
DEPARTMENT OF TRANSPORTATION (DOT)

- In regard to the authority recently granted to the Ohio Department of Transportation to enter into public-private partnership agreements, eliminates (1) a requirement for the agreements to be for a period not to exceed the biennium, (2) authorization for an agreement to include certain costs of transportation facilities prior to acquisition and construction of the facilities, and (3) language specifying that the agreement does not constitute a debt or pledge of the state's faith and credit and that the operator has no right to have taxes or excises levied for payment under the agreement.
- Permits the Director of Transportation 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.
- Permits the Director of Transportation to expend funds for the design, construction, inspection, maintenance, repair, and replacement of bridge and bridge approaches for the Ironton-Russell Bridge, which spans the Ohio River between Ironton, Ohio, and Russell, Kentucky, and to expend funds in the same manner for the bridge that will replace the Ironton-Russell Bridge.
- Provides that an applicant for a certificate of qualification from ODOT in an amount of \$5 million or more, rather than \$2 million or more as specified in prior law, must submit to the Director of Transportation a financial audit report prepared and attested to by an independent certified public accountant, and an applicant for such a certificate of qualification from ODOT in an amount less than \$5 million, rather than less than \$2 million as specified in prior law, must submit a financial review report to the Director.
- Permits a transportation improvement district (TID) and any one or more governmental agencies, until December 31, 2011, to enter into an agreement providing for the joint financing, construction, acquisition, or improvement of any project, which includes a street, highway, parking facility, or freight rail tracks and necessarily related freight rail facilities; provides that a municipal corporation, county, or township that is a party to such an agreement, in certain circumstances, may issue securities to provide for the payment of its portion of the project's cost; and allows the TID to purchase those securities directly from the municipal corporation, county, or township.



ODOT public-private partnership agreements

(R.C. 5501.73)

The act eliminates the following provisions from the language governing the Ohio Department of Transportation's (ODOT) recently established authority to enter into public-private agreements related to transportation facilities: (1) a requirement that agreements be for a period not to exceed the then current two-year period for which appropriations have been made to ODOT and that any agreement may be renewed for succeeding two-year periods when the General Assembly makes appropriations to ODOT for each successive biennium, (2) authority for the public-private agreements to include any agreement by ODOT with respect to any costs of transportation facilities to be included prior to acquisition and construction of the facilities, (3) a declaration that public-private agreements do not constitute a debt or pledge of the faith and credit of the state, or of any political subdivision of the state, and the operator has no right to have taxes or excises levied by the General Assembly, or the taxing authority of any political subdivision of the state, for payments under the agreement, and (4) a related requirement for public-private agreements to contain a statement to the effect of that declaration.

Agreements by the Ohio Department of Transportation regarding federal review of environmentally related documents

(Section 755.10)

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. Such an agreement may include provisions for advance payment by ODOT for labor and all other identifiable costs of providing services by the United States or any U.S. department or agency as may be estimated by the United States or the department or agency. 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 the Director may enter into agreements but does not limit the Director's authority to those agencies. The Director must submit a request to the Controlling Board indicating the amount of the agreement, the services to be performed by the United States or the U.S. department or agency, and the circumstances giving rise to the agreement.



This provision was included in early versions of the most recent Transportation Budget, Am. Sub. H.B. 114 of the 129th General Assembly, but the Legislative Service Commission inadvertently deleted it from later versions of that budget prior to enactment.

Ironton-Russell Bridge

(R.C. 5501.44)

In 1982, the Ironton-Russell Bridge, which spans the Ohio River between Ironton, Ohio, and Russell, Kentucky, was transferred from the Ohio Bridge Commission to ODOT and the Commission was abolished. The act permits the Director of Transportation to expend funds for the design, construction, inspection, maintenance, repair, and replacement of bridge and bridge approaches for the Ironton-Russell bridge. Following the replacement of that bridge, the Director may expend funds for the design, construction, inspection, maintenance, repair, and replacement of bridge and bridge approaches. The act permits the expenditure of funds in this manner, notwithstanding two provisions of continuing law not changed by the act. The first provision prescribes permissible uses by ODOT of money in the Highway Operating Fund and the second provides that an agreement with another state, a subdivision of another state, or the United States relative to cooperation in the repair, maintenance, or construction of a bridge crossing a stream that forms a boundary line of Ohio cannot obligate Ohio to expend more than the cost of the construction of the portion of the bridge that is located within Ohio and not more than 50% of the maintenance costs of such a bridge, with a maximum annual maintenance obligation for Ohio of \$300,000.

ODOT certificate of qualification for bidders

(R.C. 5525.04)

Most classes of prospective bidders on an ODOT construction project must be prequalified as to their competence, responsibility, compliance with affirmative action programs, and possession of specified financial resources. A prospective bidder who is found to possess the required qualifications is issued a certificate of qualification, which fixes the aggregate amount of work that the applicant may have under construction and uncompleted at any one time and may limit the class of work for which the person may submit bids.

The act provides that an applicant for a certificate of qualification in an amount of \$5 million or more, rather than \$2 million or more as specified in prior law, must submit to the Director of Transportation a financial audit report prepared and attested to by an independent certified public accountant. The act also provides that an applicant for a certificate of qualification in an amount less than \$5 million, rather than



less than \$2 million as specified in prior law, must submit a financial review report to the Director. An audit provides a higher level of assurance than a review as to the fairness of presentation of the financial statements of the prospective bidders.

Agreement between a transportation improvement district and a municipal corporation, county, or township for a project

(R.C. 133.09 and 5540.01; Section 755.20)

The act provides that, until December 31, 2011, a TID and any one or more governmental agencies may enter into an agreement providing for the joint financing, construction, acquisition, or improvement of any "project," which includes a street, highway, parking facility, or freight rail tracks and necessarily related freight rail facilities. Such an agreement must be approved by resolution or ordinance passed by the legislative authority of each of the parties to the agreement. The resolution or ordinance must authorize the execution of the agreement by a designated official or officials of that party, and the agreement, when so approved and executed, takes full force and effect.

Subject to a limiting provision of the act, any municipal corporation, county, or township that is a party to such an agreement may issue securities pursuant to state law to provide for the payment of its portion of the cost of the project and, notwithstanding any other provision of state law, a TID may purchase those securities directly from the municipal corporation, county, or township as an investment or to provide for the payment of bond service charges on bonds issued by a TID. For any project undertaken pursuant to an agreement entered into under these provisions for which a TID purchases such securities, more than half of the property necessary for the project must be located within the territory of the TID.

The act provides that in calculating the net indebtedness of a township, no obligation a township incurs in connection with a project undertaken pursuant to these provisions may be considered. The act also provides that "revenues" of a TID include money it receives under these provisions or under a similar provision that was in effect in 2007.

