

April 22, 2026

The Honorable Jess C. Weade
Fayette County Prosecuting Attorney
119 East Market Street
Washington Court House, Ohio 43160

SYLLABUS:

2026-003

A township may not use revenue from the motor fuel excise tax to fund any portion of the purchase of a fire tanker truck for its fire department.



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OPINION NO. 2026-003

The Honorable Jess C. Weade
Fayette County Prosecuting Attorney
119 East Market Street
Washington Court House, Ohio 43160

Dear Prosecutor Weade:

You have requested my opinion regarding the proper use of township road funds. I begin with the background you provided:

Wayne Township within Fayette County, Ohio maintains a Volunteer Fire Department. Part of the duties of the township involve responding to emergency incidents on the roadway. The fire chief has indicated that these responses are vehicle crashes/tree incidents/ and power-lines. The township is in the process of purchasing a fire tanker truck which would also carry rescue tools for vehicle crashes. In making the purchase of the truck, the township is financing the

purchase, but [it] is also making a significant down payment of \$100,000.00. They would like to use \$50,000.00 from the fire fund and \$50,000.00 from the road fund to effectuate the purchase.

In this township, the road fund consists of revenue from the motor fuel excise tax (“motor fuel tax”) that the township receives from the State. I understand that Wayne Township would use the fire tanker truck to respond to emergency incidents on the roadway—such as vehicle crashes, fallen trees, and downed powerlines. The fire chief also explained that the truck will be used primarily for fire-rescue efforts, like hauling water to fight fires throughout the township, not just road-related incidents.

Although I cannot determine whether a particular purchase is reasonable or within the township’s financial means, I can address the more general question below:

May a township use its distribution of motor fuel tax revenue to purchase, or assist in the purchase of, a fire tanker truck for its fire department?

For reasons that follow, I conclude that a township may not use motor fuel tax revenue for this purpose.

I

First, the Ohio Constitution speaks directly to your question. Article XII, Section 5a limits the use of revenue “from fees, excises, or license taxes relating to registration, operation, or use of vehicles on public highways, or to fuels used for propelling such vehicles.” That revenue may be spent only for the “costs of administering such laws, statutory refunds and adjustments provided therein, payment of highway obligations, costs for construction, reconstruction, maintenance and repair of public highways and bridges and other statutory highway purposes, expense of state enforcement of traffic laws, and expenditures authorized for hospitalization of indigent persons injured in motor vehicle accidents on the public highways.” *Id.*

When the Ohio Supreme Court interprets the constitution, it looks to “the original public meaning of a provision.” *State ex rel. Gatehouse Media Ohio Holdings II, Inc. v. Columbus Police Dept.*, 2025-Ohio-5243, ¶17. More precisely, the Court affords “a provision the meaning that would have been ascribed to it by a competent speaker of the English language at the time of its adoption.” *Id.* So, in “construing constitutional text that was ratified by direct vote,” the Court considers “how the language would have been understood by the voters who adopted the amendment.” *Centerville v. Knab*, 2020-Ohio-5219, ¶22; *see also Castleberry v. Evatt*, 147 Ohio St. 30, 33 (1946). That means, to

discern what “highway purposes” means in Article XII, Section 5a of the Constitution, we start with “the history of the amendment and the circumstances surrounding its adoption, the reason and necessity of the amendment, the goal the amendment seeks to achieve, and the remedy it seeks to provide . . .” *Centerville*, at ¶22.

Before Article XII, Section 5a was adopted in 1947, motor-fuel-tax revenue was sometimes used for unrelated needs, such as relief for the poor during the Great Depression, school funding, and the state’s general revenue fund. *Beaver Excavating Co. v. Testa*, 2012-Ohio-5776, ¶19. The official publicity pamphlet’s argument in favor of the amendment stated: “Ohio originally promised that automobile license and gas tax funds would go for roads, streets, and related purposes. But temptation was too great and millions of these special tax dollars have been and are being spent for other purposes.” *Quoted by Ohio Trucking Assn. v. Charles*, 2012-Ohio-5679, ¶12; *see also* 1982 Ohio Atty.Gen.Ops. No. 82-085, at 2-236 to 2-237. Opponents argued that the amendment would place “the Legislature in a strait-jacket” by limiting revenue to highway purposes. *Id.*

As the Ohio Supreme Court has since noted, both arguments confirm that “the objective of Section 5a was and is to prevent taxes and fees collected from the motoring public from being diverted to non-

highway purposes.” *Ohio Trucking Assn. v. Charles*, at ¶14, quoting *Ohio Trucking Assn. v. Stickrath*, 2011-Ohio-4361, ¶34 (10th Dist.); accord *State ex rel. Preston v. Ferguson*, 170 Ohio St. 450, 461-463 (1960). So, the Court has explained, the Amendment “closely restricts” the use of motor fuel tax revenue “to purposes *directly connected* with the construction, maintenance and repair of highways and the enforcement of traffic laws.” *Knox Cty. Bd. of Commrs. v. Knox Cty. Engineer*, 2006-Ohio-2576, ¶10, quoting *Grandle v. Rhodes*, 169 Ohio St. 77 (1959), at paragraph one of the syllabus; cf. *Stockberger v. Henry*, 2012-Ohio-5392, ¶22.

II

The General Assembly further limited how townships may use revenue from the motor fuel tax. Under R.C. 5735.27, a township may use its share of the tax revenue only for “planning, constructing, maintaining, widening, and reconstructing the public roads and highways within the township” and related costs such as labor and materials. R.C. 5735.27(A)(3)(d). The statute also permits spending for “road machinery and equipment,” for buildings to house such equipment, and for debt service on bonds issued for those purposes. *Id.* The motor fuel tax is levied “to enable counties and townships to properly plan, construct, widen, reconstruct, and maintain their public highways, roads, and streets.” R.C. 5735.05(A)(2) and (3).

The fire tanker truck will not be used for planning, constructing, widening, or reconstructing township roads. To justify its purchase with revenue from the motor fuel tax, the truck must either (1) be used to maintain township roads or (2) qualify as “road machinery and equipment.” R.C. 5735.27(A)(3)(d). As I discuss next, it fits neither purpose.

A

“Road maintenance” is not defined by statute, so we turn to its ordinary, everyday meaning. R.C. 1.42. Generally understood, “road maintenance” means keeping roads in proper condition. 2006 Ohio Atty.Gen.Ops. No. 2006-028, at 2-261; *accord* 1963 Ohio Atty.Gen.Ops. No. 129, p. 211, at 215. Township trustees are responsible for keeping township roads in good repair, cutting brush and weeds, and dragging graveled or unimproved roads. *State ex rel. Duncan v. Chippewa Twp. Trustees*, 73 Ohio St.3d 728, 729 (1995); *see* R.C. 5571.02, 5571.12, and 5579.08. Prior attorney general opinions interpret road maintenance to include removing obstructions from the roads and routine upkeep such as snow and ice control. *See* 1952 Ohio Atty.Gen.Ops. No. 1485, p. 419, at 425-426; 1942 Ohio Atty.Gen.Ops. No. 5661, p. 825, at 830-831; 2015 Ohio Atty.Gen.Ops. No. 2015-036, Slip Op. at 4; 2-348.

You have indicated that Wayne Township would use the fire tanker truck in response to emergency

incidents on the roadway, including vehicle crashes, fallen trees, and downed powerlines. Clearing such obstructions could, in theory, be considered an element of road maintenance. See R.C. 4513.66, 5543.14, and 5579.04. However, the fire truck cannot be dedicated solely to road-related incidents. Its primary purpose would be hauling water to fight fires throughout the township. That significantly weakens any road-maintenance rationale for the purchase. And although rescue tools are invaluable for responding to vehicle crashes, their purpose is to protect people—not to maintain township roads.

Again, Article XII, Section 5a “closely restricts” the use of motor fuel tax revenue “to purposes *directly connected*” to road repair and the enforcement of traffic laws. *Knox Cty. Bd. of Commrs.*, at ¶10, quoting *Grandle*, at paragraph one of the syllabus. R.C. 5735.27 imposes similar limits. An indirect connection to highway maintenance is not enough. See 1954 Ohio Atty.Gen.Ops. No. 3998, p. 319 (revenue generally may not fund deputy sheriffs on highway patrol), *modified in part by* 1977 Ohio Atty.Gen.Ops. No. 77-079 (allowing such expenditures only if deputies are assigned to enforce highway load limitations); *see also* 1937 Ohio Atty.Gen.Ops. No. 880, p. 1581 (revenue may not be used to construct sidewalks within road easements).

Intermittently using a fire tanker truck to respond to roadway emergencies does not ordinarily constitute

road maintenance. I therefore conclude that a township may not use revenue from the motor fuel tax to purchase a fire tanker truck under the guise of road maintenance.

B

One last question remains: If the purchase of a fire tanker truck is not a direct expense of road maintenance, could the truck qualify as “road machinery and equipment” under R.C. 5735.27? The statute again does not define these terms, but R.C. 5735.27 and related provisions distinguish between “road machinery” and ordinary motor vehicles, unless those vehicles are used to build or repair roads. See R.C. 505.10, 4501.01(B), 4507.03, and 5501.40; see also *Shafer v. Glander*, 153 Ohio St. 483, 492-493 (1950); *State ex rel. Locher v. Menning*, 95 Ohio St. 97, 98-99 (1916); 1931 Ohio Atty.Gen.Ops. No. 3370, p. 871. In context, “road machinery and equipment” refers to tools and machines used to construct, maintain, or improve roads. R.C. 5735.27; see also R.C. 5549.21. As noted above, the fire tanker truck’s connection to road maintenance is at most indirect. It would stretch the ordinary meaning of “road machinery and equipment” to include a fire tanker truck within those terms.

Past opinions support this reading. In 1935, one of my predecessors concluded that a passenger vehicle was not “road machinery and equipment” even when used

exclusively for road work. 1935 Ohio Atty.Gen.Ops. No. 4806, p. 1365. More recent opinions likewise reject using revenue from the motor fuel tax for expenses that are only indirectly related to such machinery. *See* 2014 Ohio Atty.Gen.Ops. No. 2014-027 (funds may not be used to purchase real estate in order to construct a building for road equipment); 1980 Ohio Atty.Gen.Ops. No. 80-016 (funds may not pay fire and theft insurance premiums for road machinery).

C

In summary, taxing statutes “cannot be extended by implication beyond the clear import of the language used; nor can their operation be so enlarged as to embrace subjects not specifically enumerated.” *Clark Restaurant Co. v. Evatt*, 146 Ohio St. 86 (1945), at paragraph three of the syllabus; 2014 Ohio Atty.Gen.Ops. No. 2014-027, Slip Op. at 5; 2-245; *accord Shafer v. Glander*, 153 Ohio 483, 486 (1950). The township does not propose to acquire a fire tanker truck for constructing, repairing, or otherwise maintaining township roads. And nothing in statute or common usage suggests that a fire tanker truck qualifies as “road machinery or equipment” under R.C. 5735.27(A)(3)(d). Neither Article XII, Section 5a nor R.C. 5735.27 should be read so expansively as to allow such purchases with motor fuel tax revenue. *See Ohio Trucking Assn. v. Charles*, 2012-Ohio-5679, ¶14; *Grandle v. Rhodes*, 169 Ohio St. 77 (1959), at paragraph one of the syllabus.

The General Assembly has provided other methods of funding purchases for fire departments. *See, e.g.*, R.C. 505.37, 505.39, 3737.17, and 5705.19(I). Thus, motor fuel tax revenue may not be used toward the purchase of a fire tanker truck for the fire department.

Conclusion

Accordingly, it is my opinion, and you are hereby advised that:

A township may not use revenue from the motor fuel excise tax to fund any portion of the purchase of a fire tanker truck for its fire department.

Respectfully,

A handwritten signature in blue ink that reads "Dave Yost". The signature is written in a cursive style with a large, looping initial "D".

DAVE YOST
Ohio Attorney General