



HANDBOOK

Ohio County Commissioners

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CHAPTER 30

ROADS AND BRIDGES

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30.01 INTRODUCTION

Historically, the planning, construction, repair and maintenance of roads and bridges was a major responsibility of the county commissioners. Although commissioners have been delegated significant new responsibilities over the years, their duties concerning roads and bridges, in cooperation with the county engineer, continue to be very important.

The county has responsibility to maintain, repair, widen, resurface, construct, and reconstruct roads on the county highway system, and includes traffic control, safety, mowing and snow removal. In addition, the county has the responsibility of constructing and maintaining all bridges on county roads, and for many bridges located on township roads and bridges within municipalities including some on the state highway system (ORC 5591.02).

"I his chapter of the handbook will generally discuss many of the varied aspects of road and bridge functions and financing. The County Engineers' Association has published the County Engineers Handbook that is an excellent source of more detailed information concerning the broad range of responsibilities for which the county engineer is responsible, including roads and bridges.

30.02 DUTIES OF COUNTY ENGINEER – GENERAL

The county engineer is responsible for the supervision of, and for the design,

construction, reconstruction, improvement, maintenance, and repair of all bridges and roads in the county under the jurisdiction of the county commissioners (ORC 5543.01(A)).

He also has general charge over the construction, reconstruction, resurfacing, or improvement of roads by township trustees within the county, but may not perform duties in connection with the repair, maintenance, or dragging of township roads

except upon the request of the township trustees. Township trustees may request an opinion from the county engineer as to the best method of repairing, maintaining or dragging township roads.

30.03 COUNTY ENGINEERS' REPORTS AND MEETINGS

Following are some of the more important reports that must be filed or meetings held by the county engineer:

1. On or before April 1 of each year, the county engineer must file a report with the county commissioners on the condition of the county roads, bridges, and culverts. This report includes an estimate of the amount of funds needed to maintain and repair the existing roads, bridges and culverts, and to construct new roads, bridges, and culverts. He must also provide to the township trustees by this same date an estimate of the costs for construction, reconstruction, resurfacing, or improvement of township roads for the coming year. The estimates of cost should apply to the next year, beginning in March and are to assist the commissioners and trustees to make annual tax levies (ORC 5543.03).
2. The county engineer must name and number all roads and must number all bridges and culverts. Roads must be divided into sections not to exceed three miles in length. He must maintain a map of roads including their identification by number, location, and length by section. This map must also include all bridges and culverts. It must also show recreational trails, municipalities, schools, churches, lakes, rivers and townships.

This responsibility includes all roads except state and municipal highways. Copies of this map and any changes are filed with the director of transportation, county commissioners, and township trustees (ORC 5543.04). Road naming is the responsibility of the county engineer, however, it is the responsibility of the county commissioners to rename roads (ORC 5541.04).

Annually the county engineer has a meeting of all county authorities that have direct responsibilities for construction and repair of roads and bridges. This meeting is also open to the general public and its purpose is to discuss the best ways to maintain and repair the county's roads and bridges. Each official who attends this meeting may be paid expenses from the county road fund. Township trustees can also be paid their regular per diem (ORC 5543.06).

By November 15 of each year the county engineer must file an inventory of road machinery with the county commissioners. At the same time, the county engineer must submit to the commissioners his written recommendations concerning what machinery, tools, equipment, special wearing apparel, and vehicles should be purchased during the next year and its probable cost (ORC 5549.01).

The county engineer also has the duty to make annual bridge inspections on the county and township road system in compliance with the bridge inspection manual of ODOT. Bridge inspections on the county road system within municipalities are also the county's duty. The county engineer must file a report with the county commissioners and township trustees within 60 days after the annual inspection. The county commissioners may require the county engineer to make more frequent inspections if they see the need (ORC 5543.20).

If the county engineer finds that a bridge is in such a condition that it presents an immediate danger to life or property, he shall immediately report the condition to the county commissioners and to the township trustees if located on a township road.

30.04 CLASSIFICATION OF ROADS

Ohio has established three general classes of roads by law:

1. State roads which include the roads and highways of the state highway system.
2. County roads include all roads which are or may be established as a part of the county system of roads as provided in Sections 5541.01 - .03 of the Revised Code. Such roads must be maintained by county commissioners.
3. Township roads which include all public highways other than state and county roads for which the township trustees have maintenance responsibility. The county commissioners may assist the township trustees in maintaining these roads.

In addition, highways may also be designated on the federal system depending on their functional classifications as to use. The federal classification system and the inter-related state/local system is as follows:

	Federal	State
Local		
Interstate	X	
Primary	X	
Urban	X	X
Rural Secondary	X	

The county commissioners may also designate roads on the county system as

freeways, expressways, and through ways.

30.041 CLASSIFICATION BY WEIGHT AND SPEED

The county commissioners also have the responsibility to classify county and township roads as to maximum weights and speeds permitted. When making these classifications, consideration must be given to the nature of the road bed, construction, and other relevant factors, and shall not apply to vehicles that weigh five tons or less including the load.

The county then has authority to make regulations relating to weight and speed permitted on the various classifications of roads. Prior to such regulations taking effect, signs must be erected at the ends of the roads and at all points of intersection that indicate the weight and/or speed limits. These signs must be in place at least two days before the regulations take effect.

30.042 WARNING SIGNS AND TRAFFIC CONTROL DEVICES

County commissioners and the county engineer are required to maintain adequate signs on their roads and bridges. Failure to maintain the required signs or the improper placing of discretionary signs and warnings may result in liability under Chapter 2744 of the Revised Code.

Section 2744.02 of the Revised Code states that a political subdivision, such as a county, "are liable for injury, death, or loss to persons or property caused by their failure to keep public roads, highways, streets, avenues, alleys, sidewalks, bridges, aqueducts, viaducts, or public grounds open, in repair, and free from nuisance"

The failure to post mandated warning signs or traffic control devices, which results in an injury, death, or property damage, may result in the county being liable for the injury, death or property damage.

The Ohio Manual of Uniform Traffic Control Devices has been adopted by the Ohio General Assembly as the manual describing the required and suggested warning signs and traffic control devices in Ohio (ORC 4511.11).

Where the Ohio Manual of Uniform Traffic Control Devices uses the term "shall" in its description of a sign or device and/or its use, the use of the sign or device is mandatory and the sign or device, as well as its placement, must comply exactly with the manual. Failure to comply with the manual is negligence perse which means that the courts will find the county liable for the injuries.

The words "should" and "may" in the manual mean that the signs are advisory and/or permissive. Failure to post these signs is not negligence per se. however, improper placement or use of the advisory or permissive signs will likely result in a finding of

liability. The advisory and permissive signs and devices are to be used in conjunction with reasonable engineering judgment.

30.05 ESTABLISHMENTS AND VACATION OF ROADS – GENERAL

County commissioners have the exclusive power to locate, establish, alter or vacate all roads in the unincorporated area of the county. The power includes all existing roads and the establishment of new roads which after acceptance will become a township road unless the commissioners take positive action to place the road on the county system (ORC 5553.02). Township trustees have no power, either statutory or by common law, to establish or vacate roads or streets.

The county may also remove a road from the county system which will then become a township road regardless of objections from the township trustees. All public roads established by the county commissioners must be at least 30 feet wide (ORC 5553.03).

30.051 METHODS TO ESTABLISH OR IMPROVE ROADS

There are generally three ways to establish public roads:

1. Common law dedication,
2. Prescription, and
3. Statutory dedication.

The most important for county commissioners to understand are statutory dedications. Ohio law requires that there be placed on the road records of the county, a definite description of the lands to be dedicated with a plat of such lands attached and signed by the party dedicating such lands. The approval and acceptance of the county commissioners must also be endorsed on the plat (ORC 5553.31).

It should also be noted that "no public road shall be located or established by the county commissioners unless:

1. The location or establishment begins on a public road and terminates on a public road, or
2. Begins on a public road and services a public park, a state supported educational institution, public school, public aviation area, or a public recreation area, or
3. Begins on a public road and services at least three private residences or businesses in the first 500 feet and one private residence or business in each 200 feet thereafter (ORC 5553.02).

Roads are established by the county commissioners following the adoption of a

resolution finding that the improvement "will be for the public convenience or welfare" (ORC 5553.04).

Road establishments or improvements can be initiated in a variety of manners. Chapter 5553 (County Roads), Chapter 5555 (County Road Improvement), and Chapter 5559 (Platted Territory Road Improvement) all provide methods to establish roads or make improvements. Generally, these chapters of the Revised Code provide for the following alternatives:

1. The county commissioners may initiate the project themselves.
2. A petition may be submitted by 12 freeholders of the county residing in the vicinity of a proposed improvement (ORC 5553.04).
3. A petition may be submitted by the owner of coal mineral rights adjacent to a proposed improvement (ORC 5553.04).
4. A petition may be submitted by 51 percent of the landowners who will be specially assessed for a proposed improvement (ORC 555.03, 5559.03).

30.052 PROCEDURAL REQUIREMENTS - NON-ASSESSMENT PROJECTS

Procedural requirements vary depending upon how and under which method the improvement is initiated. The following procedures are required under Section 5553.04 - .16 of the Revised Code. It should be noted that a special procedure is required of vacations (which is defined in Ohio law as an "improvement") that will be detailed later.

1. County commissioners adopt a resolution describing the general route of the road or the general manner in which the road will be altered; their intention to proceed; the date they will view the proposed improvement; and, a final hearing date.
2. County commissioners publish a notice of the time and place they will view the improvement and the final hearing date in a newspaper of general circulation once a week for two consecutive weeks.
3. County commissioners view the proposed improvement.
4. If, after the view, the county commissioners still consider the proposed improvement to be important they adopt a resolution to proceed and instruct the county engineer to make a survey and issue a report and recommendation prior to the final public hearing.
5. County commissioners hold a public hearing, read the report from the county engineer, and hear testimony from citizens.

6. County commissioners adopt a resolution determining to proceed or refusing to proceed with the proposed improvement. The record of proceedings must also be entered in the county road records by the county engineer.

The county commissioners may also pay compensation to property owners in conjunction with such an improvement. Such compensation can be paid from county funds or the county commissioners may provide that such compensation be paid wholly or partly by landowners in the vicinity of the improvement who will benefit and may condition the improvement upon such payments being made. If such payments are not made, the project can be abandoned. When orders for compensation and damages are made the final order relating the improvement cannot be made for 10 days during which time an appeal can be filed in either probate or common pleas court.

30.053 PROCEDURAL REQUIREMENTS - ASSESSMENT PROJECTS

The county commissioners may use assessments to construct a new road or improve an existing road by:

1. Acting on their own initiative, or
2. When petitioned by 51 percent of the landowners who are to be assessed for such improvement.

When acting on their own initiative to build or improve a road by assessment, the county commissioners adopt a resolution which must contain:

1. That the public convenience and welfare require the improvement.
2. The route and termini of the improvement.
3. Which method provided by Section 5555.41 of the Revised Code will be used to apportion the cost of the improvement.
4. An order to the county engineer to prepare the necessary construction plans and specifications, estimates of cost, and schedule of assessments based on benefits.
5. Fixing the date for the county engineer for filing the above items.

This resolution must be by unanimous vote, however, all subsequent proceedings may be by majority vote. After the filing of the plans, etc., by the county engineer, the county commissioners must publish in a newspaper for a period of two weeks a notice that a resolution has been adopted providing for the improvement and copies of the plans, etc. are on file for inspection. This notice must also state the time and place for hearing objections to the improvement or assessments.

If after the hearing the county commissioners are of the opinion that the improvement

should not be made, they shall so order. If the county commissioners are still satisfied that the public convenience and welfare require that such improvement be made and that the cost will not be excessive in view of the benefit, it must pass a resolution that it proceed with the improvement, adopt the plans, estimates, schedule of assessments and order the assessments.

The county commissioners of two or more counties, acting as a joint board, may, by resolution passed by unanimous vote, order the construction, repair, etc., of a road by assessment.

The county may also be petitioned to construct, repair, etc., a road with the landowners assessed for the cost. Such a petition must contain which method provided by Section 5555.41 of the Revised Code is to be used to pay for the improvement and be signed by at least 51 percent of the landowners who are to be assessed for the improvement.

When presented with the petition the county commissioners must, within 30 days, view the proposed improvement and after viewing it determine if the public convenience and welfare require that such improvement be made.

All orders and determinations may be made by majority vote of the county commissioners with the procedure for such improvement otherwise being the same as it is when the county commissioners proceed without a petition. Sections 5555.04 and 5555.05 of the Revised Code are used in determining if the signatures of the petition are valid.

When the proposed improvement is in two or more counties, the petition may be filed with either county which then must cause a certified copy to be filed with the county commissioners of the other counties.

The boards of county commissioners must meet as a joint board within 30 days from the date of the filing of the petition. The joint board must first determine whether the petition has been signed by the proper number of landowners. From this point

the joint board follows the same procedures as if it was a single board. A majority of the joint board may order the construction but at least one commissioner from each county in which the improvement is located must be part of that majority.

After the joint board has granted the improvement, one of the county engineers' is appointed to make the surveys, plans, assessments, etc. If the majority of the joint board is unable to agree on one of the engineers', the Director of Transportation is to designate a county engineer from one of the counties.

The Director of Transportation must also decide the apportionment of cost if the joint board becomes deadlocked. Each county may choose a different method of apportionment if that is the decision of the joint board. If bonds are issued they must be issued separately by each county to cover its portion of the cost. Apportionment of the

cost shall be by one of the methods specified in Sections 5555.41 - .51 of the Revised Code.

If it is found that an equitable assessment cannot be made by any of these sections, then the county commissioners may order the county engineer to make a tentative plan and file it with the court of common pleas who then determines the assessment schedule. Assessments are payable in not more than 20 semi-annual installments over a period of not more than 10 years.

30.054 MISCELLANEOUS ROAD IMPROVEMENT OPTIONS

In addition to the preceding options for road improvements and dedications, following are some other provisions of Ohio law that apply to specific situations:

1. DEDICATION OF LAND FOR ROAD PURPOSES - Any person may dedicate lands for road purposes if the land is free from all liens and it is accepted by the county commissioners (ORC 5553.31).
2. PETITION TO RELOCATE ROAD BY PROPERTY OWNERS - A property owner may petition to have the location of a public road passing through his property relocated (ORC 5553.23 - 5553.30).
3. PETITION TO ESTABLISH ROAD THROUGH LANDS OF ANOTHER PERSON - Any person may petition the county commissioners to establish a road from land owned by the petitioner and through land owned by another person (ORC 5553.41 -5553.43).
4. COUNTY LINE IMPROVEMENTS - County line road improvements are governed by a joint board of county commissioners under Sections 5553.13 - 5553.16 of the Revised Code.
5. MUNICIPAL/TOWNSHIP BOUNDARY ROADS - Provisions relating to the establishment of boundary roads separating a township from a municipality are governed by the provisions of Section 5579.03 of the Revised Code.
6. PLATTED TERRITORY ROADS - Sections 5559.01 and 5559.03 of the Revised Code provide that roads within three miles of a city where the plan for streets has been approved by a municipal planning commission and the plat filed with the county recorder are under the control and supervision of the county commissioners. These sections do not place maintenance responsibility upon the county.

30.06 RELATIONSHIP TO SUBDIVISION REGULATIONS

Many road dedications are incorporated into subdivision plat approvals under Chapter 711 of the Revised Code. Readers should refer to Chapter 88 of this handbook for

further information.

It should be noted that the mere approval of a plat by the county commissioners does not constitute the establishment of any public road dedicated on such plat. The approval of the plat must be accompanied by an acceptance of the streets dedicated on the plat by the county engineer after the engineer inspects the street to see that the streets have "been constructed in accordance with the specifications set forth on the approved plat, and that such street is in good repair..." (ORC 711.091).

In no case should the streets be accepted unless:

1. The street has been constructed in accordance with the standards and specifications of the county engineer.
2. The developer has posted an acceptable bond, deposit, or other surety insuring compliance with the standards and specifications of the county engineer.

There is often confusion relating to the three mile city extra-territorial subdivision regulation jurisdiction. If streets have been dedicated on a plat within three miles of the city limits with the approval of the planning commission of the city and the county commissioners have approved the dedication and acceptance, the responsibility for the maintenance of the streets rests upon the township trustees if no affirmative action has been taken by the county commissioners to establish such streets as part of the county highway system. A good working relationship with city and township officials is vital in such situations (ORC 5559.15).

30.07 VACATION OF ROADS

There are a variety of methods by which roads may be vacated as follows:

1. The Director of Transportation may petition the county commissioners to vacate a road when he believes it is necessary in conjunction with a state highway improvement. The county commissioners must act within 30 days, and the decision can be appealed to common pleas court within 30 days by any property owner or the Director. ODOT is required to pay compensation and damages to the affected property owners (ORC 5553.041).
2. Any road or part of a road that remains unopened for seven years after its establishment shall be vacated (ORC 5553.10).
3. Roads may be vacated pursuant to Section 5553.04 of the Revised Code. The vacation action may be commenced by the resolution of the county commissioners or, the action may be commenced upon the filing of a petition signed by at least 12 freeholders residing in the vicinity of the road proposed to be vacated.

4. Township roads can be vacated if a petition is filed with the county commissioners by any abutting land owner. If the county commissioners find that said public road has been abandoned and not used for a period of 21 years, as alleged in the petition, the county commissioners shall order the road vacated and such road becomes the property of the abutting land owners, subject to the preservation of any existing right-of-way by any public utility or rural electric cooperative service facility for such period of time as such public utility or rural electric cooperative service facility continues to be used (ORC 5553.042, 5553.043).

In addition, as a part of the vacation proceedings, the county commissioners may establish a public right of way for non-motorized vehicular recreational use (ORC 5553.044).

30.071 VACATION PROCEDURE

The following major steps are required in road vacation proceedings under Section 5543.04 of the Revised Code:

1. County commissioners adopts a resolution generally describing the proposed vacation; their intention to proceed; the date they will view the proposed vacation; and a final hearing date.
2. County commissioners publish a notice of the time and place of the view and the final hearing date in a newspaper of general circulation once a week for two consecutive weeks.
3. County commissioners view the proposed vacation.
4. If, after the view, the county commissioners still consider the proposed vacation to be important, it instructs the county engineer to issue a report and recommendation prior to the final hearing.
5. County commissioners send notices of the public hearing at least 20 days before the hearing to owners of property abutting the road proposed to be vacated.
6. County commissioners send the same notice to the Director of Natural Resources as some vacations are now being retained as part of a system of Ohio trails for non-motorized vehicles (ORC 5553.05).
7. County commissioners hold the public hearing; read the county engineer's report; and hear testimony from citizens.
8. County commissioners adopt a resolution formally vacating the road.

It should be noted that township trustees have no authority to vacate roads. If the county commissioners find that the road has been abandoned and not used for a period of 21 years, they must order it vacated.

30.08 MAJOR SOURCES OF REVENUE

The following sections will generally discuss the major sources of funds for road and bridge improvements and maintenance projects in most counties.

30.081 STATE MOTOR VEHICLE LICENSE TAX

The motor vehicle license tax is the major source of revenue for roads and bridges in most counties. Section 4503.02 of the Revised Code requires that an annual license tax be levied "upon the operation of motor vehicles on the public roads and highways." Section 4503.03 of the Revised Code instructs the registrar of motor vehicles to designate deputy registrars in each county "who shall accept applications for the annual license tax." Section 4503.04 of the Revised Code defines the rates of the annual license tax for all categories of motor vehicles:

1. Three wheels or less (except a motorcycle which is \$14.00) - \$10.00
2. Passenger Car - \$20.00
3. House and travel trailer - \$10.00
4. Trucks, trailers & semitrailers - \$15.00 plus Weight Table
5. All buses (except transit buses) - Weight Table
6. Transit bus - \$12.00
7. Farm Truck - Weight Table, but not less than \$12.00
8. Non-Commercial Truck - \$35.00
9. Motor Home - \$35.00

Additional special licenses are defined in other sections of the code, but their aggregate dollar value is quite low.

All motor vehicle license tax revenue is earmarked by Article XII, Section 5a of the Ohio Constitution for highway-related purposes. These revenues are distributed as follows:

1. Forty-seven percent is distributed to counties based on the total registration in each county.

2. Five percent is shared equally among all counties.
3. Nine percent is divided among all counties based on a ratio of miles of county roads in each county to the total mileage of all county roads in the state.
4. Thirty-four percent is distributed to counties based on the location registration of the vehicle in the county. Of this 34 percent, approximately 70 percent goes to municipalities with the remaining 30 percent being allocated to counties.
5. Five percent is distributed to townships based on a ratio of miles of township roads in each township to the total miles of township roads in all townships in the state.

In addition to the actual license fees collected, the state has also been distributing the accrued interest earnings on these funds to counties and other political subdivisions. While most interest earned on funds invested by the county treasurer benefits the county general fund, the Attorney General and a court of appeals has ruled that interest earned on motor vehicle license and gas tax funds must be returned to the county engineer for road and bridge purposes. For more information refer to Chapter 21 of this handbook.

These funds are administered by the Bureau of Motor Vehicles and are distributed periodically to the county auditor. The records of the Bureau of Motor Vehicles are open for review and audit by counties to assure that registration forms are properly completed. Some counties have discovered errors on the forms made by vehicle owners which has meant significant amounts of revenue have been distributed to the wrong jurisdiction. These errors are usually associated with the difference between the registrant's post office address and the political subdivision in which the person resides.

30.082 PERMISSIVE MOTOR VEHICLE LICENSE TAX

Counties were authorized in 1967 to levy an additional \$5 permissive license tax on top of the state tax. Counties were given a limited amount of time to enact the tax, and if they elected not to do so, municipalities were then given the opportunity to enact it. Under this original law, once any municipality within the county had enacted the tax, the county was then precluded from enacting the permissive tax. This prohibition was eliminated in 1983 to allow counties to enact the tax, but not within municipalities that had previously enacted their own 1967 five dollar license tax.

In 1987 counties were given authority to enact an additional \$10 in two \$5 increments. Similar to the 1967 law, municipalities were given the opportunity to enact these two new \$5 taxes if the county failed to enact them within specified time periods. Counties were authorized to continue to enact these two new \$5 taxes after municipalities were authorized to enact them but only in jurisdictions where a municipality had not enacted the tax.

In addition to the two new 1987 \$5 taxes, municipalities and townships were authorized, in 1987, to enact, at any time, their own \$5 taxes. For a more detailed discussion of permissive motor vehicle license taxes, see Chapter 16 of this handbook.

30.083 MOTOR VEHICLE FUEL TAX

The motor vehicle fuel tax is actually five separate tax levies, each with its own distribution formula, which result in a total tax of 22 cents per gallon. The revenue from the tax is also earmarked for highway-related purposes in accordance with Article XII, Section 5a of the Ohio Constitution.

Approximately three-fourths is allocated to state highway programs and the remaining one-fourth to local highway programs, as provided for in Chapter 5735 of the Revised Code.

One cent of each 22 cents is distributed to the Local Transportation Improvement Fund (LTIP) which the Ohio Public Works Commission administers in conjunction with the Issue II program for local public infrastructure improvements. For more information on LTIP and Issue II, see Chapter 31 of this handbook.

Following is a breakdown of the five funds that comprise the 22 cent tax. This summary also shows the disposition of the revenue generated from the tax:

1. GENERAL EXCISE TAX FUND - two cents per gallon Distributed as follows after .5 percent is set aside for waterways safety fund:
 - a. 30 percent distributed to municipal corporations;
 - b. 45 percent distributed to state's highway fund.
2. HIGHWAY CONSTRUCTION FUND - two cents per gallon Distributed as follows after .5 percent goes to waterways safety fund:
 - a. 67.5 percent distributed to highway construction;
 - b. 7.5 percent distributed to counties;
 - c. 7.5 percent distributed to municipal corporations; and
 - d. 17.5 percent distributed to townships.
3. HIGHWAY BOND RETIREMENT FUND - one cent per gallon distributed to bond retirement and any remainder to the supplemental highway construction fund.
4. SUPPLEMENTAL HIGHWAY CONSTRUCTION FUND - two cents per gallon is distributed for state highway purposes.

5. CENTS-PER-GALLON - This variable rate tax was enacted in 1981. The legislation authorized a maximum additional tax of five cents per gallon based on adjustments in a maintenance index factor and a fuel consumption factor. Pursuant to this concept the tax increased by 3.3 cents in 1981, 1.4 cents in 1982, and .3 cents in 1983 when the five cents maximum increase was reached.

The cents-per-gallon rate remained at 5 cents until July 1, 1987 when the cap was removed and the rate increased to 7.7 cents per gallon. The rate increased to 7.8 cents per gallon July 1, 1988. In 1989 the legislature authorized a rate of 11 cents per gallon effective July 15, 1989, and 13 cents per gallon effective July 1, 1990.

One cent of the increase authorized by the legislature in 1989 was earmarked to the Local Transportation Improvement Program (LTIP) for local road and bridge improvements. The cents-per-gallon rate increased to 14 cents effective July 1, 1991 and to 15 cents on July 1, 1993. The rate is calculated annually in June and is subject to a maximum annual increase of 1 cent per gallon.

The cents-per-gallon tax is distributed so that all benefitting subdivisions receive the same relative share that they receive from the previous seven cents tax as follows:

- a. 10.7 percent to municipalities
- b. 5.0 percent to townships
- c. 9.3 percent to counties
- d. 75.0 percent to the state highway fund

For counties, the county allocation is divided equally among all counties. In 1992 each county received \$1,119,375.

30.084 TRAFFIC FINE REVENUE

Counties derive limited funds for road purposes from traffic fine receipts. Because only a small amount of funds are generated from the source, the details will not be covered in this handbook.

The disposition and distribution of these funds is very complex. Some funds go to municipalities, townships and counties and the exact amount may vary depending on such factors as who is the (arresting officer; whether the violation was under municipal ordinance or state law; and the type of court. Some of the funds distributed go to the general fund, some are for road purposes, and some are earmarked for the law library.

30.085 OTHER SOURCES OF REVENUE

The revenues described above are considered to be revenue designated for road and bridge projects. In addition, there are a variety of other options to provide needed revenue for road and bridge projects. The following sections will discuss some of these options.

1. TAX LEVIES - The Revised Code contains numerous provisions relating to property tax levies for road and bridge projects. Following is a listing of some of the major authorities, however, some are almost meaningless because of the 10 mill property tax limitation:
 - a. Payment of county share of projects under Chapter 5555 of the Revised Code is authorized by Section 5555.48 of the Revised Code - two mill maximum.
 - b. Payment of township share of projects under Chapter 5555 of the Revised Code is authorized by Section 5555.49 - three mill maximum.
 - c. Tax levy after annual estimate of county engineer is authorized by Section 5555.91 of the Revised Code - two mill limit.
 - d. A tax levy without a vote of the people is authorized provided it does not exceed the ten mill limit - (ORC 5705.06).

Counties also have the opportunity to present a tax levy to the voters of the county. The commissioners may adopt such a resolution and must certify it to the board of elections at least 75 days before the election. The tax may be levied "for the general construction, reconstruction, resurfacing, and repair of roads and bridges" in the county. This tax is provided for by Division G of Section 5705.19 of the Revised Code.

2. GENERAL FUND AND SALES TAX FUNDS - Counties may use general fund receipts including sales and use tax receipts for road and bridge projects (OAG 81-035). Specific authority exists pursuant to Section 5739.026 of the Revised Code to enact a sales tax for any specific permanent improvement or class of permanent improvements, which could include roads and bridges. A sales tax could also be enacted to assist in municipal and township road improvements under the jurisdiction of a community improvement board. For more information on these options refer to chapter 16 of this handbook.
3. PAYMENTS FROM OTHER POLITICAL SUBDIVISIONS - The following options exist for intergovernmental cooperation in the construction of road and bridge projects:
 - a. Townships and counties may, by agreement, contribute to the repair and maintenance of roads under the jurisdiction of the other (ORC 5535.08,

555.43).

- b. Villages may expend funds on roads outside of the village if the road leads to the village (ORC 5535.08).
 - c. Municipalities and counties may, by agreement, construct a road in a municipality if it is on a state highway or an extension of a county road that leads into a municipality. In this case the county can make assessments within the municipality, issue bonds, and use county road funds to the extent the agreement so provides (ORC 5557.04).
4. STATE AND FEDERAL AID - There are a variety of state and federal assistance programs. Because these change periodically and are very technical they are not included in this handbook. Discuss these options with your county engineer or refer to the County Engineers Handbook.

30.09 GENERAL FUND EXPENSES

Ohio law basically provides that the county engineer shall operate with dedicated revenues, not general fund sources. There are, however, some notable exceptions to this rule as follows:

1. The commissioners are required to provide the engineer his office "furnished with all necessary cases and other suitable articles." This is a county general fund expense and includes furnishings, tools, instruments, books, blanks, stationery, etc. (ORC 315.11, 315.12).
2. The salary of the tax map draftsman is a general fund expense, however, the salary must be approved by the county commissioners (ORC 5713.10).
3. Two-thirds of the cost of operating the office of the county engineer must be paid from motor vehicle and gas tax revenues. This apparently does not mean, however, that the remaining one-third is a general fund requirement except for the items required to be funded out of the general fund under Section 315.11 of the Revised Code relating to furnishings, tools, equipment, etc. (Board of County Commissioners v Budget Commission 46 OS 2d 203).
4. The salary of the county engineer may be paid from either the general fund or from motor vehicle and gas tax revenues (ORC 325.14). In addition, a county engineer can be appointed as sanitary engineer with his agreement and may receive additional compensation from water, sewer, or solid waste funds as mutually agreed. For further information refer to chapter 82 of this handbook.

30.10 INDIRECT COSTS AND INSURANCE

Many counties have prepared indirect cost allocation plans pursuant to a federal

management circular. The purpose of the indirect cost allocation plan is to recover monies to the general fund for central service support activities related to federal projects. While counties may be able to recover these costs to the general fund as they relate to federal aid projects, these charges are not authorized against the motor vehicle license and gas tax fund. The Attorney General has ruled that in the absence of specific statutory authorization there is not authority to recover such costs to the general fund (OAG 82-011).

On the other hand, costs for insurance may be allocated to the funds of the county engineer. While county engineers' feel this is an unconstitutional use of funds pursuant to Article XII, Section 5a of the Ohio Constitution, the Attorney General has ruled such charges are possible. See Chapter 8 of this handbook for additional information.

30.11 FORCE ACCOUNT PROJECTS

Simply stated, a "force account" project is one where the county engineer acts as the contractor using his employees to make road and bridge improvements. In order to proceed on projects by "force account" the following guidelines are important:

1. The county engineer must be authorized by the county commissioners to proceed by force account. Many counties adopt a blanket authorization resolution as one of their first acts each year.
2. The county engineer must make an estimate of the cost of the work to include labor, materials, freight, fuel, hauling, use of machinery and equipment, and other items.
3. When the total estimated cost of a road improvement exceeds \$10,000 per mile the commissioners must receive competitive bids.
4. When the total estimated cost of a bridge improvement exceeds \$40,000 the commissioners must receive competitive bids.
5. Material and equipment obtained for the force account project must be purchased or leased through competitive bidding.
6. The county must receive a prevailing wage determination from the Department of Industrial Relations and use these figures in making cost estimates {ORC 4115.04}.

30.12 PREVAILING WAGES

For contract projects on roads and bridges, counties must be aware of Ohio's prevailing wage law as provided for in Chapter 4115 of the Revised Code.

Every public authority authorized to contract for or construct with its own forces a public

improvement, before advertising for bids or undertaking such construction with its own forces, shall have the Department of Industrial Relations determine the prevailing rates of wages of mechanics and laborers in accordance with Section 4115.05 of the Revised Code for the class of work called for by the public employment, in the locality where the work is to be performed. Counties now have the following general responsibilities:

1. If the total cost of the project exceeds \$4,000, prevailing wages must be paid by all contractors and subcontractors.
2. The county must have a "prevailing wage coordinator" to maintain payroll records submitted by contractors or subcontractors. This may be one individual for all county public improvement projects, or a separate individual for various projects.
3. Within 72 hours after the county is notified of a change in the prevailing wage rate, the county must notify all contractors and subcontractors of the change within seven working days. If such notice is not given, the county is then liable for the difference in cost if the wages were not changed.

Prevailing wages are determined by the Department of Industrial Relations on a county basis in conformity with existing pay rates in effect under private sector collective bargaining agreements. If there is no such agreement in effect in a particular county, the rate of the nearest county with an agreement in effect will be used. For further information on prevailing wages refer to Chapter 6 of this handbook.

30.13 CONSTRUCTION CONTRACTS

Although a construction contract is a very detailed area of law, and legal advice from the county prosecutor should always be utilized, it is vital that commissioners generally understand requirements as they relate to road and bridge projects.

After the bid opening date, the contract must be awarded and executed within 60 days or the bid is invalidated unless an extension of time is mutually agreed to between the county and the successful bidder. If a time extension is agreed to between the county and the successful bidder, the successful bidder is then entitled to certain additional costs.

Ohio law also establishes procedures and requirements for change orders, payments on estimates made by a contractor, and the retainage of funds. It is important to realize that there are now requirements concerning the establishment of escrow accounts upon which interest must be paid to contractors on retained funds. If counties do not establish these escrow accounts they are then required to pay the contractor interest at the rate of six percent. For additional information on construction contracts, refer to chapter 6 of this handbook and Chapter 153 of the Revised Code.

30.14 OTHER POWERS AND AUTHORITIES

County commissioners, in conjunction with the county engineer, have a variety of other powers and authority related to roads and bridges.

Counties may regulate traffic by installing signs and signals; restricting parking, designating one-way roads; requesting that the state lower speed limits; establish and reduce load limits; and, similar types of activities.

Counties may also regulate the use of road rights-of-way by public utilities; mining closer than 50 feet to the right-of-way; planting of vegetation on county roads; seismic testing; and, may allow oversize or overweight vehicles to use the roads.

The foregoing are but a few examples of the many technical areas counties may have an interest in obtaining more information about. Each of these topics are too detailed for this handbook. Those that have an interest in these areas and other issues of importance to county commissioners and engineers should refer to the Revised Code or the County Engineers Handbook.