

STATE OF OHIO STATUTE GOVERNING REGIONAL TRANSPORTATION IMPROVEMENT PROJECTS

[Provisions added by 130th General Assembly File No. TBD, HB 494, 51, eff. 3/23/2015.]

Chapter 5595: REGIONAL TRANSPORTATION IMPROVEMENT PROJECTS

5595.01 Definitions.

As used in this chapter:

(A) “Regional transportation improvement project” or “project” means a regional transportation improvement project undertaken pursuant to section 5595.02 of the Revised Code.

(B) “Transportation improvement” or “improvement” means the construction, repair, maintenance, or expansion of streets, highways, parking facilities, rail tracks and necessarily related rail facilities, bridges, tunnels, overpasses, underpasses, interchanges, approaches, culverts, and other means of transportation, and the erection and maintenance of traffic signs, markers, lights, and signals.

Added by 130th General Assembly File No. TBD, HB 494, 51, eff. 3/23/2015.

5595.02 Regional transportation improvement projects.

(A) The boards of county commissioners of two or more counties may undertake a regional transportation improvement project for the purpose of completing transportation improvements within the territory of the counties. The project shall be administered by a governing board in accordance with a cooperative agreement.

(B) The cooperative agreement shall provide for the creation of a governing board consisting of one county commissioner from each county that is a party to the agreement or a designee appointed by the board of county commissioners of the county for the purpose of serving on the governing board, and the county engineer of each such county or a designee appointed by the county engineer for the purpose of serving on the governing board. Membership on the board is not a direct or indirect interest in a contract or expenditure of money by the county. The board is a public body for the purposes of section 121.22 of the Revised Code and a public office for the purposes of section 149.43 of the Revised Code. Chapter 2744. of the Revised Code applies to the board.

(C) The governing board of a regional transportation improvement project is a body both corporate and politic, and the exercise by it of the powers conferred by this chapter in the financing, construction, maintenance, repair, and operation of transportation improvements are essential governmental functions.

(D) A board of county commissioners, in accordance with the cooperative agreement, may make appropriations to pay costs incurred by the governing board in the exercise of its functions under this chapter so long as such costs are approved by the director of transportation under section 5595.12 of the Revised Code.

5595.03 Resolution by board.

(A) A resolution of a board of county commissioners undertaking a regional transportation improvement project must include a cooperative agreement containing all of the following:

- (1) A description or analysis of the deficiencies of the existing transportation system in the counties participating in the project and of projected needs or deficiencies of the system in ensuing years under reasonable assumptions about development, population trends, and other factors affecting transportation infrastructure in the counties;
- (2) A comprehensive list of the transportation improvements to be completed as part of the project, including a general description of each improvement, schedules of the projected beginning and end of each improvement, and the estimated cost of each improvement;
- (3) Directives regarding the operations and reporting requirements of the governing board;
- (4) The number of years the agreement is to be in effect;
- (5) Any other terms the board of county commissioners considers necessary or conducive to communicate the intentions of the cooperative agreement and to ensure its effective implementation by the governing board.

(B) A board of county commissioners that intends to undertake a regional transportation improvement project shall hold at least one public hearing on the proposed cooperative agreement before adopting a resolution approving the agreement. The board of county commissioners shall provide at least thirty days' public notice of the time and place of the public hearing in a newspaper of general circulation in the county. During the thirty-day period before the public hearing, the proposed cooperative agreement shall be made available for public inspection at the offices of each county that will be a party to the agreement.

(C) If the cooperative agreement is approved by each county that will be a party to the agreement, one of the participating counties shall send a copy of the agreement to the director of transportation. The director shall evaluate the agreement and determine if the transportation improvements specified in the agreement are in the best interest of the transportation facilities of this state, as defined in section 5501.01 of the Revised Code. If the director approves the agreement, the director shall send notice of approval to each county that is a party to the agreement. Unless otherwise provided in the cooperative agreement, the agreement is effective immediately upon approval by the director. If the director does not approve the agreement, the director shall send notice of denial to each county that is a party to the agreement. The notice of denial shall include the reason or reasons for the denial and recommendations for ways in which the agreement may be changed to meet the approval of the director. If the director does not make a determination within ninety days after receiving a cooperative agreement under this section, the director is deemed to have approved the agreement and, unless otherwise provided in the agreement, the agreement is effective immediately. No cooperative agreement is effective without actual or constructive approval by the director under this section.

(D) The cooperative agreement governing a regional transportation improvement project may be amended at any time by majority vote of the governing board and of the boards of county commissioners of each of the participating counties and with the approval of the director of transportation obtained in the same manner as approval of the original agreement.

5595.04 Powers of governing board.

The governing board of a regional transportation improvement project may do any of the following:

- (A) Make and enter into all contracts and agreements necessary or incidental to the performance of its functions and the execution of its powers under this chapter and in accordance with the cooperative agreement. The procuring of goods and awarding of contracts with a cost in excess of fifty thousand dollars shall be done in accordance with the competitive bidding procedures established for boards of county commissioners by sections 307.86 to 307.91 of the Revised Code.
- (B) Sue and be sued in its own name, plead and be impleaded, provided any actions against the governing board or the regional transportation improvement project shall be brought in the court of common pleas of a county that is a party to the cooperative agreement or in the court of common pleas of the county in which the cause of action arose, and all summonses, exceptions, and notices shall be served on the governing board by leaving a copy thereof at its principal office with a member of the governing board or an employee or agent thereof;
- (C) Employ or retain persons as are necessary in the judgment of the governing board to carry out the project, and fix their compensation;
- (D) Acquire by purchase, lease, lease-purchase, lease with option to purchase, or otherwise any property necessary, convenient, or proper for the construction, maintenance, repair, or operation of one or more transportation improvements. The governing board may pledge net revenues, to the extent permitted by this chapter with respect to bonds, to secure payments to be paid by the governing board under such a lease, lease-purchase agreement, or lease with option to purchase. Title to real and personal property shall be held in the name of the governing board. The governing board is not authorized to acquire property by appropriation.
- (E) Issue securities to pay for the costs of transportation improvements pursuant to section 5595.05 of the Revised Code.

5595.05 Issuance of securities.

The governing board of a regional transportation improvement project may provide for the issuance of securities for the purpose of paying costs of transportation improvements. The securities are Chapter 133. securities, and the issuance of the securities, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties, and obligations of the governing board in respect to the securities is governed by the applicable bond proceedings, section 133.22 or 133.23, and other applicable sections of Chapter 133. of the Revised Code, notwithstanding that the transportation improvements may result in permanent improvements for more than one purpose under that chapter.

Such securities do not constitute a debt or a pledge of the faith and credit of the state or of any political subdivision of the state. Debt charges on outstanding securities are payable solely from revenues pledged to the regional transportation improvement project pursuant to section 5595.06 of the Revised Code. All securities shall contain on their face a statement to that effect. Sections 9.98 to 9.983 of the Revised Code apply to the securities.

5595.06 Pledges.

(A) The governing board of a regional transportation improvement project, pursuant to the cooperative agreement, may request and receive pledges of revenue from the state, the counties that are parties to the agreement, and any political subdivision or taxing unit located within any of those counties. Except as provided in division (B) of this section, the pledged revenues shall be used solely for the purpose of funding the transportation improvements prescribed by the cooperative agreement, the debt charges on any securities issued by the governing board under section 5595.05 of the Revised Code, and the expenses of the governing board. The state, the counties, and any political subdivision or taxing unit located within such a county may pledge revenue to the governing board from any of the following sources:

- (1) The general revenue fund of the state;
- (2) License tax revenue derived from an annual motor vehicle license tax imposed pursuant to section 4504.22 of the Revised Code;
- (3) Payments in lieu of taxes derived under section 5709.42, 5709.74, or 5709.79 of the Revised Code if the real property for which such payments are made will benefit from the proposed transportation improvements;
- (4) Income tax revenue derived from a joint economic development district or joint economic development zone established pursuant to section 715.69, 715.691, 715.70, 715.71, or 715.72 of the Revised Code if the district or zone will benefit from the proposed transportation improvements;
- (5) Revenue derived from special assessments levied in a special improvement district created under Chapter 1710. of the Revised Code if the district will benefit from the proposed transportation improvements;
- (6) Revenue from an income source of a new community district established pursuant to section 349.03 of the Revised Code if the district will benefit from the proposed transportation improvements.

(B) The governing board shall use license tax revenue pledged to the project under division (A)(2) of this section for the purpose of funding transportation improvements described in the cooperative agreement and any other supplemental transportation improvements necessary to complete the project. If the board intends to use any of the license tax revenue for supplemental improvements not described in the agreement, the board, before submitting a request for license tax revenue to a board of county commissioners under section 4504.22 of the Revised Code, shall adopt a resolution allocating the revenue among the improvements described in the agreement and such supplemental improvements not described in the agreement. The amount used for supplemental improvements may not exceed five dollars for each motor vehicle on which the motor vehicle license tax is collected. If the motor vehicle license tax is approved, the governing board shall allocate the revenue only in accordance with the resolution. The allocation may not be changed unless a proposition to change the allocation is approved by the majority of electors voting on the proposition in each county that is a party to the cooperative agreement. Such a proposition may be proposed by resolution of the governing board certified to the board of county commissioners of each county, and, upon receiving such a certified resolution, each board of county commissioners shall certify identical resolutions to

the respective county board of elections for placement on the questions and issues ballot at the next succeeding election occurring at least ninety days after the resolution is certified to the board of elections.

Amended by 131st General Assembly File No. TBD, HB 182, 51, eff. 9/13/2016.

5595.07 Request for assistance from department of transportation.

The governing board of a regional transportation improvement project may submit a written request to the director of transportation for the assistance of the department of transportation in any or all aspects, components, or phases of that project. Upon receipt of such a request, the director may require the board to submit documentation to substantiate that the board has sufficient resources to fund the board's share of the project. If the director determines that the board has sufficient resources, the director may make available to the board resources of the department, including funding or equipment, as may be necessary to fulfill the request. The director, in the director's discretion, may elect to assign any or all of any post-construction management responsibilities for the project back to the governing board.

The governing board shall pay all expenses the department incurs in fulfilling the request for assistance other than those expenses the director agrees will be covered by the department. The board's share of expenses may be paid from the proceeds of bonds issued by the governing board under this section.

5595.08 Disposition of funds.

All money, funds, properties, and assets acquired by the governing board of a regional transportation improvement project under this chapter, whether as proceeds from the sale of securities, as revenues, or otherwise, shall be held by it in trust for the purpose of carrying out its powers and duties, shall be used and reused as provided in this chapter, and shall at no time be part of other public funds. Such funds, except as otherwise provided in bond proceedings or in any trust agreement securing such securities, or except when invested pursuant to section 5595.09 of the Revised Code, shall be kept in depositories selected by the governing board in the manner provided in Chapter 135. of the Revised Code for the selection of eligible public depositories, and the deposits shall be secured as provided in that chapter. Bond proceedings or the trust agreement securing securities shall provide that any officer to whom, or any bank or trust company to which, such money is paid shall act as trustee of the money and hold and apply the money for the purposes for which the securities are issued, subject to such conditions as Chapter 133. or 135. of the Revised Code and such proceedings or trust agreement provide.

5595.09 Investment.

Except as otherwise provided in any bond proceedings or in any trust agreement securing securities, money in the funds of the governing board of a regional transportation improvement project in excess of current needs may be invested as permitted by sections 135.01 to 135.21 of the Revised Code. Income from all investments of moneys in any fund shall be credited to funds as the governing board determines, subject to the provisions of any such proceedings or trust agreement, and the investments may be sold at any time the governing board determines.

5595.10 Fiscal officer.

The county auditor of the county with the greatest population, according to the most recent federal decennial census, that is a party to the cooperative agreement shall be the fiscal officer for the governing board of the project. The county prosecutor of the county with the greatest population, according to the most recent federal decennial census, that is participating in the project shall be the legal advisor of the governing board of the project and shall prosecute and defend all suits and actions that the governing board directs or to which it is a party.

5595.11 Taxation.

The exercise of the powers granted by this chapter is in all respects for the benefit of the people of the state, for the increase of their commerce and prosperity, and for the improvement of their health and living conditions, and, as the completion of transportation improvements by a regional transportation improvement project constitute the performance of essential governmental functions, neither the project nor the governing board may be required to pay any state or local taxes or assessments upon any improvement, or upon revenue or any property acquired or used by the governing board of the project under this chapter, or upon the income therefrom. The securities issued under this chapter, their transfer, and the income therefrom, including any profit made on the sale thereof, shall at all times be free from taxation within the state.

5595.12 Administrative Expenses.

The governing board of a regional transportation improvement project shall not use any amount pledged or allocated to the board under this chapter for administrative expenses of the board without prior approval of the director of transportation. The director may approve expenses individually by line item or may approve an aggregate amount to be allocated for administrative expenses over a period of time not exceeding twelve months. The director may prescribe rules pursuant to Chapter 119. of the Revised Code necessary to implement this section.

5595.13 Dissolution.

Upon completion of the transportation improvements listed in the cooperative agreement, fulfillment of all contractual duties assumed by the governing board, and repayment of all bonds issued by the governing board, the regional transportation improvement project and the governing board shall dissolve by operation of law. Upon dissolution of the regional transportation improvement project, the boards of county commissioners that created the regional transportation improvement project shall assume title to all real and personal property acquired by the board in the fulfillment of its duties under this chapter. The property shall be divided and distributed in accordance with the cooperative agreement. Unless otherwise provided by contract, pledges of revenue to the governing board from the state or a political subdivision or taxing unit shall terminate by operation of law upon the dissolution of the regional transportation improvement project.