



COUNTY ADVISORY BULLETIN

CAB

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Bulletin 2018-1

February, 2018

ADDITIONAL COUNTY MOTOR VEHICLE LICENSE TAX

APPLICABLE LEGISLATION: Sub. HB 26 (132nd General Assembly)

Revised Code Sections: Enacts ORC Section 4504.24 and Amends 4501.031, 4501.041, 4501.05, and 4504.10 (The state transportation budget amends hundreds of other sections and enacts several other sections unrelated to the primary purpose of this CAB which is to discuss an additional county motor vehicle license tax. Therefore, only sections directly related to this new revenue source have been referenced in this CAB).

LEAD SPONSOR: Representative Rob McColley

HOUSE COSPONSORS: Cera, Rogers, Anielski, Antonio, Arndt, Ashford, Barnes, Blessing, Celebreeze, DeVitis, Ginter, Green, Hambley, Hill, Manning, Miller, Patton, Pelanda, Perales, Reineke, Ryan, Scherer, Seitz, R. Smith, Stein, Strahorn, Sweeney, Thompson, West

SENATE COSPONSORS: LaRose, Bacon, Brown, Dolan, Eklund, Gardner, Hackett, Hite, Hoagland, Lehner, Manning, O'Brien, Oelslager, Peterson, Sykes, Thomas

EFFECTIVE DATE: June 30, 2017; certain provisions effective on other dates; contains item vetoes

BULLETIN SUMMARY

This bulletin summarizes recent legislation granting counties authority to adopt a fourth five-dollar motor vehicle license tax. This provision was included within Sub. HB 26, the current biennial transportation and public safety budget (SFY 2018 – 2019). This bulletin will summarize the prior motor vehicle license tax levy law and explain the procedures for enactment of the new county motor vehicle license tax. Other topics addressed in this CAB include: county resolution subject to referendum, providing notice of adoption of license tax to municipal corporations and townships, authorized purposes for new license tax, allocation and disbursement of new tax, repeal of a new license tax, and basic questions and answers about the new county license tax.

BACKGROUND

Sub. HB 26 authorizes counties to levy and retain a fourth \$5 permissive motor vehicle license tax on motor vehicles registered in the county. With the passage of Sub. HB 26, counties, municipal corporations and townships may levy a combination of local motor vehicle license taxes not exceeding \$25 per a taxing district. The permissive motor vehicle license taxes are in addition to the state motor vehicle registration fees (for example, \$34.50 for regular passenger cars) and any taxes levied by a transportation improvement district (up to \$20 per vehicle) or a county participating in a regional transportation improvement project that has adopted a motor vehicle license tax (up to \$25 per a vehicle).

SUMMARY OF PERMISSIVE MOTOR VEHICLE LICENSE TAX LEVIES

In 1967 the legislature enacted legislation permitting any county (ORC 4504.02) or municipal corporation (ORC 4504.06) to adopt a \$5 motor vehicle license tax. Under this law counties were given exclusive authority to enact this license tax by June 30, 1968. If the county did not enact this tax by June 30, 1968, then any municipal corporation in the county could enact this tax. Subsequent to June 30, 1968, any county could enact this license tax only in those areas of the county where a municipal corporation had not previously adopted this permissive local motor vehicle license tax.

In 1987 the legislature enacted laws permitting local governments to adopt up to three additional \$5 permissive motor vehicle license taxes. The authority for the first and the second additional license taxes was given to counties and municipal corporations. The third additional license tax authority was given to municipal corporations and townships. Counties were authorized to levy up to an additional \$10 in two \$5 increments. Under this law counties could enact both \$5 license taxes at the same time.

Counties were given exclusive authority to enact the first additional \$5 license tax (ORC 4504.15) by April 1, 1989, after which any municipality in that county could enact the tax (ORC 4504.17). Counties were also exclusively authorized to enact the second additional \$5 license tax (ORC 4504.16) until April 1, 1991, after which any municipality in that county could adopt the tax (ORC 4504.171).

Municipal corporations (ORC 4504.172) and townships (ORC 4504.18) were given authority to enact a third additional \$5 license tax at any time and not contingent on the enactment of any other tax.

Taken together the three additional license taxes authorized by the legislature in 1987 when combined with the 1967 authorization meant that the maximum permissive local license tax rate in any jurisdiction was \$20 (4 X \$5). With enactment of Sub. HB 26, the maximum combined rate in any jurisdiction is \$25 (5 X \$5).

The 1987 law established various restrictions relative to the adoption of the county license taxes. Under the law, no county that had a 1967 county license tax (ORC 4504.02) in place could repeal the 1967 license tax after April 1, 1987 and enact the first additional 1987 county license tax (ORC 4504.15). The 1987 law also prohibits any county from enacting the second additional \$5 license tax (ORC 4504.16) without previously or simultaneously adopting the first additional \$5 county license tax.

The legislature authorizes transportation improvement districts (TIDS) and regional transportation improvement projects (RTIPS) to levy additional motor vehicle license taxes for special projects, but to the best of our knowledge these grants of authority are not currently utilized.

Please see Attachment A at the back of this bulletin for a Table Summary of Permissive Local Motor Vehicle License Levies by Type of Jurisdiction.

COUNTY ENACTMENT PROCEDURE FOR NEW COUNTY MOTOR VEHICLE LICENSE TAX

Any board of commissioners wishing to enact the new county motor vehicle license tax must hold two public hearings prior to adopting a resolution enacting the tax. The second hearing must not be less than three nor more than ten days after the first hearing. Notice of the time, place and date of the hearings must be published in a newspaper of general circulation in the county, or as provided in Section 7.16 of the Revised Code. The publications must occur once a week on the same day of the week for two consecutive weeks, the second publication being not less than ten, nor more than thirty days prior to the first hearing. The board of commissioners' resolution may not take effect sooner than thirty days following its adoption. The county resolution must be filed with the Tax Distribution Section of the Department of Public Safety by July 1 in order for the tax to take effect in the following registration year (ORC 4504.08).

In order for the tax to take effect at the earliest possible opportunity, which is the 2019 registration year, counties have until the close of business on July 1, 2018 to adopt their resolution and forward such resolution to the Tax Distribution Section within the Department of Public Safety. Resolutions adopted after July 1, 2018, and before July 1, 2019, will be in effect for the 2020 registration year.

Any county that adopts the new county motor vehicle license tax should certify a copy of their resolution by certified mail to the following address:

Ohio Bureau of Motor Vehicles
Attention: Tax Distribution Section
1970 West Broad Street
Columbus, Ohio 43223

Enclose a cover sheet with a contact's name, address and telephone number. The county will receive notice that a copy of the resolution has been officially received by the Ohio Bureau of Motor Vehicles/Department of Public Safety.

A Sample New County Motor Vehicle License Tax Resolution is attached to this bulletin as Attachment B.

COMMISSIONERS' RESOLUTION SUBJECT TO REFERENDUM

Following adoption of a commissioners' resolution to enact a new county motor vehicle registration tax, the resolution does not become effective for a 30-day period. During that time a referendum petition may be circulated requesting the resolution be submitted to the voters at either a primary or general election. The procedures for filing the referendum petition are governed by ORC 305.31 – 305.41 and must also comply with ORC 3501.38.

The petition must be signed by 10 percent of those that voted for governor in the most recent gubernatorial election. The text of the petition for a referendum must request that the resolution levying the permissive tax be submitted to the electors of the county for their approval or rejection.

The petition also must be filed with the county auditor within 30 days after the adoption of the resolution by the commissioners. After a petition has been filed with the county auditor it must be kept open for public inspection for 10 days.

If a petition is filed with the county auditor during the 30 day period, the board of commissioners must notify the Tax Distribution Section within the Department of Public Safety of the filing of the referendum. If the petitions are determined to be invalid, or if the petitions are valid and the referendum on enactment proceeds to the ballot, the board of commissioners must notify the Tax Distribution Section on the outcome of either the petition verification process or the election so that the Tax Distribution Section knows whether to collect the tax.

For additional information regarding the filing of a referendum on a motor vehicle license tax, please refer to the statutory provisions listed above, or to Chapter 20 of the *County Commissioners Handbook* on the "County Permissive Motor Vehicle License Tax."

NOTICE OF ADOPTION TO LEVY COUNTY LICENSE TAX TO ALL MUNICIPAL CORPORATIONS AND TOWNSHIPS WITHIN THE COUNTY

If a board of commissioners adopts a resolution to levy the new license tax under Revised Code 4504.24, the board must provide written notice of the adoption of the resolution to the legislative authority of each municipal corporation and to the board of trustees of each township that is located in the county.

AUTHORIZED PURPOSES FOR NEW COUNTY MOTOR VEHICLE LICENSE TAX

The new county motor vehicle license tax may be used for any one or combination of the following purposes:

1. Paying the costs and expenses of enforcing and administering the tax;
2. Planning, constructing, improving, maintaining, and repairing public roads, highways, and streets;
3. Maintaining and repairing bridges and viaducts;
4. Paying the county's portion of the costs and expenses of cooperating with the department of transportation in the planning, improvement, and construction of state highways;
5. Paying the county's portion of the compensation, damages, costs, and expenses of planning, constructing, reconstructing, improving, maintaining and repairing roads and streets;
6. Paying any costs apportioned to the county for the purpose of constructing grade crossing improvements;
7. Paying debt service charges on notes or bonds of the county issued for such purposes;
8. Paying all or part of the costs and expenses of municipal corporations in planning, constructing, reconstructing, improving, maintaining and repairing highways, roads, and streets designated as necessary or conducive to the orderly and efficient flow of traffic within and through the county pursuant to section 4504.03 of the Revised Code;

9. Purchasing, erecting, and maintaining street and traffic signs and markers;
10. Purchasing, erecting, and maintaining traffic lights and signals;
11. Supplementing revenue already available for the aforementioned purposes.

The purposes identified here are identical to the purposes identified in section 4504.02 – the first \$5 county motor vehicle license tax authorized by the legislature in 1967 and identified by reference in each of the two subsequent \$5 county motor vehicle license taxes authorized by the legislature in 1987.

ALLOCATION AND DISBURSEMENT OF NEW COUNTY MOTOR VEHICLE LICENSE TAX

One hundred percent of the new county motor vehicle license tax levied under ORC 4504.24 is allocated and distributed to the county under ORC 4504.05. The law provides that the moneys from the new county motor vehicle license tax are distributed as follows:

1. First, for payment of the costs and expenses incurred by the county in the enforcement and administration of the tax;
2. The remainder of such moneys shall be credited to the county motor vehicle license and gasoline tax fund to be used only for the purposes specified in ORC 4504.24.

REPEAL OF NEW COUNTY MOTOR VEHICLE LICENSE TAX

The new county motor vehicle license tax may be repealed in two ways:

1. The board of county commissioners may adopt a resolution repealing the tax. The resolution repealing the tax must be received by the Registrar of Motor Vehicles no later than July 1 of the year preceding the registration year in which the tax is to be repealed. If a resolution repealing the tax is received after July 1 of any year, then repeal of the county license tax will occur the next succeeding registration year following receipt by the Registrar of Motor Vehicles of a resolution repealing the tax.
2. A petition for referendum may be filed within 30 days immediately following adoption of the commissioners' resolution enacting the tax. If a valid petition is filed the tax does not become effective unless approved by the voters at either a primary or general election.

Continuing law provides that if a board of commissioners rescinds a resolution enacting a tax following the submission of a valid referendum petition, or if the county auditor and board of elections determine that the petition has insufficient signatures to be valid, then the board of elections should not submit such resolution to the voters at the next primary or general election (ORC 305.35).

BASIC QUESTIONS AND ANSWERS ABOUT THE NEW COUNTY MOTOR VEHICLE LICENSE TAX LAW

1. **Is a county required to enact any or all of the other county license taxes prior to enacting the new county license tax?** No, the enactment of the new county license tax is not contingent in any manner on enactment of any of the other permissive county license taxes.
2. **Do the restrictions established in 1987 relative to the enactment of the first (ORC 4504.15) and second (ORC 4504.16) additional county license taxes still apply now?** Yes, the restrictions still apply.

3. **In regard to question number 2 above, what are those restrictions?** No county that has a 1967 county tax (4504.02) may repeal that tax and then enact the first additional county license tax (ORC 4504.15) after April 1, 1987. No county may enact the second additional county license tax (ORC 4504.16) without enacting the first county license tax (ORC 4504.15). Both additional county license taxes may be enacted at the same time.
4. **Can a board of commissioners submit the new county license tax (ORC 4504.24) to the voters for approval?** No, the only option provided by the legislature is for the tax to be approved by commissioners' resolution, subject to the potential filing of referendum petitions within 30 days of adoption requiring the resolution to be submitted to the voters for their approval.
5. **Can a board of commissioners enact the new county license tax as an emergency measure?** No, see the response to question number 4.
6. **Does the new county license tax require the allocation of any portion of the revenue to municipal corporations or townships?** No, however, counties may use the new county license tax in paying all or part of the costs and expenses of municipal corporations in planning, constructing, improving, maintaining and repairing highways, roads and streets (See ORC 4504.24 (A) (2) (h)). The county engineer also provides a variety of engineering services for townships in the course of performing their regular statutory duties. These services arguably will be enhanced by the infusion of additional revenue into the county engineers' county motor vehicle license and gas tax fund.
7. **What is the earliest that the new county license tax may be collected?** Per ORC 4504.08, resolutions must be certified to the Registrar of the Bureau of Motor Vehicles by July 1, 2018 to be effective for the 2019 registration year. The registration year runs from January 1 through December 31; however, due to the fact that registrations can be renewed 90 days ahead of expiration, collections can begin prior to January 1, 2019.

ACKNOWLEDGEMENTS

This county advisory bulletin (CAB) was prepared by CCAO. We would like to thank Leora Knight, Chief of Tax Distribution for the Department of Public Safety and Dean Ringle, Executive Director of the County Engineers Association of Ohio for providing constructive comments which improved this bulletin.

Attachment A - Table Summary of Permissive Local Motor Vehicle License Levies by Type of Jurisdiction

County Motor Vehicle License Tax Levies		
Revised Code Section	Amount	Distribution
4504.02	\$5.00	100% of the revenue collected is distributed to the county, however, municipalities can request from the county a portion of this revenue. Counties have the authority to enact this tax at any time, however cannot collect revenue from a municipality already enacting 4504.06.
4504.15	\$5.00	If a municipal registration: 50% to the municipality, 50% to the county. If a township registration: 30% to the township, 70% to the county. Counties have the authority to enact this tax at any time, however, cannot collect revenue from a municipality already enacting 4504.17.
4504.16	\$5.00	If a municipal registration: 100% is distributed to the county. If a township registration: 30% to the township, 70% to the county. Counties have the authority to enact this tax at any time, however, cannot collect revenue from a municipality already enacting 4504.171. Effective January 2002, 4504.051 allows an increase or decrease in the allocation to townships by passage of a resolution and county approval.
4504.24	\$5.00	100% is distributed to the county. Counties have the authority to enact this tax at any time.

Municipal Motor Vehicle License Tax Levies		
Revised Code Section	Amount	Distribution
4504.06	\$5.00	100% to the municipality. Municipality cannot enact this tax if the county is already enacting 4504.02.
4504.17	\$5.00	100% to the municipality. Municipality cannot enact this tax if the county is already enacting 4504.15.
4504.171	\$5.00	100% to the municipality. Municipality cannot enact this tax if the county is already enacting 4504.16.
4504.172	\$5.00	100% to the municipality. Municipalities have the authority to enact this tax at any time.

Township Motor Vehicle License Tax Levy		
Revised Code Section	Amount	Distribution
4504.18	\$5.00	100% to the township. Townships have the authority to enact this tax at any time.

Transportation Improvement District (TID) Motor Vehicle License Tax Levy		
Revised Code Section	Amount	Distribution
4504.21	\$5.00, \$10.00, \$15.00 or \$20.00	100% to the Transportation Improvement District (TID). The board of trustees of the TID must submit the question to the voters at a primary or general election and must certify the resolution proposing the tax to the board of elections 90 days before the election.

Regional Transportation Improvement Project (RTIP) Motor Vehicle License Tax Levy		
Revised Code Section	Amount	Distribution
4504.22	\$5.00, \$10.00, \$15.00, \$20.00 or \$25.00	100% to the board of commissioners of each county participating in the RTIP for distribution to the governing board of the RTIP for use on projects. Initiated at the request of the RTIP governing board, the tax must be at a uniform rate and approved by the voters of each county in the RTIP. The commissioners of each county by resolution submit the tax issue to the board of elections of each county in the RTIP. The tax does not apply to trucks unless approved by a Local Transportation Advisory Council.

Attachment B – Sample New Motor Vehicle License Tax Resolution

RESOLUTION LEVYING AN ADDITIONAL FIVE DOLLAR (\$5.00) MOTOR VEHICLE LICENSE TAX FOR _____ COUNTY, STATE OF OHIO PURSUANT TO 4504.24 OF THE OHIO REVISED CODE

WHEREAS, Ohio Revised Code (ORC) Section 4504.24, as enacted by House Bill 26 of the 132nd General Assembly, authorizes a board of county commissioners to adopt a resolution levying an additional motor vehicle license tax upon the operation of motor vehicles on the public roads and highways in the county, which tax is in addition to the tax levied by Section 4503.02, 4503.07 and 4503.18, and any other taxes levied under Chapter 4504 of the Revised Code;

WHEREAS, additional funds are necessary to adequately finance the planning, constructing, improving maintaining and repairing of public roads, highways and streets, and the maintaining and repairing of bridges and viaducts; and

WHEREAS, the county wishes to levy an annual license tax upon the operation of motor vehicles on the public roads and highways in the county, which tax is in addition to any of the taxes levied under Chapter 4504 of the Ohio Revised Code; and

WHEREAS, tax collected by the county pursuant to Section 4504.24 of the Ohio Revised Code shall be at the rate of \$5.00 per motor vehicle on all motor vehicles registered in _____ County; and

WHEREAS, prior to the adoption of any resolution authorizing the county to levy an additional motor vehicle license tax under Section 4504.24 of the Ohio Revised Code, the county must conduct two public hearings thereon; the second hearing to be not less than (3) but not more than ten (10) days after the first hearing; and

WHEREAS, pursuant to the requirements of Section 4504.24 of the Ohio Revised Code, the county is required to provide notice of the date, time, and place of both hearings by publication in a newspaper of general circulation in the county, or as provided in Section 7.16 of the Ohio Revised Code, once a week on the same day of the week for two consecutive weeks, the second publication being not less than ten (10) but not more than thirty (30) days prior to the first hearing;

WHEREAS, _____ County has provided public notices twice in a newspaper of general circulation in the county and has held two public hearings as required by law;

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of _____ County, Ohio:

1. That the board of county commissioners, pursuant to Section 4504.24 of the Ohio Revised Code, hereby determines that it is necessary to levy an additional county motor vehicle license tax;
2. That an additional license tax is hereby levied pursuant to Section 4504.24 of the Ohio Revised Code; this tax is in addition to any tax levied pursuant to Section 4503.02, 4503.07 and 4503.18 of the Ohio Revised Code and any other relevant tax levied under this title of the Revised Code; the tax shall be at the rate of five dollars (\$5.00) per motor vehicle on all motor vehicles in the district of registration of which is _____ county,

Ohio; the rate shall be in addition to the taxes at rates specified in Sections 4503.04 and 4503.16 of the Ohio Revised Code;

3. That this resolution shall become effective thirty days following adoption and is subject to referendum as provided in Sections 305.31 to 305.41 of the Ohio Revised Code.
4. That the clerk to the board of county commissioners shall provide written notice of the adoption of this resolution to the legislative authority of each municipal corporation and the board of trustees of each township that is located in the county in accordance with Section 4504.24 of the Ohio Revised Code.
5. That the clerk to the board of commissioners is hereby directed to certify a copy of this resolution to the county engineer, the county auditor and the county treasurer.
6. That the clerk to the board of commissioners is directed to certify this resolution to the Bureau of Motor Vehicles, Attention: Tax Distribution Section

BE IT FURTHER RESOLVED that all formal actions of the board relating to the adoption of this resolution were taken in an open meeting of the board in compliance with all legal requirements of Section 121.22 of the Ohio Revised Code

Upon roll call on the adoption of the resolution, the vote was as follows:

I, _____, Clerk of the Board of Commissioners of _____ County, Ohio certify that the foregoing is a true and correct copy of a Resolution adopted at a legally convened board meeting on _____

Signature

Certified Copy
County Auditor
County Engineer
County Treasurer
Ohio Bureau of Motor Vehicles
