure project," means any public transportation project undertaken by the state, including all components of such a project.

³ "Qualified projects" are any public or private transportation project as determined by the Director of Transportation.

the SIB, and the bond proceedings for obligations may provide that such payments constitute pledged receipts. The municipal corporations and counties are also permitted by the act to pledge and obligate any tax increment financing (TIF) service payments they receive in lieu of taxes for the same purposes. However, the act provides that such tax and TIF money can be so obligated, pledged, and paid only with respect to obligations issued exclusively for public transportation projects.

Transfers from the Highway Operating Fund to the Highway Capital Improvement Bond Service Fund

(R.C. 5735.23)

Continuing law provides for the distribution of the receipts from the motor fuel excise tax. A specified portion of those receipts is to be credited or transferred monthly to the Highway Operating Fund. Under prior law, beginning on September 1 of each fiscal year, the amounts required to be credited or transferred to the Highway Operating Fund were to be credited or transferred to the Highway Capital Improvement Bond Service Fund until the Office of Budget and Management (OBM) received certification from the Treasurer of State that sufficient money had been credited or transferred to the Bond Service Fund to meet all payments of debt service and financing costs due during the fiscal year from that fund.

Continuing law also requires the Treasurer of State to certify to OBM, not later than July 15 of each fiscal year, the total amount of money needed during that fiscal year to meet all debt service and any related financing costs payable from the Highway Capital Improvement Bond Service Fund (R.C. 151.01, not in the act).

The act revises the amount and timing of these transfers by requiring that monthly, from September to February of each fiscal year, an amount equal to one-sixth of the amount certified in July of that year by the Treasurer of State is to be credited or transferred to the Highway Capital Improvement Bond Service Fund from the amounts required under current law to be credited or transferred to the Highway Operating Fund. If in any of those months the amount available to be credited or transferred to the Bond Service Fund is less than one-sixth of the amount certified by the Treasurer of State, the shortfall is to be added to the amount due the next succeeding month. Any amount still due at the end of the six-month period is to be credited or transferred as the money becomes available, until OBM receives certification from the Treasurer of State that sufficient money has been credited or transferred to the Bond Service Fund to meet all payments of debt service and financing costs due during the fiscal year from that fund.

Pavement management system

(R.C. 5501.11)

Continuing law establishes the functions of ODOT with respect to highways, including the establishment, maintenance, and repair of the state highway system. To fulfill those functions, the act requires ODOT to develop and maintain a pavement management system. The system must inventory and evaluate basic road and bridge conditions throughout the state highway system and develop strategies to improve those conditions, minimize annual maintenance of the state highway system, and ensure that a disproportionate percentage of the roads and bridges on the state highway system are not due for replacement or major repair at the same time. ODOT is required to identify and promote longer pavement life spans to lessen user delays and the disruption to traffic on the state highway system.

Confidential cost estimate for ODOT projects

(R.C. 5525.10 and 5525.15)

Under continuing law, no ODOT contract for any road improvement may be awarded for more than ODOT's estimated cost of the project plus 5%. Law generally retained by the act allows the Director of Transportation to keep ODOT's cost estimate confidential until after the project bids have been received, but prior law established that the requirement to award the contract for not more than ODOT's estimate plus 5% applied when the Director kept ODOT's cost estimate confidential. The act specifies the requirement to award the contract for not more than ODOT's estimate plus 5% does *not* apply when the Director keeps ODOT's cost estimate confidential.

ODOT bidding requirements

(R.C. 5525.01)

Prior law governing ODOT bidding procedures required bidders to furnish detailed information under oath and on printed forms prescribed by the Director about all of the bidder's pending work. The act eliminates the requirement for the information to be made under oath and on printed forms while retaining the requirement that bidders provide information on all pending work on forms prescribed by the Director.

ODOT bridge paint warranty period

(R.C. 5525.25)

Under continuing law, not more than 20% of the Department of Transportation's capital construction projects are required to be bid including a warranty. The specific terms of each warranty are set forth in the bidding documents for the particular contract, but the law sets forth maximum warranty periods. For bridge painting, the prior warranty period was not more than two years; the act increases this maximum warranty period to not more than five years. The warranty periods specified in statute do not apply to contracts that the Director of Transportation makes on behalf of a political subdivision.

Payments by ODOT to the federal government

(Section 503.06)

Notwithstanding the general requirement for Controlling Board approval of certain nonbid contracts, the act allows the Director of Transportation to enter into agreements with the United States or any U.S. department or agency, solely for the purpose of dedicating staff to the expeditious and timely review of environmentally related documents submitted by ODOT, as necessary for the approval of federal permits. The act specifically includes the U.S. Army Corps of Engineers, the U.S. Forest Service, the U.S. Environmental Protection Agency, and the U.S. Fish and Wildlife Service as federal agencies with which ODOT may enter into agreements without competitive bids or Controlling Board approval. Such agreements may include provisions for advance payment by ODOT for labor and all other identifiable costs of providing the services by the federal government, as may be estimated by the federal government. Not later than 30 days after the execution of an agreement under this authority, the Director must submit a written report to the Controlling Board indicating the amount of the agreement, the services to be performed by the federal government, and the circumstances giving rise to the agreement.

ODOT sale of personal property

(R.C. 5513.04)

Notwithstanding the general procedures for the sale of excess and surplus state property, the Director of Transportation is permitted to sell or dispose of various items of personal property when the property is unfit for use or not needed by ODOT. The Director generally must offer to sell or transfer vehicles, structures, machinery, tools, equipment, parts, material, office furniture, and supplies to state agencies or political subdivisions before selling the items at a

public sale; under certain conditions, the Director also may transfer structures to nonprofit corporations. The act generally revises and reorganizes the law governing the sale of unneeded ODOT personal property and expressly allows the Director to conduct an Internet auction to sell the personal property, which the act defines as "any structure or structural material, machinery, tools, equipment, parts, material, office furniture, supplies, passenger vehicle, van, truck, trailer, or other heavy equipment."

For items valued at more than \$1,000, prior law required the Director to post, for not less than ten days, a written invitation to bidders on an electronic bulletin board or a traditional bulletin board located in ODOT's offices in a place open to the public during normal business. At least ten days before the sale, the Director had to publish one notice of the sale in a periodical or newspaper in the region in which the items were located. The Director could receive bids and make the sale on any basis he determined to be most advantageous to ODOT, but had to make the sale to the highest responsible bidder. The act requires the Director to post a notice of the sale for at least ten days on ODOT's official web site and on any web site of an ODOT district where the property is located if the district maintains a web site. The act retains the requirement for the sale to be made to the highest responsible bidder and the requirement for the Director to publish notice of the sale in a newspaper or periodical.

The prior procedures for items valued at \$1,000 or less were the same as described above except that the Director was required only to post notice of the sale, for not less than five working days, on an electronic or a traditional bulletin board. The act requires the Director to post a notice of the sale for at least five working days on ODOT's official web site and retains the requirement for the sale to be made to the highest responsible bidder.

The act continues the authority of the Director to reject any offer or bid for an item and the separate authority for the Director to remove an item from a sale if a public authority has a use for the item. Additionally, it allows the Director to do all of the following:

(1) Accept cash when exchanging personal property, which must be deposited into the Highway Operating Fund;

(2) In his discretion, transfer any vehicle or other heavy equipment that is unfit for use or not needed by ODOT to any state agency or political subdivision, without advertising for bids and upon mutual terms, without the determination of an emergency situation as was required under prior law;

(3) Transfer structures or materials to a school district, in addition to counties, municipal corporations, or other governmental subdivisions as under continuing law, without advertising for bids and upon mutual terms;

(4) Authorize any deputy director to sell unneeded ODOT personal property, not just district deputy directors, as under prior law.

Transportation of loads or two or three steel coils

(R.C. 5537.16; Section 503.03)

Continuing law establishes limits on the gross weight of vehicles that may travel over the improved streets, alleys, highways, bridges, and culverts of the state. At the same time, it allows the Director of Transportation and local authorities to issue special permits for the movement or operation of a vehicle or combination of vehicles on state and local highways that are in excess of the statutory maximum weight or size limits. Axle loads and vehicle loads carried over the Ohio Turnpike are governed by rule of the Ohio Turnpike Commission.

An uncodified law effective through June 30, 2005 specified that three or fewer steel coils transported by vehicle were deemed to be a nondivisible load for purposes of the special permits granted by the Director of Transportation or a local authority so long as a vehicle and its load did not exceed 92,000 pounds. The act extends this uncodified law through June 30, 2007. The act also specifically allows the Ohio Turnpike Commission to issue a special permit to allow the operation of a motor vehicle transporting two or fewer steel coils on any turnpike project.

Ohio Turnpike Commission annual report date

(R.C. 5537.17)

The act moves the date for the Ohio Turnpike Commission annual report from on or before April 1 to on or before July 1.

Duties of the county engineer

(R.C. 315.08 and 315.14)

Background

Continuing law generally requires the county engineer to perform for the county all duties authorized or declared by law to be done by a registered professional engineer or registered surveyor. Exceptions to this requirement include those duties described in R.C. Chapter 343. (which relates to solid waste

management districts) and Chapters 6103. and 6117. (which relate to the county water supply system and to county sewer districts, respectively, both of which generally are overseen by the county sanitary engineer). The county engineer performs these particular duties only pursuant to an agreement between the county engineer and the board of county commissioners. If the board and the county engineer reach such an agreement, the board determines the appropriate compensation for the performance of the additional duties.

Continuing law permits a board of county commissioners to create and fill the position of county building inspector to administer and enforce building regulations. In lieu of creating this position, the board may assign the duties of county building inspector to an existing county officer, including the county engineer. (R.C. 307.38, not in the act.)

Continuing law also permits a board of county commissioners to adopt and enforce a county building code. The code may include regulations that provide for a review of the specific effects of a proposed new construction on existing surface or subsurface drainage. The regulations may require reasonable drainage mitigation and reasonable alteration of a proposed new construction before a building permit is issued. The regulations also may authorize the board, after obtaining the advice of the county engineer, to enter into an agreement with the county engineer or another qualified person or entity to carry out any necessary inspections and make evaluations about what, if any, alterations are necessary to prevent or correct any adverse effects that a proposed new construction may have on existing surface or subsurface drainage. (R.C. 307.37, not in the act.)

Changes made by the act

The act provides that the county engineer is not required to perform any of the duties of the county building inspector or any duties relating to the county building code, but the act permits the engineer to perform any of these duties pursuant to an agreement between the engineer and the board of county commissioners in the same manner as the engineer may perform duties relating to solid waste management districts, county water supply systems, and county sewer districts pursuant to the same type of agreement. If the board and the county engineer reach an agreement whereby the engineer will perform any of the duties of the county building inspector or any duties relating to the county building code, the board must determine the appropriate compensation.

Disposal of scrap construction material by the county engineer

(R.C. 307.12)

Law generally retained by the act contains provisions for the disposal by a board of county commissioners of unneeded, obsolete, or unfit personal property, such as motor vehicles, road machinery, equipment, tools, and supplies; however, under prior law there were no provisions that specifically addressed the disposal of scrap construction materials that remain from a road or bridge improvement. Under the act, a county engineer, in the engineer's discretion, may dispose of scrap construction materials on terms that the engineer determines reasonable, including disposal without recovery of costs, if the total value of the materials does not exceed \$25,000. The engineer must maintain records of all such dispositions, including identification of the origin of the materials, the final disposition, and copies of all receipts resulting from the dispositions. For purposes of this provision, "scrap construction materials" means construction materials that result from a road or bridge improvement, remain after the improvement is completed, and are not reusable. Construction material that is metal, results from a road or bridge improvement, and remains after the improvement is completed is scrap construction material only if it cannot be used in any other road or bridge improvement or other project in its current state.

County engineers and certain surveys

(R.C. 315.18)

One of the county engineer's duties involves land surveys. The act authorizes, rather than requires as under prior law, the county engineer to survey any land or lot in the county that has been sold for taxes if (1) the land or lot is set off to another county by the erection of a new county or a change of county lines or (2) a person asks for the survey and produces a "certificate from the proper officer." (Presumably, this refers to proof that the person bought the land when it was sold for taxes and has a certificate from the official's office that sold the land; the official often is the county sheriff.) This survey can be considered as evidence of the property's boundaries.

Deadline for the county engineer's annual road reports

(R.C. 5543.02)

Continuing law requires the county engineer to submit an annual report to the board of county commissioners on the condition of the county roads, bridges, and culverts and an estimate of the probable amount of money required to maintain and repair, or to construct, any new roads, bridges, or culverts. The

engineer annually also must submit an estimate to each board of township trustees within the county of the amount required by each township for the construction, reconstruction, resurfacing, or improvement of their township roads. In both cases the estimates are for the year beginning the following March 1. Under prior law the deadline for all these reports was April 1 of each year. The act changes the deadline for all these reports to June 1 of each year.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	02-15-05	p. 210
Reported, H. Finance & Financial Appropriations	03-01-05	p. 242
Passed House (92-1)	03-02-05	pp. 280-291
Reported, S. Highways & Transportation	03-09-05	p. 289
Passed Senate (31-1)	03-09-05	p. 293
House refused to concur in Senate amendments (34-62)	03-15-05	pp. 322-323
Senate requested conference committee	03-15-05	p. 301
House acceded to request for conference committee	03-15-05	p. 328
House agreed to conference committee report (94-4)	03-16-05	pp. 330-335
Senate agreed to conference committee report (30-1)	03-16-05	pp. 316-321

05-hb68-126.doc/kl

