

**Proposed Legislation Authorizing the Ohio Turnpike Commission
to Additionally Engage in Public Railway Turnpike Provision**

**ORC Revision Analysis
12-2008**

ORC 163.06(B): The proposal includes ORC Chapter 5537 (Turnpike Commission) with ORC Chapter 5537 (Rail Development Commission) as an agency able to deposit the property value and any damage values with the court when appropriating property necessary for providing rail service.

ORC 307.202: The proposal adds the Ohio Turnpike Commission to the list of parties county boards of commissioners can enter into agreements with for rail property and rail service.

ORC 505.69: The proposal adds the Ohio Turnpike Commission to the list of parties township boards of trustees can enter into agreements with for rail property and rail service.

ORC 717.01(BB): The proposal adds the Ohio Turnpike Commission to the list of parties municipalities can enter into agreements with for rail property and rail service.

ORC 4981.04(A): The proposal permits the Ohio Rail Development Commission to designate other state agencies to construct or operate an intercity conventional or high speed passenger transportation in Ohio.

ORC 4981.033(F)(2): The proposal redefines "passenger rail service" as "commercial passenger rail service" for intercity passenger, commuter, or high speed rail transportation service.

ORC 4981.033(F)(3): The proposal redefines "excursion rail service" as "other passenger rail service" undertaken primarily for education, entertainment, recreation, or scenic observation. The change accounts for "Excursions" as a term currently being recognized as organizations and companies providing occasional excursive train trips, and groups in other types of rail users such as hobbyists not necessarily recognized as excursion providers. *This section may require further clarity to define other such rail users and uses particularly for liability purposes.*

ORC 4981.033(A): The proposal differentiates between commercial and other passenger rail service providers operating on third party rights-of-way and indemnifying those rights-of-way providers.

ORC 4981.033(B): The proposal requires commercial passenger rail service providers to maintain \$200M of liability coverage when they use third party rights-of-way. If the third party rights-of-way are owned and administered by public agencies, then commercial and other passenger rail service providers may negotiate the amount of liability

coverage required to satisfy the public agencies' insurance requirements.

ORC 4981.033(C): The proposal differentiates between commercial and other passenger rail service providers operating on third party rights-of-way regarding the liability limits of the host right-of-way provider not being a greater amount than the coverage maintained by commercial and other passenger rail service providers operating on the third party rights-of-way. *This section may require further clarity.*

ORC 4981.033(D): The proposal differentiates between commercial and other passenger rail service providers operating on third party rights-of-way regarding negligence by commercial and other passenger rail service providers, whereupon ORC 4981.033(A) does not apply.

ORC 4981.033(E): The proposal redefines "other" from "excursion" passenger rail service providers operating on third party rights-of-way regarding negotiations for the host right-of-way provider's liability requirements, any failure to reach such agreements, and the right of the host right-of-way provider to exclude other passenger rail service providers from accessing their property.

ORC 5537.01: The proposal includes "railways" into definition sections 5537.01(B) "Project" or "Turnpike Project", 5537.01(C) "Cost", and 5537.01(T) "Tolls", and changes 5537.01(O) "Service Facilities" from roadside parks to wayside parks, and in 5537.01(BB) adds "Ohio Turnpike" to "Ohio Turnpike System" and "System".

ORC 5537.03: The proposal includes railways with highways as turnpike projects, and includes tracks as a counterpart to multiple (highway) lanes.

ORC 5537.05: The proposal changes railroads to railways to standardize the terminology of Chapter 5537, and in 5537.05(A)(2) includes railways with roads for vacation or relocation as part of a turnpike project.

ORC 5537.07(A): The proposal includes railways and tunnels in cost estimates for a turnpike project bidding process.

ORC 5537.13(A): The proposal includes trackage with the paved portions (of the turnpike roadway) for adjacent right-of-way use by third parties, and requires OTC to initially secure non-railway right of way use agreements or rights from the proper adjacent landowners prior to granting use easements. Originally railroad companies were often granted right-of-way easements by adjacent landowners for railway purposes but not for other uses. Thus this preventative measure would avoid the multi-\$Ms of successful class-action lawsuits where utilities and other railway right-of-way users did not initially secure non-railway use easement agreements from adjacent landowners, and would assist perfecting railway right-of-way titles.

ORC 5537.17(C): The proposal includes railways with public roads and other property as part of the properties governmental agencies can convey to the commission for turnpike project purposes, and in ORC 5537.17(D) tunnels are added to bridges that shall be annually inspected.

ORC 5537.21: The proposal changes the section title and within 5537.21(A) from toll road to tollway - "tollway" being a more contemporary terminology for tolled transportation projects.

ORC 5537.24: The proposal changes turnpike oversight committee membership from legislative committee chairs dealing primarily with highway matters to a more broad transportation matters. 5537.24(C) includes state and regional traffic congestion abatement, congestion abatement, route capacity improvement, intermodalism, modal equality, energy savings, and pollution abatement issues also as topics to be studied by the turnpike oversight committee.

ORC 5537.26(D)(2): The proposal changes the area of public notice of a turnpike rate decrease from just Cuyahoga, Lucas, Mahoning, Trumbull, Williams, and Summit counties to all counties that the project is located within, and adds notifications to be posted on OTC's website. 5537.26(E) is deleted as being repetitive to definitions already listed elsewhere in the chapter. *5537.26(E) is also erroneous in that the highways listed as being the "Ohio Turnpike" instead constitute only "Project #1" of the Ohio Turnpike Commission.*

ORC 5537.28(C)(1): The proposal eliminates 5537.28(C)(1) as being redundant *and erroneous* as previously discussed. 5537.28(C)(2) was then renumbered 5537.28(C)(1), and on users' railway sidings or spurs was added to infrastructure improvements and connecting roadways within one mile of an Ohio turnpike interchange as being excluded from "Another Turnpike Project" definition. *Unless otherwise agreed to, ownership division points usually start at the switching clearance point, the clearance point meaning the precise location where main line traffic will not collide with traffic on sidings or spurs.*