



TED STRICKLAND  
GOVERNOR  
STATE OF OHIO

## VETO MESSAGE

### STATEMENT OF THE REASONS FOR VETOES OF ITEMS IN HOUSE BILL 2

April 1, 2009

Article II, SECTION 16 of the Ohio Constitution authorizes the Governor to veto any item or items in any bill making an appropriation of money. I have boxed and initialed text in House Bill 2 that I have disapproved. All remaining text in the bill is approved. The reasons for my vetoes are set out below.

#### **Introduction**

House Bill 2 includes nearly \$7.3 billion to fund the Ohio Department of Public Safety, which includes the Ohio State Highway Patrol, and the Ohio Department of Transportation. These resources fund projects that will further develop and improve our state's transportation infrastructure, positioning Ohio for lasting economic growth and development.

The bill includes spending authority for an additional \$1.9 billion in federal American Recovery and Reinvestment Act (ARRA) resources for several state agencies, including the \$774 million for 149 transportation projects across Ohio, which are expected to create or retain more than 20,000 jobs.

In addition to making transportation safer and more convenient for Ohioans, the bill invests in projects that will maintain Ohio's position as a leader in the logistics and distribution industry. This legislation also authorizes the state to compete for a share of \$9 billion in federal funding for start-up rail service in the 3-C Corridor (Cincinnati, Dayton, Columbus and Cincinnati) – the first step toward establishing a system of high-speed rail in Ohio.

Taken together, these investments in Ohio's infrastructure will help develop a 21<sup>st</sup> Century, multi-modal transportation system.

## **A. Speed Transition Zones**

### **SECTION 4511.21**

This provision requires the Department of Transportation to establish speed transition zones on state highways at locations where the posted speed limit decreases by 20 miles per hour or more. These zones would require appropriate signage, a designated distance and a reduced speed limit.

The Department already has a process to work with local jurisdictions on speed limit modifications. This provision imposes additional costs and operational needs, including a cost of more than \$500 for each zone. The Department is committed to working with local governments to address speed transition issues in a more efficient and cost-effective manner. Due to the added cost and operational needs, this veto is in the public interest.

#### **Item Number 1**

On pages 158 and 159, delete the boxed text.

## **B. Traffic Generator Sign Program**

### **SECTION 4511.108**

Under current law, the Department of Transportation operates the Ohio Business Logos sign program along Ohio roadways. This program is similar to the Traffic Generator sign program proposed in the bill.

While the Ohio Business Logos sign program's fee-making authority does not require Controlling Board approval, this provision would add a Controlling Board fee-approval requirement to the Traffic Generator sign program.

This veto will align the fee-making authority of both programs – ultimately maintaining consistency between them. Therefore, this veto is in the public interest.

#### **Item Number 2**

On page 132, delete the boxed text.

## **C. Overweight Vehicle Permits**

### **SECTION 4513.34**

This provision requires the Director of Transportation to establish by rule the issuance of a continuing annual overweight vehicle permit.

The Ohio Revised Code allows the Director of Transportation to establish a schedule of fees for permits. Under this authority, the Department determines which classifications of overweight permits should receive an annual permit.

This veto will maintain existing law and continue to provide the Department with the necessary flexibility to manage the roadway and highway structures, while providing commercial vehicles with the permits needed to operate.

I have directed the Department to begin issuing annual permits by filing JCARR rules that will take effect no later than July 1, 2009.

Therefore, this veto is in the public interest.

### **Item Number 3**

On page 1, delete “4513.34,”.

On page 2, delete “4513.34,”.

On page 166, delete the boxed texts.

### **D. Guardrails**

#### **SECTION 5501.60**

This provision prohibits the Department of Transportation from erecting a guardrail or any other barrier that blocks or otherwise interferes in any manner with the only right-of-way to a parcel of real property.

The Department does not, by practice, erect guardrails or other barriers over legally-permitted right-of-ways to parcels or real property. The purpose of a guardrail is to prevent vehicles from leaving the paved portion of the highway that would pose an imminent threat of harm to that vehicle and its occupants. The guardrail also protects the people and property located off the highway. There is currently a permit process for property owners to gain legal access when necessary.

It is the Department’s responsibility to supervise and maintain the state highway system in a manner promoting public safety. Therefore, this veto is in the public interest.

### **Item Number 4**

On page 1, delete “5501.60,”.

On page 2, delete “5501.60,”.

On page 202, delete the boxed text.

### **E. Curb Cut on State Route 91 in Lake County**

#### **SECTION 756.45**

This provision requires the Director of Transportation to permit the construction of a curb cut on State Route 91, near Vine Street, in Lake County.

An established process in the state Highway Access Management Manual permits applications for variances to access decisions. Access decisions made by the Department must consider and preserve the operation of the state highway system's function and the ability to move people and goods efficiently, effectively and in the safest manner possible. Access to a controlled-access highway should be left to the sound discretion of the Director of Transportation. Therefore, this veto is in the public interest.

#### **Item Number 5**

On page 275, delete the boxed text beginning with the words "Section 756.45" and ending with "Lake County."

### **F. Lancaster Museum/Historical District Signs**

#### **SECTION 756.30**

This provision requires the Department of Transportation to erect and maintain two traffic generator signs on the State Route 33 bypass approaching the City of Lancaster that read "Historic Downtown Lancaster Museum District" and provide the approximate distance to the district.

The Department has established criteria in its Traffic Engineering Manual, which are applied statewide regarding traffic generator signs. The installation, placement, and maintenance of such signs should be left to the sound discretion of the Director of Transportation when such signs meet the criteria set forth in the Traffic Engineering Manual. Therefore, this veto is in the public interest.

#### **Item Number 6**

On page 273, delete the boxed text beginning with the words "Section 756.30" and ending with "and".

On page 274, delete the boxed text.

### **G. Reimbursement for Utility Facilities**

## **SECTION 756.55**

The provision provides that when a state or local government directs a utility facility to relocate because of the construction, reconstruction, improvement, maintenance, or repair of a road, highway or bridge financed in whole or part by the American Recovery and Reinvestment Act, then the state or local government must reimburse the utility for the cost of the relocation.

Ohio law currently allows the Department of Transportation to issue revocable permits to utilities to construct their facilities in the highway right-of-way at no charge to the utility, thus saving utilities from acquiring many separate easements from private property owners. This saves the utilities money and time.

In return for the use of the public right-of-way, Ohio law does not require the Department or local governments to reimburse a utility when the utility is required to relocate its facilities to accommodate a highway project. This veto continues current Ohio law and ensures that funding received through ARRA is used to its fullest potential in constructing infrastructure and creating jobs. Therefore, this veto is in the public interest.

### **Item Number 7**

On page 276, delete the box beginning with the words “Section 756.55” and ending with “or both.”.

## **H. Oversize Vehicle Permit Fee Increases**

### **SECTION 755.90**

This provision freezes Department of Transportation permit fees for movement of oversize vehicles at the rates, established by rule, which took effect on March 1, 2009. The provision does not allow the rate increase scheduled for July 1, 2009 to take effect and freezes the fees at the March rate until July 1, 2010.

The current fee structure was established through the traditional rules process and balances the needs of the industry with the impact that overweight vehicles have on Ohio roadways. This provision deprives the Department of revenues that are necessary to maintain operations and preserve the Ohio transportation system. Therefore, this veto is in the public interest.

### **Item Number 8**

On page 273, delete the boxed text beginning with the words “Section 756.20” and ending with “July 1, 2010.”.

## **I. Diesel Emission Reduction Grant Program**

## **SECTION 512.43.**

This provision establishes a diesel emission reduction grant program using federal Congestion Mitigation and Air Quality funds from the Federal Highway Administration.

This provision would have a negative impact on the Department of Transportation's operations because it diverts a large portion of available flexible funding to specific purposes.

I have directed the Department to dedicate \$5 million toward a diesel emissions reduction program for purposes consistent with the intent of the legislation. This funding will provide assistance to small businesses and disadvantaged business enterprises. Therefore, this veto is in the public interest.

### **Item Number 9**

On pages 261 and 262, delete the boxed text.

## **J. Modify parameters of vehicle emission inspection program competitive selection process regarding a contract**

### **SECTION 756.60, part of SECTION 901.10, part of SECTION 901.11**

The proposed language modifies the parameters set forth in the current Request for Proposal (RFP) issued through the Department of Administrative Services (DAS). Bids under this RFP have already been accepted. If the proposed language were to become law, specific sections of the RFP would have to be changed and, based on the nature of those changes, DAS would recommend that the RFP be rebid. This would result in approximately a 60-day delay in the current bidding process.

The Ohio Environmental Protection Agency (Ohio EPA) is looking for the most cost-effective, convenient and reliable inspection program for both motorists and the state based on directives contained in House Bill 119 of the 127th General Assembly. In order to obtain proposals from all types of vendors, the RFP released in January 2009 requested bids for decentralized, hybrid and centralized inspection programs. The proposed language would conflict with the current RFP because it only allows for a hybrid or decentralized testing network.

Ultimately, this provision would hamper the ability of the State to determine what type of program is the most cost-effective, convenient and reliable inspection program to maintain compliance with the federal Clean Air Act requirements. If the state fails to meet the federal standards, the emissions reductions would need to be made up from other emissions sources such as industry or small businesses that would negatively impact Ohio's economy.

Provisions in the proposed law also severely limit the financial resources required to be spent by the new vendor on educating motorists of program changes. A strong public education program is necessary to inform the motorists in those areas where testing is required of any changes to the

testing program, especially if the testing locations are changed. Therefore, this veto is in the public interest.

#### **Item Number 10**

On page 276, delete the boxed text beginning with the words “Section 756.60” and ending with “The contract shall.”

On pages 277 and 280, delete the boxed text.

### **K. Member of the Ohio Rail Development Commission**

#### **SECTION 4981.02**

This language adds a member to the Ohio Rail Development Commission and charges that member with representing the interests of manufacturers and those having contracting responsibility for rail and non-rail freight transportation. The qualities required of this appointee are unique and do not align with the requirements of the six other commission members. The administration supports the addition of the seventh member but the extra qualifications related to contracting do not align with the Rail Development Commission statute. Therefore, this veto is in the public interest.

#### **Item Number 11**

On page 195, delete the boxed text.

### **L. Ohio State Highway Patrol Mission Review Task Force**

#### **SECTION 756.40**

This provision creates the Ohio State Highway Patrol Mission Review Task Force. The provision allows the governor to name two public members to the Task Force, but requires that at least one of these appointees must not have any affiliation with law enforcement and further requires that this member be named as Chair of the Task Force.

The language unnecessarily restricts executive authority in appointing members and selecting a Chair of the Task Force. Therefore, this veto is in the public interest.

#### **Item Number 12**

On page 275, delete the boxed text beginning with the words “is not affiliated with” and ending with “agency of any kind”.

On page 275, delete the boxed text beginning with the words “if both members” and ending with “Task Force.”.

**M. Ohio Tolling Technical Amendment**

**SECTION 5531.18**

This veto that removes the reference to Chapter 5539 of the Ohio Revised Code which was proposed in the As Introduced version of House Bill 2 but was later removed from the final version. Therefore, this veto is in the public interest.

**Item Number 13**

On page 220, delete the boxed text.

I signed this veto message on April 1, 2009 in Columbus, Ohio and transmitted it, today, with copies of the disapproved text, to the Clerk of the Ohio House of Representatives.

In order to signal my approval of the text approved by me, I have, today, also filed the enrolled and engrossed original copies of the bill with the Secretary of State.

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Ted Strickland, Governor

I acknowledge receipt of an original copy of this veto message, along with a copy of the disapproved text in the bill on April 1, 2009.

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Name of Officer

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Title of Officer

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Date and Time of Receipt

