

Ohio Township Association Legislative Alert



May 2, 2017

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Ohio House Finance Committee Accepts Omnibus Amendment Prior to Reporting Bill to Full House for a Vote

The House Finance Committee accepted an **omnibus amendment** to Sub. HB 49, the biennial budget bill, on Monday afternoon. The bill was then favorably reported along party lines to the full House for a vote, which is expected to occur later today or tomorrow.

The omnibus amendment includes over 120 changes to the budget bill including the following township specific items:

- Eliminates the requirement that a new community authority district be over 1,000 acres if located in a township. **Thank you Rep. Schaffer!**
- Creates the DataOhio program.
- Authorizes the Treasurer of State to create a STARS-like investment program to allow local governments with excess reserves to access longer-term investments.
- Eliminates the language requiring sales tax be paid by a hotel intermediary.
- Eliminates the language requiring the Auditor of State to audit a cemetery with average revenue less than \$15,000 over the last 10 years only once every four fiscal years, rather than every two fiscal years.
- Removes the language that would have provided a probate court additional authority regarding a park district.

The following items remained a part of the bill:

- Increases the time, from 10 business days to 30 calendar days, during which the Auditor of State must review a sworn affidavit and evidence against a fiscal officer and must determine whether clear and convincing evidence supports allegations of misconduct.
 - Increases base rates for commercial vehicles registered in Ohio and exempts those commercial cars and buses that are subject to the International Registration Plan from the local motor vehicle registration taxes.
 - Codifies the extra \$10 million per fiscal year for townships.
 - Adjusts the Current Agricultural Use Value (CAUV) calculation and phases in the changes over six years.
 - Permits a county or a municipality that created a CRA prior to 1994 to make changes to the CRA.
 - Permits a township to sell commercial advertising on a township website, so long as the website is not a dot.gov site.
 - Clarifies transient vendor registration law for townships.
 - Removes the requirement that a taxing authority petition and receive approval from a court of common pleas before transferring revenue if the Tax Commissioner has approved the transfer of funds.
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Recent Attorney General Opinion

2017-012 Micro Cell Towers in Unincorporated Territory

Syllabus:

1. A company may construct a micro wireless facility, as defined in R.C. 4939.01 (F), along or upon a county or township road in an unincorporated area of a township pursuant to R.C. 4931.03(A)(1), so long as the company is a "telephone company," as defined in R.C. 4931.01, or a "company organized at any time to transact a telephone or communications business," as described in R.C. 4931.05, and the micro wireless facility is used by the company as a means by which information of the user's choosing is transmitted between or among points specified by the user, without change in the form or content of the information as sent and received.



2. A company that uses a micro wireless facility, as defined in R.C. 4939.01 (F), exclusively for data and software updates and auto-pilot automotive technology is "engaged in the business of transmitting telephonic messages" within the meaning of R.C. 4905.03(A), so long as the company's use of the micro wireless facility for these purposes means that the company is occupied or involved, or taking part in, the activity of sending out speech or computerized communications over distances by electromagnetic waves.

3. The provisions in R.C. Chapter 4939, as amended in Sub. S.B. 331, 131st Gen. A. (2016) (eff. Mar. 21, 2017), do not govern the use of public ways in unincorporated areas.

Federal Update - NATaT



On April 18, the U.S. Department of Labor (DOL) filed a motion with the Fifth Circuit Court of Appeals for a 60-day extension until June 30, 2017, to file a brief in reply to the U.S. District Court of Texas' injunction of the department's overtime pay rule. Last year, 21 states and dozens of businesses sued DOL (State of Nevada v. United States Department of Labor) in the Eastern District Court of Texas to block the department from implementing an overtime pay regulation that would raise the salary threshold for professional employees from \$23,660 to \$47,476. Under this rule, 4.2 million additional workers would be eligible for overtime pay.

In November 2016, Texas U.S. District Court Judge Amos Mazzant issued a nationwide injunction in favor of the plaintiffs, blocking the implementation of the final overtime pay rule. In his analysis of the case, Judge Mazzant stated the DOL regulation seemed outside of the department's authority. DOL then appealed the decision to the Fifth Circuit Court of Appeals. Later, in December, DOL filed a motion with the Texas U.S. District Court to delay a final decision until the Fifth Circuit Court of Appeals ruled on the case. However, the Texas district court denied the request.

DOL has requested additional time to respond because President Trump's labor secretary nominee has yet to be confirmed. Trump has nominated Alexander Acosta, Dean of the Florida International University School of Law, for the appointment. On March 30, the Senate Health, Labor, Education and Pensions Committee approved Acosta's nomination. However, the U.S. Senate has yet to schedule a vote for his confirmation. The request would give the agency additional time for the nominee's confirmation by the Senate, as well as for a case review by DOL's new leadership prior to submitting an official response.

President Trump has been critical of the DOL overtime pay rule, and has suggested the White House may withdraw its appeal, but he has not officially announced his intentions for the rule under the new administration. Acosta has previously mentioned he would be open to increasing the salary threshold, but refused to comment on the overtime rule during his Senate confirmation hearing.

6500 Taylor Road, Suite A, Blacklick, OH 43004
614.863.0045 | www.OhioTownships.org
fought@ohiotownships.org



Ohio Township Association | 6500 Taylor Road, Suite A | Blacklick | OH | 43004

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