



Ohio Revised Code

Section 5501.311 Leases or lease-purchase of transportation facilities.

Effective: September 29, 2013

Legislation: House Bill 59 - 130th General Assembly

(A) Notwithstanding sections 123.01 and 127.16 of the Revised Code the director of transportation may lease or lease-purchase all or any part of a transportation facility to or from one or more persons, one or more governmental agencies, a transportation improvement district, or any combination thereof, and may grant leases, easements, or licenses for lands under the control of the department of transportation. The director may adopt rules necessary to give effect to this section.

(B) Plans and specifications for the construction of a transportation facility under a lease or lease-purchase agreement are subject to approval of the director and must meet or exceed all applicable standards of the department.

(C) Any lease or lease-purchase agreement under which the department is the lessee shall be for a period not exceeding the then current two-year period for which appropriations have been made by the general assembly to the department, and such agreement may contain such other terms as the department and the other parties thereto agree, notwithstanding any other provision of law, including provisions that rental payments in amounts sufficient to pay bond service charges payable during the current two-year lease term shall be an absolute and unconditional obligation of the department independent of all other duties under the agreement without set-off or deduction or any other similar rights or defenses. Any such agreement may provide for renewal of the agreement at the end of each term for another term, not exceeding two years, provided that no renewal shall be effective until the effective date of an appropriation enacted by the general assembly from which the department may lawfully pay rentals under such agreement. Any such agreement may include, without limitation, any agreement by the department with respect to any costs of transportation facilities to be included prior to acquisition and construction of such transportation facilities. Any such agreement shall not constitute a debt or pledge of the faith and credit of the state, or of any political subdivision of the state, and the lessor shall have no right to have taxes or excises levied by the general assembly, or the taxing authority of any political subdivision of the state, for the payment of rentals thereunder. Any such agreement shall contain a statement to that effect.



(D) A municipal corporation, township, or county may use service payments in lieu of taxes credited to special funds or accounts pursuant to sections 5709.43, 5709.75, and 5709.80 of the Revised Code to provide its contribution to the cost of a transportation facility, provided such facility was among the purposes for which such service payments were authorized. The contribution may be in the form of a lump sum or periodic payments.

(E) Pursuant to the "Telecommunications Act of 1996," 110 Stat. 152, 47 U.S.C. 332 note, the director may grant a lease, easement, or license in a transportation facility to a telecommunications service provider for construction, placement, or operation of a telecommunications facility. An interest granted under this division is subject to all of the following conditions:

(1) The transportation facility is owned in fee simple or easement by this state at the time the lease, easement, or license is granted to the telecommunications provider.

(2) The lease, easement, or license shall be granted on a competitive basis in accordance with policies and procedures to be determined by the director. The policies and procedures may include provisions for master leases for multiple sites.

(3) The telecommunications facility shall be designed to accommodate the state's multi-agency radio communication system, the intelligent transportation system, and the department's communication system as the director may determine is necessary for highway or other departmental purposes.

(4) The telecommunications facility shall be designed to accommodate such additional telecommunications equipment as may feasibly be co-located thereon as determined in the discretion of the director.

(5) The telecommunications service providers awarded the lease, easement, or license, agree to permit other telecommunications service providers to co-locate on the telecommunications facility, and agree to the terms and conditions of the co-location as determined in the discretion of the director.

(6) The director shall require indemnity agreements in favor of the department as a condition of any



lease, easement, or license granted under this division. Each indemnity agreement shall secure this state and its agents from liability for damages arising out of safety hazards, zoning, and any other matter of public interest the director considers necessary.

(7) The telecommunications service provider fully complies with any permit issued under section 5515.01 of the Revised Code pertaining to land that is the subject of the lease, easement, or license.

(8) All plans and specifications shall meet with the director's approval.

(9) Any other conditions the director determines necessary.

(F) In accordance with section 5501.031 of the Revised Code, to further efforts to promote energy conservation and energy efficiency, the director may grant a lease, easement, or license in a transportation facility to a utility service provider that has received its certificate from the Ohio power siting board or appropriate local entity for construction, placement, or operation of an alternative energy generating facility service provider as defined in section 4928.64 of the Revised Code. An interest granted under this division is subject to all of the following conditions:

(1) The transportation facility is owned in fee simple or in easement by this state at the time the lease, easement, or license is granted to the utility service provider.

(2) The lease, easement, or license shall be granted on a competitive basis in accordance with policies and procedures to be determined by the director. The policies and procedures may include provisions for master leases for multiple sites.

(3) The alternative energy generating facility shall be designed to provide energy for the department's transportation facilities with the potential for selling excess power on the power grid, as the director may determine is necessary for highway or other departmental purposes.

(4) The director shall require indemnity agreements in favor of the department as a condition of any lease, easement, or license granted under this division. Each indemnity agreement shall secure this state from liability for damages arising out of safety hazards, zoning, and any other matter of public interest the director considers necessary.



(5) The alternative energy service provider fully complies with any permit issued by the Ohio power siting board under Chapter 4906. of the Revised Code and complies with section 5515.01 of the Revised Code pertaining to land that is the subject of the lease, easement, or license.

(6) All plans and specifications shall meet with the director's approval.

(7) Any other conditions the director determines necessary.

(G) Money the department receives under this section shall be deposited into the state treasury to the credit of the highway operating fund.

(H) A lease, easement, or license granted under division (E) or (F) of this section, and any telecommunications facility or alternative energy generating facility relating to such interest in a transportation facility, is hereby deemed to further the essential highway purpose of building and maintaining a safe, energy-efficient, and accessible transportation system.