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TABLE OF CONTENTS

DEPARTMENT OF TRANSPORTATION 2

Traffic control devices..... 5

 Bicycles 5

 Public transit vehicles..... 7

 Technical changes 7

General management and authority 7

 Written performance improvement plans..... 7

 Procurement authority..... 8

Highway use and obstructions..... 8

 Using or occupying a state road or highway 8

 Abandonment of telecommunications and utility structures..... 9

 Notification of proposed abandonment 9

 Identifying owners of abandoned structures..... 10

 Removing obstructions from state highways..... 10

 Delay costs and expenses..... 11

 Highway rest area unauthorized commercial activity penalty 11

Contracts and bidding..... 11

 Indefinite delivery indefinite quantity (IDIQ) contracts 11

 Chip and fog seal projects 12

 Bidder prequalification..... 13

 Timeline for qualification 13

 Bidding capacity..... 13

 ODOT construction contract adjustments 14

DEPARTMENT OF TAXATION	14
Motor fuel tax allowances and refunds	14

DEPARTMENT OF TRANSPORTATION

Traffic control devices

- Modifies numerous phrases associated with traffic control devices to conform Ohio’s laws to the federal regulations required in the federal Manual on Uniform Traffic Control Devices.
- Expands the types of highway traffic signal indications for pedestrians and vehicles, including bicycles and public transit vehicles.
- Prohibits parking in a bicycle lane.
- Makes numerous conforming and technical changes.

General management and authority

Written performance improvement plans

- Authorizes, rather than requires, the Ohio Department of Transportation (ODOT) to place a career professional service employee on a six-month written performance improvement plan for nonegregious, unsatisfactory performance.
- Requires ODOT to take immediate disciplinary action against a career professional service employee whose conduct is egregious, without giving that employee an opportunity to improve performance by means of a written performance improvement plan.

Procurement authority

- Expands the procurement authority of the Director of Transportation to include services along with supplies and products, thus, aligning it with the Department of Administrative Services’ similar authority on behalf of other state agencies.
- Modernizes the procurement process by eliminating antiquated procedures.

Highway use and obstructions

Using or occupying a state road or highway

- Prohibits any person from knowingly using or occupying a portion of a state highway if the ODOT Director revokes that person’s permit to use or occupy the road or highway.
- Imposes a fine of up to \$500 for a first offense and up to \$2,500 for a subsequent offense.

Abandonment of telecommunications and utility structures

- Requires each telecommunications carrier or utility provider that owns or operates any telecommunications or utility structure occupying a state highway or right-of-way that intends to abandon the structure to submit a notification of proposed abandonment to ODOT.

- Specifies the contents of a notification of proposed abandonment.
- Requires ODOT to investigate and determine the proper course of action regarding the structure included in the notification of proposed abandonment.
- Requires the entity that submitted the notification of proposed abandonment to perform the proper course of action, as determined by ODOT, within one year after the determination at the sole cost of the entity.
- Allows ODOT to adopt rules to carry out the notification of proposed abandonment provisions.
- Prohibits a telecommunications carrier or utility provider from knowingly failing to meet the notification of proposed abandonment requirements or any related rules, and imposes a fine of up to \$100 for each day of violation.
- Requires ODOT to make reasonable attempts to identify the owner of an abandoned telecommunications or utility structure occupying a road, state highway, or right-of-way.
- Directs ODOT to remove the abandoned structure if the reasonable attempts fail to identify the owner, and exempts ODOT from liability for damages based on the removal.

Removing obstructions from state highways

- Exempts the ODOT Director, ODOT, and any agent of ODOT from liability for damages caused by the removal or relocation of obstructions from state highways when the removal or relocation is performed by ODOT.
- Imposes a fine of up to \$100 for each day that a person knowingly fails to remove or relocate an obstruction from a state highway when required to do so.

Delay costs and expenses

- Allows the ODOT Director to require commitments and deadlines from persons, firms, corporations, and political subdivisions in conjunction with any work deemed necessary to carry out various duties of the Director and ODOT.
- Requires any delay costs and expenses incurred by the Director, ODOT, or any agent or consultant of ODOT to be borne by the entity responsible for the delay.
- Requires any delay costs and expenses incurred by ODOT to be certified to the Attorney General for collection by civil action.

Highway rest area unauthorized commercial activity penalty

- Increases the existing fine for violating the law and rules governing the use and control of highway rest areas to \$500 for the first offense and \$2,500 for each subsequent offense from \$100 and \$500 respectively.

Contracts and bidding

Indefinite delivery indefinite quantity (IDIQ) contracts

- Makes permanent the authority of the ODOT Director to enter into indefinite delivery indefinite quantity (IDIQ) contracts.
- For IDIQ contracts, requires the Director to prepare bidding documents, establish contract forms, determine contract terms and conditions, develop and implement an IDIQ process, and establish any policies or procedures necessary to fulfill the Director's duties and obligations related to IDIQ contracts.

Chip and fog seal projects

- Authorizes ODOT to chip seal or fog seal an asphalt surface without using competitive bidding if certain parameters are met.

Bidder prequalification

- Requires a contractor to meet the appropriate bidding capacity and other qualifications necessary to be awarded an ODOT contract at the time the contract is awarded, rather than at the time the bid is submitted for consideration as under current law.
- Requires a contractor, unless otherwise exempted, to submit the required certificate of compliance with affirmative action programs no earlier than 180 days before the contract is awarded, rather than 180 days before the opening of bids as under current law.
- To obtain a certificate of qualification of bidding capacity from ODOT, increases the threshold from \$5 million to \$10 million for determining the format of the financial verifications required from the bidding contractor.

ODOT construction contract adjustments

- Raises the monetary threshold below which the ODOT Director may increase the quantities of any item in a competitively bid construction contract to the lesser of \$200,000 or 10% of the total contract price, rather than the lesser of \$100,000 or 5% of the total contract price as in current law.
- Increases the amount below which a change order or extra work contract is not subject to the monetary thresholds discussed above to \$50,000, rather than \$25,000 as in current law.
- Beginning September 11, 2029, and on September 11 every five years thereafter, requires the Director to evaluate the monetary thresholds described above and adopt rules adjusting those amounts based on the average rate of inflation during each of the previous five years preceding the adjustment.

Traffic control devices

(R.C. 154.01, 717.02, 4501.01, 4511.01, 4511.031, 4511.09, 4511.091, 4511.092, 4511.094, 4511.11, 4511.13, 4511.131, 4511.132, 4511.15, 4511.18, 4511.204, 4511.211, 4511.214, 4511.351, repealed, 4511.432, 4511.46, 4511.48, 4511.491, repealed, 4511.512, 4511.61, 4511.62, 4511.64, 4511.65, 4511.68, 4511.701, 4511.712, 4519.401, 5517.02, and 5571.01)

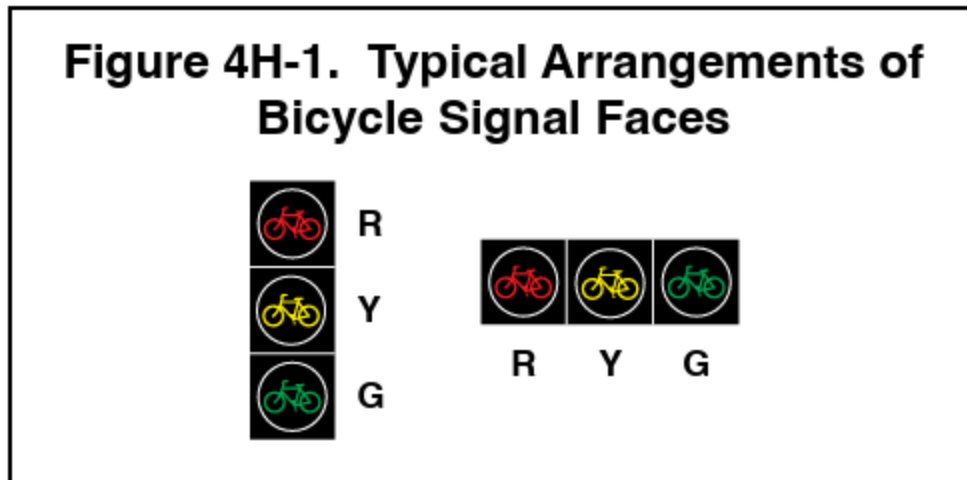
The federal Manual on Uniform Traffic Control Devices (MUTCD) is a compilation of national standards for all traffic control devices, including road markings, highway signs, and traffic signals. The national standards ensure that a stop sign or intersection in Ohio are the same as a stop sign or intersection in Texas, Florida, Wyoming, or any other state. The consistency makes it easy to travel anywhere in the U.S. and know the rules of the road. The Federal Highway Administration adopted updated regulations for the MUTCD, effective January 18, 2024. States have two years from that effective date to update their own standards to comply with the federal changes.¹

The bill modifies numerous phrases in Ohio law associated with traffic control devices to comply with those required updates. A list of the phrases and their new meanings is primarily found in R.C. 4511.01. Many of the changes involve minor changes in phraseology. For example, the term “private road open to public travel” is changed to “site roadway open to public travel,” and the term “private road or driveway” is split into two separate terms, “private road” and “driveway,” each with two separate definitions. The definitions all model those within the federal regulations. While they may impact the technical specifications of how a “crosswalk” or “intersection” is designed, most of them will not impact the average road-user’s understanding of a crosswalk or intersection.

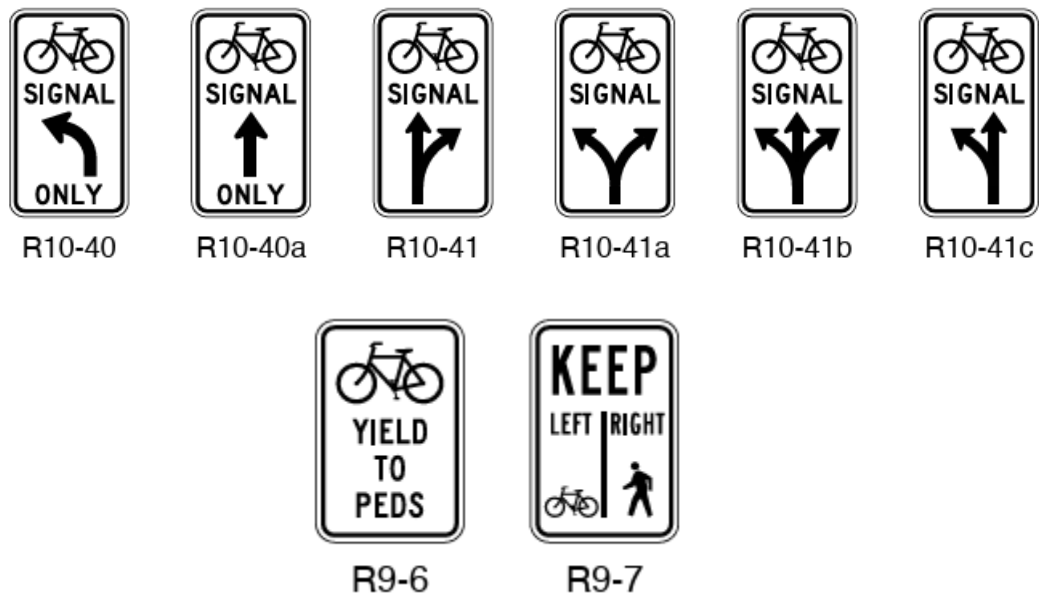
Bicycles

Increases in bicycle traffic, both in cities and suburban areas, have increased the need for traffic control devices that help control the safe movement of bicyclists, especially in relationship to the adjacent motor vehicle traffic. The bill adds numerous terms related to bicycle use alongside and within roadways. It also authorizes the use of bicycle symbol signal indications and specifies their meaning so that local jurisdictions can control the movement of bicyclists in the same manner that a traffic light controls the movement of motor vehicles. The bicycle signal indications of red, yellow, and green are very familiar to most drivers and appear as follows in the MUTCD:

¹ See “Manual on Uniform Traffic Control Devices” at: mutcd.fhwa.dot.gov.



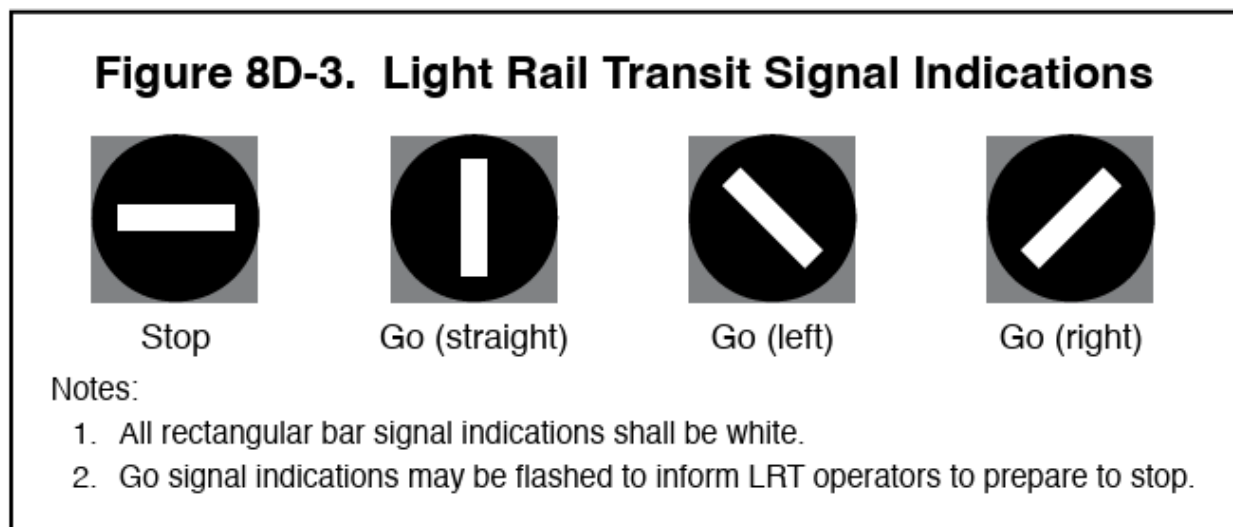
Similarly, the bill authorizes bicycle signal signs to accompany the bicycle signal indications or to be used as part of bicycle facilities (e.g., a bike lane or shared-use path) to govern the movement of bicyclists. The bicycle signal signs are similar to the road signs that direct motor vehicle drivers on when to yield, when U-turns are prohibited, or which lane to use. Examples of some of the bicycle signal signs in the MUTCD are as follows:



Relatedly, the bill prohibits parking in a bicycle lane (to help ensure the lane is generally available to bicyclists), unless necessary to avoid conflict with other traffic, to comply with another traffic law, or to obey the orders of a police officer or other traffic control device. A violation of the prohibition is a minor misdemeanor, with gradually increasing penalties if the offender is guilty of other traffic offenses within the year.

Public transit vehicles

Similar to authorizing new bicycle signal indications, the bill adds provisions to Ohio law governing transit vehicle signal indications. Specifically, these signal indications govern light rail and mass transit system bus traffic when it transitions from a designated busway, lane, or tracks onto a roadway with mixed-use traffic (i.e., motor vehicles, bicycles, other buses, etc.). The transit vehicle signal indications include the following in the MUTCD:



Technical changes

The bill makes numerous technical and conforming changes in the vehicle traffic, equipment, and highway laws to account for the changes in terminology necessary to comply with the updates to the federal regulations.

General management and authority

Written performance improvement plans

(R.C. 5501.20)

Under current law, Ohio Department of Transportation (ODOT) career professional service employees receive a written performance review at least once a year or as often as the Director of Transportation (ODOT Director) considers necessary. If one of these professional employee's performance is unsatisfactory, ODOT must give the person an opportunity to improve his or her performance over the course of at least six months, through a written performance improvement plan, before taking any disciplinary action. Under current law, it is unclear if the six-month improvement period applies even when the person's conduct is dangerous or particularly problematic.

The bill makes the written performance improvement plan discretionary, rather than mandatory. Additionally, it requires ODOT to take immediate disciplinary action, without the six-month improvement period, if the employee's conduct or committed offense is egregious.

Egregious conduct or offenses are those that are especially serious in nature, including theft in office, illegal drug use while working, discrimination or harassment, assault, or other similar conduct or offenses.

Procurement authority

(R.C. 5513.01)

The bill expands the general procurement authority of the ODOT Director to include services along with supplies and products (named as machinery, materials, and other articles under current law). The expansion aligns the Director's authority with the similar authority of the Department of Administrative Services (DAS) for procurement on behalf of other state agencies.² The bill also modernizes the procurement process by doing the following:

- Eliminating antiquated notice procedures that require the Director to post notice of proposed purchases on a bulletin board located at the ODOT offices in Columbus;
- Eliminating bidding procedures that authorize producers and distributors to notify the Director in writing of their products;
- Eliminating the requirement that the Director mail invitations to bidders, and eliminating the authority for the Director to mail copies of bid invitations to news agencies or other similar entities; and
- Authorizing the Director to use the existing DAS electronic procurement system to solicit bids for supplies, products, and services.

Highway use and obstructions

Using or occupying a state road or highway

(R.C. 5515.01 and 5515.99)

Under existing law, the ODOT Director may grant a permit to any individual, firm, or corporation to use or occupy a portion of a road or highway on the state highway system if the use or occupation will not inconvenience the traveling public. This permit is subject to several conditions and may be revoked by the Director at any time for noncompliance with the conditions. Regarding telephone and electric light and power companies, a use or occupation permit is required for poles, wires, conduits, and other equipment comprising lines on or below state highways. The bill prohibits any person from knowingly using or occupying a portion of a state highway if the Director has revoked the person's permit. A court must fine a person who violates the prohibition up to \$100 for each day of violation. Furthermore, the bill requires a telephone or electric light and power company to comply with the bill's structure abandonment procedures (see below) when the entity intends to abandon its telephone or electric light and power lines.

² R.C. 125.01 and 125.073, not in the bill.

Abandonment of telecommunications and utility structures

(R.C. 5515.09, 5515.10, and 5515.99)

Notification of proposed abandonment

The bill requires each telecommunications carrier or utility provider that owns or operates any telecommunications or utility structure in, on, under, or otherwise occupying a state highway or right-of-way and that decides to abandon its structure to submit a notification of proposed abandonment to ODOT. The notification of proposed abandonment must be submitted within 30 days after making the abandonment decision and must include all the following:

- The exact location of all telecommunications or utility structures intended to be abandoned;
- If the structure was used to transport any liquid, semi-solid, or gaseous material, any records, permits, inspections, analyses, determinations, and other information pertaining to the contents of all material that has ever flowed through or otherwise occupied the structure; and
- Whether the telecommunications carrier or utility provider intends to remove the structure, or whether the carrier's or provider's research can clearly show that the cost of removal would far exceed the public benefit.

ODOT must investigate and determine the proper course of action for the telecommunications or utility structure described in the notification of proposed abandonment within 90 days after receiving the notification. ODOT can determine any or a combination of the following to be a proper course of action for the carrier or provider to take:

1. Removal of the structure, including any poles, manholes, pull boxes, or other facilities or equipment;
2. Remediation of any contamination or hazard;
3. Purging, backfilling, capping, or sealing any line or pipe;
4. Crushing in place of any line or pipe;
5. Placing the structure out of service, including marking it as abandoned, maintaining ownership records for future identification and location, and entering into an agreement with ODOT to cover any and all future liabilities and obligations (which may include filling or removing); and
6. Any other action ODOT determines.

The telecommunications carrier or utility provider that submitted the notification of proposed abandonment must perform the proper course of action determined by ODOT at the sole cost of the carrier or provider and within one year after the course of action determination.

ODOT may adopt rules as it determines necessary to carry out the bill's notification of proposed abandonment provisions.

A telecommunications carrier or utility provider is prohibited from knowingly failing to meet the notification of proposed abandonment requirements, or any related rules. A carrier or provider that violates this prohibition is subject to a fine of up to \$100 for each day of violation.

Under the bill, a “telecommunications carrier” is defined under both state and federal law as any provider of telecommunications services, excluding aggregators of telecommunications services. “Utility provider” is defined as an entity listed under the existing public utility company definition law (e.g., an electric light company, natural gas company, or water-works company) regardless of whether the entity is subject to regulation by the Public Utilities Commission (PUCO). The bill defines “telecommunications or utility structure” as any facility, line, pipe, cable, or other equipment used by a telecommunications carrier or utility provider to provide service. “Abandon” excludes a change of ownership of the telecommunications or utility structure.³

Identifying owners of abandoned structures

Under the bill, ODOT must make reasonable attempts to identify the owner of an abandoned telecommunications or utility structure in, on, under, or otherwise occupying a state highway or right-of-way. If all reasonable attempts to identify the owner have failed, ODOT must remove or cause the removal of the abandoned structure. ODOT is not liable for any claims for damages based on this removal.

Removing obstructions from state highways

(R.C. 5515.02 and 5515.99)

Current law generally requires all individuals, firms, and corporations using or occupying any part of a state highway with any object or structure to remove or relocate the object or structure when the ODOT Director believes that it constitutes an obstruction or interferes with or may interfere with various improvements or uses of the highway. The Director must notify and direct the entity using or occupying the road or highway to remove or relocate the obstruction. If the entity does not do so within five days of service of the notice, the Director may remove or relocate the obstruction. If the Director determines that the obstruction presents an immediate and serious threat to the safety of the traveling public, the Director may remove or relocate the obstruction without prior notice. The costs and expenses when ODOT removes or relocates the obstruction are paid out of ODOT’s highway appropriations, with these cost and expense amounts then certified to the Attorney General (AG) for collection by civil action.

The bill adds that the ODOT Director, ODOT, and any agents of ODOT are not liable for damages due to removing or relocating obstructions. Further, the bill provides that a person who knowingly fails to remove or relocate an obstruction from a state highway when required to do so is subject to a fine of up to \$100 for each day that the person remains in violation.

³ R.C. 4905.02, 4905.03, and 4927.01, not in the bill; 47 United States Code 153.

Delay costs and expenses

(R.C. 5515.02 and 5517.06)

The bill authorizes the ODOT Director to require commitments and deadlines from persons, firms, corporations, and political subdivisions in conjunction with any work deemed necessary to carry out various duties of the Director and ODOT. Any delay costs and expenses incurred by the Director, ODOT, or any agent or consultant of ODOT due to the commitments and deadlines not being followed are required to be borne by the entity responsible for the delay. The delay costs and expenses must be certified to the AG for collection by civil action.

“Delay costs and expenses” means all actual costs, including any contract modifications, acceleration agreements, wages, labor costs other than wages, wage taxes, materials, equipment costs and rentals, storage costs of materials and equipment, insurance, and subcontracts attributable to the delay, plus a reasonable sum for overhead.

Highway rest area unauthorized commercial activity penalty

(R.C. 5515.99)

Current law requires the ODOT Director to adopt rules governing the use and control of highway rest areas and other areas within the right-of-way of interstate highways. Additionally, under that law, a person is generally prohibited from selling or offering for sale or exhibiting for sale, goods, products, merchandise, or services within the bounds of a highway rest area without a permit or other prior authorization.⁴

The bill increases the fine for violating the above rules or commercial activity prohibition to up to \$500 for a first offense and up to \$2,500 for a subsequent offense from up to \$100 and \$500 respectively as under current law.

Contracts and bidding

Indefinite delivery indefinite quantity (IDIQ) contracts

(R.C. 5517.012)

The bill permanently authorizes the ODOT Director to enter into IDIQ contracts for highway maintenance. An IDIQ contract is a contract for an indefinite quantity, within stated limits, of supplies or services that will be delivered by the awarded bidder over a defined contract period. Under existing law, the Director is given IDIQ contract authority on a biennial basis for up to two projects each fiscal year. The current expiration date of similar authority is June 30, 2025.⁵

Under the bill, when entering into IDIQ contracts, the Director must prepare bidding documents, establish contract forms, and determine the contract terms and conditions. The terms and conditions must include the following:

⁴ R.C. 5515.07, not in the bill.

⁵ See, for example, [Section 203.100](#) of H.B. 23 of the 135th General Assembly, which may be found on the General Assembly’s website at: legislature.ohio.gov.

1. The maximum overall value of an IDIQ contract, which cannot exceed \$2 million, except for an allowance for an increase of \$100,000 or 5% of the contract value, whichever is less (current law does not include a specific maximum value limitation for IDIQ contracts);
2. The total dollar value of all IDIQ contracts per fiscal year, which must not exceed \$100 million per fiscal year (current law does not have this restriction);
3. The term of the contract, which may not exceed two years, with an allowance for a one-year extension (current law does not include a specific time limitation on IDIQ contracts); and
4. The defined geographical area to which the contract applies, which cannot exceed the size of one ODOT district, unless otherwise approved by the Director (current law does not allow the Director to approve deviations from the geographical limitation).

The bill additionally requires the Director to advertise and seek bids, award the contract to the successful bidder, and develop and implement an IDIQ process to provide the awarded bidder adequate notice of requested supplies or services, the anticipated quantities of supplies, and work location information for each work order. Furthermore, the Director must establish any policies or procedures necessary to fulfill the Director's duties and obligations related to IDIQ contracts.

The bill applies general ODOT bidding requirements to IDIQ contracts, which include advertising requirements, bid guarantees, and conditions for the awarding or rejecting of bids. However, the bill exempts IDIQ contracts from current law governing written change orders.⁶

Chip and fog seal projects

(R.C. 5517.021)

The bill authorizes ODOT to chip seal or fog seal an asphalt surface without using competitive bidding for the project if both of the following apply:

1. The operation is 28 feet in width or less, excluding turn lanes; and
2. ODOT's overall operations statewide do not exceed 200 cumulative centerline miles of chip seal or fog seal projects annually.

Under current law, ODOT generally must use competitive bidding for its highway and bridge projects, unless the project falls beneath certain force account thresholds or the scope of the project is less than the statutory specifications. For example, ODOT may pave or patch an asphalt surface if the operation does not exceed 120 tons of asphalt per lane-mile of roadway length and the cost does not exceed the force account limits.

⁶ R.C. 5525.01 and 5521.14, not in the bill.

Bidder prequalification

(R.C. 5535.03, 5525.04, and 5525.08)

Under current law, contractors interested in bidding on highway, bridge, and similar construction contracts awarded by ODOT can apply for a certificate of qualification in advance of bidding on the specific projects. The certificate of qualification provides an opportunity to pre-check the contractor's qualifications (including compliance with affirmative action programs, financial worth, and current liabilities) and establish what types of projects the contractor could reasonably qualify for over the course of the next year. The bidder prequalification process saves both ODOT and the contractors time and money by knowing in advance what contracts might reasonably be awarded to which bidders.

Timeline for qualification

The bill modifies the time by which a contractor must meet the appropriate bidding capacity and other qualifications. Specifically, under current law, a contractor must submit a certificate of compliance demonstrating that the contractor complies with federal and state affirmative action programs⁷ up to 180 days before the opening of bids and must meet the bidding capacity and several other qualifications related to the project at the time that the bids are submitted for consideration.

The bill instead requires contractors to submit the affirmative action certificate of compliance up to 180 days before the contract award date and meet the bidding capacity and other qualifications at the time that the contract is awarded. A bidder's financial qualification for a contract is partially determined by the bidder's bidding capacity minus the bidder's pending work. Thus, the modification gives bidders extra time to finalize current projects, free up assets, or take any other steps necessary to meet the qualifications required for the bid.

Bidding capacity

A contractor's "bidding capacity" is the value of work (in the aggregate) that a contractor is allowed to bid on, based on that contractor's assets and capital. Thus, a contractor with a bidding capacity of \$20 million may bid on a single project up to that total value or multiple projects that together add up to that total value.

The bill increases the threshold from \$5 million to \$10 million for determining the form of the financial review that is necessary as part of the contractor's application for a certificate of qualification. Specifically, a contractor must submit either:

1. A financial review (for contractors with a bidding capacity less than the threshold); or
2. A financial audit prepared and attested as correct by an independent certified public accountant (for contractors with a bidding capacity at or greater than the threshold).

The ODOT Director cannot award a contract to a bidder unless the Director believes the bidder possesses net current assets or working capital that is sufficient to satisfactorily execute

⁷ R.C. 9.47, not in the bill.

its current contracts and all contractual obligations. Additionally, the aggregate work in a certificate of qualification cannot exceed ten times the bidder's net current assets or working capital. Thus, for example, a contractor with current net assets of \$600,000 could only receive a certificate of qualification for up to \$6 million in bidding capacity. Under current law, that contractor would need to submit a financial audit as part of the prequalification process. Under the bill, however, that contractor could submit a financial review instead.

ODOT construction contract adjustments

(R.C. 5525.14 and 5525.141)

Existing law allows the ODOT Director, without utilizing competitive bidding, to increase the quantities of any item specified or not specified in a competitively bid construction contract, provided that the increase does not exceed the statutory monetary threshold. The bill raises this monetary threshold to the lesser of \$200,000 or 10% of the total contract price, up from the lesser of \$100,000 or 5% of the total contract price as under current law.

But, under continuing law, the monetary threshold described above does not apply for change orders or extra work contracts if certain conditions are met. One of those conditions is if the total dollar increase for the change orders or extra work contracts are below \$25,000. The bill increases this total dollar amount to below \$50,000.

Beginning September 11, 2029, and on September 11 every five years thereafter, the bill requires the Director to evaluate the monetary thresholds described above and adjust the threshold amounts based on the average rate of inflation during each of the previous five years preceding the adjustment.

DEPARTMENT OF TAXATION

Motor fuel tax allowances and refunds

- Continues the 1% fuel dealer and 0.5% retailer shrinkage allowances in effect biennially since 2008, superseding the 3% and 1% allowances in permanent codified law.

Motor fuel tax allowances and refunds

(Section 757.20)

Since FY 2008, each motor fuel dealer that properly files and pays monthly motor fuel excise taxes may deduct from the payment the tax otherwise due on 1% of the fuel the dealer received, minus 0.5% of the fuel sold to retail dealers.⁸ This allowance is to cover the costs of filing the report and to compensate for evaporation, shrinkage, and other "unaccounted for"

⁸ Section 757.20 of H.B. 23 of the 135th General Assembly.

losses. Under permanent codified law, however, the percentages are 3% and 1%, respectively.⁹ But each of the last nine transportation appropriation acts reduced the 3% discount to 1% (minus 0.5% of fuel sold to retail dealers). The bill continues the allowance at the reduced 1% level throughout the FY 2026-2027 biennium.

Retail fuel dealers who have purchased fuel on which the excise tax has been paid may receive a refund to account for evaporation and shrinkage.¹⁰ In permanent codified law, the refund equals 1% of the taxes paid on the fuel each semiannual period. But, as with the dealer shrinkage allowance, the retailer refund has been reduced to 0.5% for each fiscal year from 2008 through 2025 by uncodified provisions in the last nine transportation appropriation acts. The bill continues the reduced percentage at this level through the FY 2026-2027 biennium.

HISTORY

Action	Date
Introduced	02-04-25

anhb0054in-136/ks

⁹ R.C. 5735.06(B)(1)(c), not in the bill.

¹⁰ R.C. 5735.141, not in the bill.