



COUNTY ADVISORY BULLETIN

CAB

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Bulletin 2023-1

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HOUSE BILL 23: FY 2024-2025 TRANSPORTATION BUDGET

APPLICABLE LEGISLATION: Amended Substitute House Bill 23 (135th General Assembly). Makes current expense appropriations for fiscal year 2023; makes appropriations for programs related to transportation for the biennium beginning July 1, 2023, and ending June 30, 2025, and provides authorization and conditions for the operation of those programs.

Revised Code Sections: Amends 117.16, 124.152, 303.02, 306.353, 519.02, 723.52, 4503.10, 4503.103, 4503.11, 4503.191, 4503.29, 4503.44, 4506.01, 4506.11, 4507.01, 4507.061, 4507.13, 4507.52, 4511.093, 4513.34, 4981.02, 4981.04, 5503.031, 5517.011, 5525.16, 5531.09, 5531.10, 5540.01, 5540.02, 5540.03, 5540.06, 5543.19, 5575.01, 5577.044, and 5709.50; to enact sections 746.01, 746.02, 746.03, 746.04, 746.05, 746.06, 746.07, 4503.107, 4505.131, 4506.072, 4507.021, 4507.063, 4507.511, 4517.262, 4955.50, 4955.51, 4999.09, 5501.521, and 5501.60; Repeals section 5501.09.

LEAD SPONSOR: Representative Jay Edwards (R-Nelsonville)

HOUSE COSPONSORS: Abdullahi, Baker, Blackshear, Brennan, Brent, Brewer, Brown, Callender, Carruthers, Cross, Cutrona, Dell'Aquila, Dobos, Forhan, Galonski, Ghanbari, Grim, Hillyer, Hoops, Humphrey, Isaacsohn, Jarrells, Johnson, Jones, LaRe, Lightbody, Liston, Loychik, Mathews, McNally, Miller, A; Miller, J; Miranda, Mohamed, Oelslager, Patton, Pavliga, Ray, Richardson, Robb Blasdel, Robinson, Roemer, Rogers, Russo, Schmidt, Seitz, Somani, Stephens, Swearingen, Sweeney, Thomas, C; Thomas, J; Troy, Upchurch, Weinstein, Williams, Young.

SENATE COSPONSORS: Antonio, Brenner, Cirino, Craig, DeMora, Hackett, Hicks-Hudson, Hoagland, Huffman, S; Ingram, Johnson, Kunze, Landis, Lang, Manning, Reineke, Reynolds, Schaffer, Smith, Sykes, Wilkin.

EFFECTIVE DATE: Signed into law March 31, 2023. Appropriations-related provisions are effective immediately. Permanent law provisions effective June 30, 2023. There are no line item vetoes.

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PERMANENT LAW CHANGES

COUNTY ENGINEER FORCE ACCOUNT LIMITS

ORC Section 117.16 and 5543.19

Force account limits allow the county engineer to use county personnel and equipment for reconstruction, repairs, and maintenance on small projects without hiring private contractors. Former force account monetary limits (\$30,000 per mile for roads and \$100,000 for bridges) were established in 2003 but received only a minor inflationary adjustment in the FY 2022-2023 transportation budget (HB 74). HB 23 creates a new threshold of \$70,000 per mile for road construction and repair and a limit of \$233,000 for work on bridges and culverts. These thresholds will be adjusted annually based on ODOT's construction cost index, with a 5% cap. The bill also increases township and municipal force account limits.

Local government utilization of force account authority will continue to be enforced by the Auditor of State. If a violation occurred, prior law required the Auditor of State to reduce force account limits for counties by \$10,000 per mile for roads and \$40,000 for bridges. These penalties apply for one year. HB 23 changes these penalties to a reduction of one-third of the county's force account limits for the construction or reconstruction of a road, and one-third of that county's force account limits for construction, reconstruction, maintenance, or repair of a bridge or culvert.

NONCOMMERCIAL TRAILER PERMANENT REGISTRATION

ORC Section 4503.103, 4503.107, 4503.191

The Act allows the permanent registration of a noncommercial trailer with the Bureau of Motor Vehicles. The cost is eight times the applicable taxes and fees, including local motor vehicle taxes.

ELECTRIC VEHICLE AND HYBRID REGISTRATION FEES

ORC Section 4503.10

Prior law established a registration fee of \$200 per year for a battery-powered electric vehicle, plug-in hybrid electric vehicle, or hybrid vehicle. The Act changes the fee schedule as follows, resulting in a small loss of revenue for counties:

- \$100 for a hybrid motor vehicle;
- \$150 for a plug-in hybrid electric motor vehicle;
- \$200 for a battery electric motor vehicle.

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LOCAL GOVERNMENT USE OF TRAFFIC CAMERAS

ORC Section 4511.093

Current law allows counties and townships to utilize a photo-monitoring device for traffic enforcement, but only if a law enforcement officer is present at the location. The Act further specifies that the law enforcement officer may only utilize a handheld device for this purpose.

TRANSPORTATION IMPROVEMENT DISTRICTS

ORC Sections 306.353, 5540.01, 5540.02, 5540.03, and 5540.06

The Act makes the following changes to permanent law governing TIDs:

- Any local government is permitted to pay costs incurred by a TID, even if the local government is not formally a member of the TID.
- A TID may 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 partially or wholly with any county that is a party to the agreement, and are partially funded with federal money.
- The Act removes the authority of the Senate President to appoint a nonvoting member to the board of trustees of the TID. The Speaker of the House retains appointment authority for a nonvoting member.
- A TID in Hamilton County may enter into an agreement with the regional transit authority regarding road and bridge projects related to the provision of services by the RTA. The TID may issue bonds backed by revenues pledged by the RTA. A TID entering into an agreement enjoys the same authority, immunity, and responsibilities that TID carries for any other project.

REGIONAL TRANSIT AUTHORITY AUDITS

ORC Section 5501.09 (repealed)

The Act eliminates a requirement that the Auditor of State perform an audit of one large and two small regional transit authorities.

OVERWEIGHT PERMITS FOR HAULING FARM MACHINERY

ORC Section 4513.34

Continuing law allows the issuance of a special permit for heavy hauling by ODOT for state highways and by local authorities for the roadways under their supervision. The Act modifies this provision of law to require the issuance of an annual permit for either of the following:

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- A vehicle or combination of vehicles that haul farm machinery, provided that the farm machinery otherwise qualifies for the farm equipment permit or a similar permit offered by the county for farm machinery or equipment;
- A vehicle or combination of vehicles that haul agricultural produce or agricultural production materials that otherwise could be hauled by farm machinery or equipment under the farm equipment permit or a similar permit offered by the county for farm machinery or equipment.

ZONING OF SURFACE MINING ACTIVITIES

ORC Section 303.02

Zoning law allows counties to regulate surface mining activities in the interest of public health and safety. The Act modifies this authority to specify that a zoning resolution authorized under this authority must provide for the activities that are permitted and regulated under Chapter 1514. of the Revised Code (surface mining activities other than coal), and any related processing activities, as either a permitted use or a conditional use through the board of zoning appeals in any district or zone when such activities are to be added to an existing permit issued under Chapter 1514. of the Revised Code. Parallel language was added to township zoning law (ORC 519.02).

APPROPRIATIONS

Motor Fuel Tax

Temporary Law Section 221.10

Under continuing law, unchanged by the Act, county governments receive equal distributions of revenue from the motor fuel tax. The motor fuel tax rate remains unchanged at 38.5 cents per gallon for gasoline and 47.0 cents per gallon for diesel and all other fuels. The Ohio Legislative Budget Office estimates that approximately \$2.5 billion in motor fuel tax revenue will be distributed each year of the FY 2024-2025 budget biennium to state agencies and local governments. The Ohio Department of Transportation (ODOT), including debt service needs, will receive about 55% of this total. Local governments (counties, townships, and municipalities) will receive about 40%, with the remainder to the Ohio Public Works Commission and other state agencies.

The Act establishes three new line items in the Department of Taxation Revenue Distribution Fund group for the county, municipal, and township distributions from the Gasoline Excise Tax Fund. Formerly, these were combined into one line item. The county line item is Revenue Distribution Fund Group 110654, with an estimated appropriation of \$336.7 million in FY 2024 and \$340.0 million in FY 2025. ODOT estimates that each county will receive \$3.83 million in FY 2024 and \$3.89 million in FY 2025.

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ODOT - Transportation Improvement Districts (TIDs)

Temporary Law Section 203.40

Transportation Improvement Districts (TIDs) receive a \$4.5 million earmark in the ODOT budget in each fiscal year. Individual projects are limited to \$500,000. Funds are made available through an application process determined by ODOT. For approved projects, the department will reimburse upon receipt of invoices for work performed. The funds may not be used for administrative costs and must be used for specific projects within the TID. A TID must be registered with ODOT in order to receive funding.

Funds may be used for preliminary engineering, detailed design, right-of-way acquisition, and construction of the specific project and such other project costs that are defined in ORC section 5540.01 approved by the Director of Transportation.

In order to be registered with ODOT, the TID must meet one of the following criteria:

- designation of a project or program of projects in an aggregate amount of at least \$15 million;
- designation of project or program of projects that has estimated aggregate costs in excess of \$10 million and the county engineer of the county in which the TID is located has attested by a sworn affidavit that the costs of the project or program of projects exceeds \$10 million and that the TID is facilitating a portion of funding for that project or program of projects.

ODOT - Regional Transportation Planning Organizations

Temporary Law Section 203.45

The ODOT budget earmarks \$5 million in each fiscal year for RTPOs to oversee a rural transportation planning grant program.

ODOT - Strategic Transportation and Development Analysis

Temporary Law Section 203.47

The ODOT budget appropriates \$10 million in FY 2024 for a statewide study of the Ohio transportation system in collaboration with the Ohio Department of Development and the Governor's Office of Workforce Transformation. The study will analyze statewide and regional demographics, investigate economic development growth opportunities, examine current transportation systems and capacities, forecast passenger and freight travel needs over a ten, twenty, and thirty year timeframe, identify current and future transportation links, evaluate and rank current and potential risks of future system congestion, and make actionable recommendations for transportation system projects to support statewide economic growth, including improving links between Toledo and Columbus and between Sandusky and Columbus. At any time, individual hotspot locations may receive advanced analysis of

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conceptual remedies with planning level costs. The Department of Transportation may contract with third parties as necessary to execute the study. The study must be completed by December 31, 2024.

ODOT - Public Transit provisions

Temporary Law Sections 203.45, 203.80, and 755.20

Public transit will receive funding from both state and federal sources. The budget appropriates \$37 million in each fiscal year from the state GRF. The main federal line item provides \$57.4 million in FY 2024 and \$63 million in FY 2025 from the US Federal Transit Administration. In addition, \$33 million per year is earmarked from federal highway construction flexible funds.

HB 23 also starts a new Mobility Partnership Program to be administered by ODOT and earmarks \$15 million each fiscal year from federal highway construction funds for this purpose. The program will provide grants to regional transit authorities for: (1) transporting the workforce within or between RTA service territories; (2) supporting the employment needs of economically significant employment centers located within or near the service territories of the applicant RTAs; or (3) supporting efficient transportation for the workforce living in an RTA service territory with little or no public transit access to an employment center, or living in one RTA service territory but working within another RTA's service territory.

ODOT is also given the authority to use state motor fuel tax revenue to match federal grants awarded to the department, regional transit authorities, or eligible public transportation systems for public transportation highway purposes, or to support local or state-funded projects for public transportation highway purposes. Public transportation highway purposes include: (1) the construction or repair of high occupancy vehicle traffic lanes, (2) the acquisition or construction of park-and-ride facilities, (3) the acquisition or construction of public transportation vehicle loops, (4) the construction or repair of bridges used by public transportation vehicles or that are the responsibility of a regional transit authority or other public transportation system, or (5) other similar construction that is designated as an eligible public transportation highway purpose. Motor vehicle fuel tax revenues may not be used for operating assistance or for the purchase of vehicles, equipment, or maintenance facilities.

Ohio Department of Development – Roadwork Development

Temporary Law Section 207.10

The ODOD roadwork development fund for road improvements at economic development sites receives \$15.2 million each fiscal year. These funds may also be used for public airports.

Ohio Public Works Commission

Temporary Law Sections 209.10 and 610.16

The bill appropriates over \$60 million each fiscal year for the OPWC Local Transportation Improvement Program and adds \$10 million to the most recent capital budget (HB 687, 134th

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G.A.) for the OPWC Emergency Program to assist communities with road-slip projects on locally maintained roads.