

As Introduced

133rd General Assembly

Regular Session

2019-2020

H. B. No. 795

Representatives Stephens, Baldrige

A BILL

To amend sections 4511.11, 5501.31, 5501.42, 1
5521.01, and 5521.011; to amend, for the purpose 2
of adopting a new section number as indicated in 3
parentheses, section 5521.011 (5521.012); and to 4
enact new section 5521.011 of the Revised Code 5
to clarify and amend the laws related to the 6
Director of Transportation's responsibilities 7
for state highways located in villages and 8
cities. 9

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 4511.11, 5501.31, 5501.42, 10
5521.01, and 5521.011 be amended; section 5521.011 (5521.012) be 11
amended for the purpose of adopting a new section number as 12
indicated in parentheses; and new section 5521.011 of the 13
Revised Code be enacted to read as follows: 14

Sec. 4511.11. (A) ~~Local~~ Except as provided in division (C) 15
of this section, local authorities in their respective 16
jurisdictions shall place and maintain traffic control devices 17
in accordance with the department of transportation manual for a 18
uniform system of traffic control devices, adopted under section 19

4511.09 of the Revised Code, upon highways under their 20
jurisdiction as are necessary to indicate and to carry out 21
sections 4511.01 to 4511.76 and 4511.99 of the Revised Code, 22
local traffic ordinances, or to regulate, warn, or guide 23
traffic. 24

(B) The director of transportation may require to be 25
removed any traffic control device that does not conform to the 26
manual for a uniform system of traffic control devices on the 27
extensions of the state highway system within municipal 28
corporations. 29

(C) The director shall place and maintain any traffic 30
control signal upon an extension of a state highway within a 31
village. No village shall place or maintain any traffic control 32
signal upon an extension of the state highway system within the 33
village without first obtaining the permission of the director. 34
The director may revoke the permission and may require to be 35
removed any traffic control signal that has been erected without 36
the director's permission on an extension of a state highway 37
within a village, or that, if erected under a permit granted by 38
the director, does not conform to the state manual, or that is 39
not operated in accordance with the terms of the permit. 40

(D) All traffic control devices erected on any street, 41
highway, alley, bikeway, or private road open to public travel 42
shall conform to the state manual. 43

(E) No person, firm, or corporation shall sell or offer 44
for sale to local authorities any traffic control device that 45
does not conform to the state manual, except by permission of 46
the director. 47

(F) No local authority shall purchase or manufacture any 48

traffic control device that does not conform to the state 49
manual, except by permission of the director. 50

(G) Whoever violates division (E) of this section is 51
guilty of a misdemeanor of the third degree. 52

Sec. 5501.31. (A) The director of transportation shall 53
have general supervision of all roads comprising the state 54
highway system. The director may ~~alter~~ do any of the following: 55

(1) Alter, widen, straighten, realign, relocate, 56
establish, construct, reconstruct, improve, maintain, repair, 57
and preserve any road or highway on the state highway system, ~~—~~ 58
~~and, in;~~ 59

(2) In connection therewith with the state highway system, 60
relocate, alter, widen, deepen, clean out, or straighten the 61
channel of any watercourse as the director considers necessary, ~~—~~ 62
~~and purchase;~~ 63

(3) Purchase or appropriate property for the disposal of 64
surplus materials or borrow pits, ~~and, where;~~ 65

(4) Where an established road has been relocated, 66
establish, construct, and maintain such connecting roads between 67
the old and new location as will provide reasonable access 68
thereto. 69

(B) (1) The director may purchase or appropriate property 70
necessary for any of the following: 71

(a) The location or construction of any culvert, bridge, 72
or viaduct, or the approaches thereto, ~~including any property~~ 73
~~needed to;~~ 74

(b) To extend, widen, or alter any feeder or outlet road, 75
street, or way adjacent to or under the bridge or viaduct when 76

~~the extension, widening, or alteration of the feeder road, street, or way is necessary for the full utilization of the bridge or viaduct, or for any;~~ 77
78
79

(c) The location or construction of any other highway 80
improvement. ~~The~~ 81

(2) Incident to any highway improvement that the director 82
is or may be authorized to locate or construct, the director may 83
purchase or appropriate, ~~for such length of time as is necessary~~ 84
~~and desirable,~~ any additional property required for the 85
construction and maintenance of slopes, detour roads, sewers, 86
roadside parks, rest areas, recreational park areas, park and 87
ride facilities, ~~and~~ park and carpool or vanpool facilities, 88
scenic view areas, drainage systems, or land to replace 89
~~wetlands, incident to any highway improvement, that the director~~ 90
~~is or may be authorized to locate or construct. Also incident~~ 91

(3) Incident to any authorized highway improvement, the 92
director may purchase property from a willing seller ~~as required~~ 93
~~for the either of the following:~~ 94

(a) The construction and maintenance of bikeways and 95
bicycle paths ~~or to;~~ 96

(b) To replace, preserve, or conserve any environmental 97
resource if the replacement, preservation, or conservation is 98
required by state or federal law. 99

(C) Title to property purchased or appropriated by the 100
director shall be taken in the name of the state either in fee 101
simple or in any lesser estate or interest that the director 102
considers necessary or proper, ~~in~~. The title shall be in 103
accordance with forms to be prescribed by the attorney general. 104
The deed shall contain a description of the property and be 105

recorded in the county where the property is situated ~~and, when~~ 106
. When recorded, the deed shall be kept on file in the 107
department of transportation. The property may be described by 108
metes and bounds or by the department of transportation parcel 109
number as shown on a right of way plan recorded in the county 110
where the property is located. 111

~~Provided that when property, other than property used by a~~ 112
~~railroad for operating purposes, is acquired in connection with~~ 113
~~improvements involving projects affecting railroads wherein the~~ 114
~~department is obligated to acquire property under grade~~ 115
~~separation statutes, or on other improvements wherein the~~ 116
~~department is obligated to acquire lands under agreements with~~ 117
~~railroads, or with a public utility, political subdivision,~~ 118
~~public corporation, or private corporation owning transportation~~ 119
~~facilities for the readjustment, relocation, or improvement of~~ 120
~~their facilities,~~ (D) (1) The director may acquire a fee simple 121
title or an easement may be acquired in property by purchase or 122
appropriation in the name of ~~the~~ a railroad, public utility, 123
political subdivision, public corporation, or private 124
corporation ~~in the discretion of the director~~ for any of the 125
following purposes: 126

(a) Improvements for projects affecting railroads when the 127
department is obligated to acquire the property under grade 128
separation statutes; 129

(b) Improvements when the department is obligated to 130
acquire the property under agreements with railroads; 131

(c) The readjustment, relocation or improvement of 132
transportation facilities owned by the railroad, public utility, 133
political subdivision, public corporation, or private 134
corporation. ~~When~~ 135

~~(2) When the title to lands, which are required to adjust,~~ 136
~~relocate, or improve such facilities pursuant to agreements with~~ 137
~~the director, property~~ is taken in the name of the state under 138
division (D)(1) of this section, then, in the discretion of the 139
director, the title to such ~~lands~~ property may be conveyed to 140
the railroad, public utility, political subdivision, or public 141
corporation for which ~~they were~~ it was acquired. The conveyance 142
shall be prepared by the attorney general and executed by the 143
governor and bear the great seal of the state of Ohio. 144

(3) Division (D) of this section does not apply to 145
property used by a railroad for operating purposes. 146

(E) The director, in the maintenance or repair of state 147
highways, is not limited to the use of the materials with which 148
the highways, including the bridges and culverts thereon, were 149
originally constructed, but may use any material that is proper 150
or suitable. The director may aid any board of county 151
commissioners in establishing, creating, and repairing suitable 152
systems of drainage for all highways within the jurisdiction or 153
control of the board ~~and~~. The director may advise with it the 154
board and the county engineer as to the establishment, 155
construction, improvement, maintenance, and repair of the 156
highways. 157

(F) Chapters 4561., 5501., 5503., 5511., 5513., 5515., 158
5516., 5517., 5519., 5521., 5523., 5525., 5527., 5528., 5529., 159
5531., 5533., and 5535. of the Revised Code do not prohibit the 160
federal government, any government agency, or any individual or 161
corporation, from contributing a portion of the cost of the 162
establishment, construction, reconstruction, relocating, 163
widening, resurfacing, maintenance, and repair of the highways 164
or transportation facilities. 165

~~Except in the case of maintaining, repairing, erecting~~ 166
~~traffic signs on, or pavement marking of state highways within~~ 167
~~villages, which is mandatory as required by section 5521.01 of~~ 168
~~the Revised Code, and except as provided in section 5501.49 of~~ 169
~~the Revised Code, no duty of constructing, reconstructing,~~ 170
~~widening, resurfacing, maintaining, or repairing state highways~~ 171
~~within municipal corporations, or the culverts thereon, shall~~ 172
~~attach to or rest upon the director, but the director may~~ 173
~~construct, reconstruct, widen, resurface, maintain, and repair~~ 174
~~the same with or without the cooperation of any municipal~~ 175
~~corporation, or with or without the cooperation of boards of~~ 176
~~county commissioners upon each municipal corporation consenting~~ 177
~~thereto.~~ 178

Sec. 5501.42. (A) The director of transportation shall 179
have supervision and control of all trees and shrubs within the 180
limits of a state highway. The department of agriculture or 181
other proper department may, with the consent of the director of 182
transportation, take charge of the care of such trees, and such 183
department, in the event it takes charge of such trees, may, 184
with the consent of the director of transportation, plant 185
additional trees within the limits of a state highway. The cost 186
and expense of caring for or planting such trees may be paid out 187
of any funds available to the director or for the development of 188
forestry of the state. 189

~~The (B) (1) Except as provided under division (B) (2) of~~ 190
~~this section, the director may cut, trim, or remove any grass,~~ 191
~~shrubs, trees, or weeds growing or being within the limits of a~~ 192
~~state highway.~~ 193

(2) The director shall cut, trim, or remove any grass, 194
shrubs, trees, or weeds growing or being within the limits of a 195

state highway located within the limits of a village. 196

~~The~~ (C) Except as required under division (B) (2) of this 197
section, the powers conferred by this section upon the director 198
shall be exercised only when made necessary by the construction 199
or maintenance of the highway or for the safety of the traveling 200
public. 201

Sec. 5521.01. (A) Except as provided in division (B) of 202
this section, the director has no duty to construct, 203
reconstruct, widen, resurface, maintain, or repair a state 204
highway or a culvert thereon within a municipal corporation. 205

(B) The director of transportation, upon the request by 206
~~and the approval of~~ in consultation with the legislative 207
authority of a village, shall ~~maintain, repair, and apply do~~ 208
both of the following: 209

(1) Maintain and repair any section of a state highway 210
within the limits of the village; 211

(2) Apply standard longitudinal pavement marking lines as 212
~~the director considers appropriate, or on any section of a state~~ 213
highway within the limits of the village. 214

(C) The director, upon the request by and the approval of 215
the legislative authority of a village, may establish, do both of 216
the following: 217

(1) Establish, construct, reconstruct, improve, or widen 218
any section of a state highway within the limits of ~~a the~~ 219
village. ~~The director also may erect, including the elimination~~ 220
of railway grade crossings; 221

(2) Erect regulatory and warning signs, as defined in the 222
manual adopted under section 4511.09 of the Revised Code, on any 223

section of a state highway within the limits of ~~a~~ the village. 224
~~The~~ 225

(D) The director, upon the approval of the legislative 226
authority of a city, may ~~establish~~do either of the following: 227

(1) Establish, construct, reconstruct, improve, widen, 228
maintain, or repair any section of state highway within the 229
limits of ~~a~~ the city, including the elimination of railway grade 230
crossings, ~~and;~~ 231

(2) Erect regulatory and warning signs, as defined in the 232
manual adopted under section 4511.09 of the Revised Code, on any 233
section of a state highway within the limits of the city. 234

(E) The director may pay the entire or any part of the 235
cost and expense ~~thereof~~ incurred from any activity described in 236
divisions (B) to (D) of this section from state funds, ~~but in~~ 237
all cases the director first shall obtain the consent of the 238
legislative authority of the municipal corporation, except that 239
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(F) Notwithstanding any other provision of this section to 241
the contrary, the director need not obtain the consent of ~~the~~ a 242
municipal corporation if ~~the~~ either of the following apply: 243

(1) The existing highway being changed or the location of 244
an additional highway being established was not within the 245
corporate limits of the municipal corporation at the time the 246
director determines the establishment or change should be made, ~~or~~ 247
~~or if the;~~ 248

(2) The director is acting pursuant to section 5501.49 of 249
the Revised Code or any other provision that expressly gives the 250
director such authority. 251

~~Except as provided in section 5501.49 of the Revised Code,~~ 252
~~when in the opinion of the director there is urgent need to~~ 253
~~establish a state highway, which is to be designated a federal~~ 254
~~aid highway, or a federal aid interstate highway within a~~ 255
~~municipal corporation or, in the opinion of the director, any~~ 256
~~federal aid highway or interstate federal aid highway is in~~ 257
~~urgent need of repair, reconstruction, widening, improvement, or~~ 258
~~relocation, so as to accommodate the traveling public, the~~ 259
~~director shall submit a written request to the legislative~~ 260
~~authority of the municipal corporation for its consent to the~~ 261
~~desired establishment or improvement. The legislative authority,~~ 262
~~within sixty days after the written request has been received~~ 263
~~from the director, either shall grant its consent to the~~ 264
~~establishment or improvement or refuse consent by filing in~~ 265
~~writing with the director a statement of its reasons for~~ 266
~~refusing consent and any alternate proposals it considers~~ 267
~~reasonable. If the legislative authority fails to act or refuses~~ 268
~~consent, the director, upon consideration of the reasons for~~ 269
~~rejection, may make a resolution declaring the necessity of the~~ 270
~~establishment or improvement, and then proceed in the same~~ 271
~~manner as if consent had been given. A certified copy of the~~ 272
~~resolution shall be served upon the municipal legislative~~ 273
~~authority, which, within twenty days from the date of service,~~ 274
~~may appeal to the court of common pleas of the county in which~~ 275
~~the municipal corporation is situated, upon the reasonableness~~ 276
~~and necessity of the action provided for in the resolution. In~~ 277
~~the hearing upon appeal, the director shall introduce the record~~ 278
~~of the director's proceedings, including the director's findings~~ 279
~~with respect to factors referred to in section 5521.011 of the~~ 280
~~Revised Code, and such other competent evidence as the director~~ 281
~~desires in support of the director's resolution, and the~~ 282
~~municipality likewise may introduce competent evidence opposing~~ 283

~~the resolution, and findings. The court may affirm or revoke the~~ 284
~~resolution. The decision of the common pleas court may be~~ 285
~~appealed to the court of appeals and the supreme court as in~~ 286
~~other cases. If the court affirms the resolution, the director~~ 287
~~may proceed with the establishment or improvement with or~~ 288
~~without the cooperation of the municipal corporation. Any such~~ 289
~~municipal corporation may cooperate with the director in the~~ 290
~~work and pay such portion of the cost as is agreed upon between~~ 291
~~the municipal corporation and the director. The legislative~~ 292
~~authority of any municipal corporation desiring to cooperate, by~~ 293
~~resolution, may propose such cooperation to the director, and a~~ 294
~~copy of the resolution, which shall set forth the proportion of~~ 295
~~the cost and expense to be contributed by the municipal~~ 296
~~corporation, shall be filed with the director. The director~~ 297
~~shall cause to be prepared the necessary surveys, plans,~~ 298
~~profiles, cross sections, estimates, and specifications and~~ 299
~~shall file copies of them with the legislative authority of the~~ 300
~~municipal corporation. After the legislative authority has~~ 301
~~approved the surveys, plans, profiles, cross sections,~~ 302
~~estimates, and specifications, and after the municipal~~ 303
~~corporation has provided the funds necessary to meet the portion~~ 304
~~of the cost of the work assumed by it, the municipal corporation~~ 305
~~shall enter into a contract with the state providing for payment~~ 306
~~by the municipal corporation of the agreed portion of the cost.~~ 307
~~The form of the contract shall be prescribed by the attorney~~ 308
~~general, and such contracts shall be submitted to the director~~ 309
~~and approved before the receipt of bids. Section 5705.41 of the~~ 310
~~Revised Code applies to such contract to be made by the~~ 311
~~municipal corporation, and a duplicate of the certificate of the~~ 312
~~chief fiscal officer of the municipal corporation shall be filed~~ 313
~~in the office of the director. That part of the cost of the work~~ 314
~~assumed by the municipal corporation shall be paid from the~~ 315

~~proceeds of taxes or special assessments, or both, or from the~~ 316
~~proceeds of notes or bonds issued and sold in anticipation of~~ 317
~~the collection of the taxes and assessments. For the purpose of~~ 318
~~providing funds for the payment of that part of the cost of the~~ 319
~~work assumed by the municipal corporation, the municipal~~ 320
~~corporation has the same authority to make special assessments,~~ 321
~~levy taxes, and issue bonds or notes, in anticipation of the~~ 322
~~collection of the same, as it has with respect to improvements~~ 323
~~constructed under the sole supervision and control of the~~ 324
~~municipal corporation. All such assessments shall be made, taxes~~ 325
~~levied, and bonds or notes issued and sold under such conditions~~ 326
~~and restrictions as may be provided with respect to assessments,~~ 327
~~taxes, bonds, or notes made, levied, issued, or sold in~~ 328
~~connection with improvements of the same class and character~~ 329
~~constructed under the sole supervision and control of the~~ 330
~~municipal corporation. The improvement shall be constructed~~ 331
~~under the sole supervision of the director. The proportion of~~ 332
~~the cost and expense payable by the municipal corporation shall~~ 333
~~be paid by the proper officers thereof, upon the requisition of~~ 334
~~the director, and at times during the progress of the work as~~ 335
~~may be determined by the director or as may be otherwise~~ 336
~~provided by law.~~ 337

Sec. 5521.011. (A) (1) Except as otherwise provided by law, 338
when there is an urgent need to accommodate the traveling 339
public, the director of transportation shall submit a written 340
request to the legislative authority of a municipal corporation 341
for its consent to either of the following: 342

(a) The establishment of a state highway within a 343
municipal corporation that will be designated a federal aid 344
highway or federal aid interstate highway; 345

(b) The repair, reconstruction, widening, improvement, or 346
relocation of a federal aid highway or interstate federal aid 347
highway. 348

(2) The legislative authority, within sixty days after 349
receiving the written request from the director, shall do one of 350
the following: 351

(a) Grant its consent to the request; 352

(b) Refuse its consent by filing, in writing with the 353
director, a statement of its reasons for refusing consent and 354
any alternate proposals it considers reasonable. 355

(B)(1) If the legislative authority refuses consent under 356
division (A)(2) of this section, or fails to act, the director, 357
upon consideration of any reasons for the refusal to consent, 358
may adopt a resolution declaring the necessity of the actions 359
specified in the request for consent. The director may then 360
proceed in the same manner as if consent had been given. A 361
certified copy of the resolution shall be served upon the 362
legislative authority. 363

(2) Within twenty days from the date of service, the 364
legislative authority may appeal to the court of common pleas of 365
the county in which the municipal corporation is located. The 366
legislative authority, in the appeal, shall address the 367
reasonableness and necessity of the action provided for in the 368
director's resolution. 369

(3) In the hearing upon appeal, the director shall 370
introduce all of the following: 371

(a) The record of the director's proceedings; 372

(b) The director's findings with respect to factors 373

referred to in section 5521.012 of the Revised Code; 374

(c) Any other competent evidence in support of the 375
director's resolution. 376

(4) The legislative authority likewise may introduce 377
competent evidence opposing the resolution and the director's 378
findings. 379

(5) The court may affirm or revoke the resolution. The 380
decision of the common pleas court may be appealed to the court 381
of appeals and the supreme court as in other cases. If the court 382
affirms the resolution, the director may proceed with the 383
actions specified in the resolution with or without the 384
cooperation of the municipal corporation. 385

(C) A municipal corporation may cooperate with the 386
director in the work authorized by this section and pay such 387
portion of the cost as is agreed upon between the municipal 388
corporation and the director. The legislative authority of the 389
municipal corporation, by resolution, shall set forth the 390
proportion of the cost and expense to be contributed by the 391
municipal corporation, and shall file a copy of the resolution 392
with the director. 393

(D) (1) The director shall have the necessary surveys, 394
plans, profiles, cross sections, estimates, and specifications 395
prepared and shall file copies of them with the legislative 396
authority of the municipal corporation. 397

(2) The municipal corporation and the state shall enter 398
into a contract after both of the following occur: 399

(a) The legislative authority approves the surveys, plans, 400
profiles, cross sections, estimates, and specifications. 401

(b) The municipal corporation provides the funds necessary 402
to meet its portion of the cost of the work assumed by it. 403

(3) The attorney general shall prescribe the form of the 404
contract and the contract shall be submitted to the director and 405
approved before the receipt of bids. 406

(4) Section 5705.41 of the Revised Code applies to all 407
such contracts. A duplicate of the certificate of the chief 408
fiscal officer of the municipal corporation shall be filed in 409
the director's office. 410

(E) (1) The municipal corporation shall pay its portion of 411
the costs from either of the following: 412

(a) The proceeds of taxes or special assessments, or both; 413

(b) The proceeds of notes or bonds issued and sold in 414
anticipation of the collection of the taxes and assessments. 415

(2) For the purpose of providing funds for its share of 416
the cost, the municipal corporation may make special 417
assessments, levy taxes, and issue bonds or notes, in 418
anticipation of the collection of the same, as it would for 419
improvements constructed under the sole supervision and control 420
of the municipal corporation. All such assessments shall be 421
made, taxes levied, and bonds or notes issued and sold under 422
such conditions and restrictions as though the improvements 423
where of the same class and character and constructed under the 424
sole supervision and control of the municipal corporation. 425

(F) The improvement shall be constructed under the sole 426
supervision of the director. The proper officers of the 427
municipal corporation shall pay the proportion of the municipal 428
corporation's cost and expense upon the requisition of the 429
director and at times during the progress of the work as the 430

<u>director determines or as otherwise provided by law.</u>	431
<u>(G) Section 5521.01 of the Revised Code governs the</u>	432
<u>responsibility for the ongoing maintenance or repair of any</u>	433
<u>improvement constructed under this section.</u>	434
Sec. 5521.011 5521.012. (A) In determining new highway	435
locations the director shall consider the following factors,	436
wherever applicable, and include such considerations in the	437
record of his <u>the director's</u> proceedings: national	438
<u>(1) National</u> defense; economic	439
<u>(2) Economic</u> activity; employment	440
<u>(3) Employment</u> ; open	441
<u>(4) Open</u> spaces; existing	442
<u>(5) Existing</u> park lands; recreation	443
<u>(6) Recreation</u> ; fire	444
<u>(7) Fire</u> protection; esthetics	445
<u>(8) Esthetics</u> ; public	446
<u>(9) Public</u> utilities; safety	447
<u>(10) Safety</u> ; residential	448
<u>(11) Residential</u> character and location; religious	449
<u>(12) Religious</u> institutions and practices; rights	450
<u>(13) Rights</u> and freedoms of individuals; conduct	451
<u>(14) Conduct</u> and financing of government; conservation	452
<u>(15) Conservation</u> ; property	453
<u>(16) Property</u> values; replacement	454

<u>(17) Replacement housing; education</u>	455
<u>(18) Education and disruption of school district operations; specific</u>	456 457
<u>(19) Specific numbers of families and businesses displaced; engineering</u>	458 459
<u>(20) Engineering, right-of-way, and construction costs for proposed highway facilities and related transportation facilities; maintenance</u>	460 461 462
<u>(21) Maintenance of highway facilities and other transportation facilities; use</u>	463 464
<u>(22) Use of highways and other transportation facilities, and user costs; and operation</u>	465 466
<u>(23) Operation of highway facilities and other transportation facilities during construction and following completion.</u>	467 468 469
<u>(B) Documentation should cover the consideration given to each determinant, including a statement as to which were not considered significant as between alternatives.</u>	470 471 472
Section 2. That existing sections 4511.11, 5501.31, 5501.42, 5521.01, and 5521.011 of the Revised Code are hereby repealed.	473 474 475