

# Ohio Township Association Legislative Alert



June 22, 2018

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## Legislative Activity This Week

**Tuesday, June 19**

### **House Finance**

**HB 643 WATER IMPROVEMENTS** (Arndt, Patterson) To allow equipment for the protection and preservation of Lake Erie to be purchased with proceeds from the Parks and Recreation Improvement Fund and to appropriate funds for projects enhancing water quality in the Western Lake Erie Basin.

*A substitute version of the bill was accepted by the committee prior to testimony being given by EPA Director Craig Butler and the Ohio Sea Grant and Stone Lab. The committee then unanimously reported the measure to the full House for a vote.*

### **House Ways & Means**

**HB 571 LODGING TAXES** (Greenspan) To specify that, for the purposes of the sales and use tax and local lodging taxes, the "price" on the basis of which a hotel intermediary must collect and remit the tax is the total amount paid by the customer for the hotel lodging, as advertised by the hotel intermediary.

*The committee heard from proponents and opponents of the measure. Testifying in support of the bill were the Ohio Hotel and Lodging Association, the Ohio Association of Convention and Visitor Bureaus, the Ohio Travel Association, Shelby County Commissioner Julie Ehemann (on behalf of CCAO), [Perkins Township \(Erie Co.\) Trustee Jeff Ferrell](#) and the Ohio Municipal League on behalf of both the OML and OTA, via [joint testimony](#). Testifying against the bill were the Americans for Prosperity, Ohioans for Tax Reform, the Heartland Institute. The Buckeye Institute and Policy Matters Ohio also submitted testimony.*

### **House Economic Development, Commerce & Labor**

**HB 625 AUXILIARY CONTAINERS** (Lang, Lipps) To authorize a person to use an auxiliary container for any purpose, to prohibit a municipal corporation, charter county, or limited home rule township from imposing a tax or fee on auxiliary containers, and to clarify that the existing anti-littering law applies to auxiliary containers.

*The Ohio Council of Retail Merchants, the Ohio Chamber of Commerce and the Ohio Manufacturers' Association testified in support of the bill. The Ohio NFIB submitted written comments in support of the measure..*

### **House State & Local Government**

**SB 239 REGIONAL GOVERNMENT COUNCILS** (Dolan) To modify the law concerning regional councils of governments.

*The Ohio Auditor of State's office, the Ohio News Media Association and the Ohio Municipal League testified in support of the bill.*

## Senate Finance

**HB 281 BROADBAND EXPANSION** (Carfagna) To establish the residential broadband expansion program within the Development Services Agency to award matching grants for last mile broadband expansion in municipal corporations and townships and to make an appropriation.

*Sponsor Carfagna provided an overview of the legislation to the committee.*

**Rep. Hill** - HB 175 testimony

## Wednesday, June 20

### Ohio House of Representatives

#### **PASSED IN THE HOUSE**

**HB 342 TAX LEVIES** (Merrin) To modify the information conveyed in election notices and ballot language for property tax levies. 59-31

*The OTA and other local government and school groups oppose this legislation.*

**HB 454 CEMETERY LOTS** (Patterson, Arndt) To require a township to offer compensation to responsive owners of certain unused cemetery lots and rights. 84-1 (Brinkman)

*The OTA supports this legislation.*

### House Government Accountability & Oversight

**SB 268 THEFT IN OFFICE** (Wilson) To expand the increased penalties for theft in office based on the amount of property or services stolen and to include as restitution certain audit costs of the entity that suffered the loss involved in the offense.

*Senator Wilson's legislative aide, Melissa Sandt, provided an overview of the legislation to the committee.*

### Senate Energy & Natural Resources

**HB 114 RENEWABLE ENERGY** (Blessing) To revise the provisions governing renewable energy, energy efficiency, and peak demand reduction and to alter funding allocations under the Home Energy Assistance Program.

*The committee heard or read testimony from over 60 witnesses, mostly opponents, regarding the amendment added relative to wind energy setbacks.*

**Sen. McColley** - Aggregate mining issues

## Thursday, June 21

**Rep. Duffey** - HB 602 Fair Water Pricing Act

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## Recently Introduced Legislation

**HB 708 PUBLIC RETIREMENT** (Becker) To enact the "Double Dippers Inappropriately Privileged (DDIP)" to provide that an individual retiring on or after the effective date of this act from one of the state's public retirement systems who is re-employed as a public employee will not receive the pension portion of the retirement allowance for the period of employment.

**HB 709 SHORELINE IMPROVEMENTS** (Rogers, Young) To authorize the creation of a special improvement district to facilitate shoreline improvements.

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## Committee Schedule Next Week

*(as of 4:00 p.m. on 6/22/18)*

### Tuesday, June 26

**Senate Local Gov't, Public Safety & Veterans Affairs** (Ch. Uecker), S. Hearing Rm., 9:45 a.m.

**HB 125 TRAFFIC VIOLATIONS** (Craig, Seitz) To specify the jurisdiction of municipal and county courts over traffic ordinances, to clarify that certain township officers do not have the authority to enforce traffic and motor vehicle equipment violations on interstate highways, and to establish requirements governing fines, fees, or other charges for traffic violations and infractions imposed by a municipality that does not have the authority to establish a mayor's court.

*4th Hearing-All testimony-Possible Vote*

**House Ways & Means** (Ch. Schaffer) Rm. 121, 10:30 a.m.

**HB 575 VOLUNTEER FIRE/EMS TAX CREDIT** (Keller, Rezabek) To grant income tax credits to persons who serve as volunteer firefighters or emergency medical service technicians.

*4th Hearing-All testimony-Possible Amendments*

**Senate Ways & Means** (Ch. Eklund), N. Hearing Rm., 11:15 a.m.

**HB 343 PROPERTY VALUES** (Merrin) To require local governments that contest property values to formally pass an authorizing resolution for each contest and to notify property owners.

*2nd Hearing-All testimony*

### **Wednesday, June 27**

**Senate Government Oversight & Reform** (Ch. Coley), N. Hearing Rm., 9:45 a.m.

**HB 34 PUBLIC NOTICES** (Hambley, Ryan) To authorize certain state agencies, local governments, and other boards, commissions, and officers to deliver certain notices by ordinary mail and electronically instead of by certified mail.

*4th Hearing-All testimony-Possible Amendments-Possible Vote*

**HB 312 CREDIT CARDS** (Schuring, Greenspan) Makes changes regarding use of credit cards and debit cards by political subdivisions.

*4th Hearing-All testimony-Possible Amendments-Possible Vote*

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## **Federal Update**

### **Senate Agriculture Committee Marks Up and Passes 2018 Farm Bill**

On June 13, the Senate Agriculture Committee passed, by a vote of 20-1, the Agriculture Improvement Act of 2018 (i.e., the 2018 Farm Bill; S. 3042), a bipartisan 5-year piece of legislation which

encompasses a broad array of agriculture, nutrition, conservation, and forestry policy. The Committee approved 75 amendments to the bill. Senate Majority Leader Mitch McConnell (R-KY) stated that the Senate "will turn to the farm bill before July 4th."



### **US House Passes Farm Bill**

The House passed its 2018 farm bill legislation on Thursday by a vote of 213-211, with 191 Democrats and 20 Republicans voting against the bill. H.R. 2, the Agriculture and Nutrition Act of 2018, failed by a vote of 198-213 in May amid a dispute over unrelated immigration legislation and other policy concerns.

H.R. 2 would increase federal mandatory spending by \$3.2 billion from Fiscal Year (FY) 2019 through FY 2023. The bill would also eliminate broad-based categorical eligibility for SNAP, which would reduce spending by \$5.04 billion over 10 years. Many conservation programs would see changes under the bill, including ones that would reduce spending by a net \$795 million over 10 years.

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## **Ohio Supreme Court Decisions This Week**

### **Court Opines City Must File Separate Case to Block Funding Deductions for Collecting Traffic Camera Fines**

On Wednesday, the Ohio Supreme Court ruled that a trial court could not block implementation of a 2015 state law deducting funding to local governments that use traffic cameras to collect fines without first declaring the law unconstitutional.

The Supreme Court unanimously vacated a contempt of court order that the Lucas County Common Pleas Court issued, and dissolved the injunction against enforcing the spending provisions that were in the state's 2015 budget bill, House Bill 64 (131st GA). The Court did not determine



whether the law was constitutional, but faulted the city of Toledo and the lower courts for the process used to prevent the law from taking effect.

Writing for the Court, Justice Sharon L. Kennedy stated the separations-of-powers doctrine prevents the judicial branch from impeding on the General Assembly's power to enact laws.

### **Court Upholds Church Exemption From TIF & Service Payments**

Fairfield Township created a TIF in 1998 under which all property owners agreed to the creation of such a district. Several years later, land included in the TIF began being used for a church. The TIF agreement and service payments continued to be applied to the land per the TIF agreement enacted in 1999. The church filed an exemption from taxation as a house of public worship. The Tax Commissioner granted the exemption on December 9, 2013, finding that under R.C. 5709.911, the public-worship exemption was superior to the previously approved TIF exemption.

Fairfield Township Board of Trustees filed a complaint against the continued exemption pursuant to R.C. 5715.27(E). The township claimed that by granting and continuing the public-worship exemption, the tax commissioner unlawfully relieved the church of its payment obligations as the owner of property subject to a recorded covenant. The covenant relates to a tax increment financing (TIF) agreement entered into between the township and a previous owner of the church property. The tax commissioner found that R.C.5709.911 subordinated the property's original TIF exemption to the public-worship exemption, and therefore rejected the township's argument. The Board of Tax Appeals (BTA) affirmed the Tax Commissioner's decision.

The Ohio Supreme Court affirmed the BTA decision noting that when a tax-increment-financing agreement was approved prior to the effective date of R.C. 5709.911 and a township did not preserve its right to service payments under the agreement, the house-of-public-worship exemption has priority and is exempt. (6/21/2018 Case Announcements, 2018-Ohio-2391)

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## **US Supreme Court Rules in Favor of State and Local Governments to Collect Remote Sales Tax**

The Supreme Court on Thursday cleared the way for states to require out-of-state online retailers and other remote sellers to collect sales tax from their customers. The 5-4 decision in *South Dakota v. Wayfair, Inc.*, overturned an earlier court ruling that state and local governments have fought for years. Interestingly, Justices Kennedy, Thomas, Ginsburg, Alito, and Gorsuch voted in the favor and Justices Roberts, Breyer, Sotomayor, and Kagan voted against the decision.

The Court revisited a 1992 decision in which it ruled that states could only require remote sellers to collect their sales taxes if the business had a physical presence in the state. The case before the Supreme Court involved a South Dakota law enacted in 2016 that would allow the state to require out-of-state online retailers with a significant economic connection to the state to collect its sales taxes. Supporters of the South Dakota law included groups representing state and local governments and brick-and-mortar retailers.



In recent years, state and local governments have been pushing for a greater ability to collect sales taxes from internet purchases. The Government Accountability Office recently reported that states would bring in billions more revenue with broader power to collect, but that businesses that haven't done multi-state collection before could face increased compliance costs. The Court's ruling does not require all Internet companies to collect sales taxes. While larger companies are now obligated to do so, the decision suggested that small retailers will not face the requirement.

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## Looking for State Fair Volunteers

Each year, the Ohio Township Association presents trophies and other awards for 4-H participants at the Ohio State Fair. The fair will take place July 25 - Aug. 5, and the OTA needs your help.

### Specific Dates Needed:

Tuesday, July 24 - Market Lamb Showmanship

Saturday, July 28 - Dog Agility Awards

Thursday, August 2 - Breeding Sheep Showmanship

Thursday, August 2 - Clothing

Thursday, August 2 - Barrow Showmanship

Sunday, August 5 - Girl Scouts

If you are interested in presenting a state fair award on behalf of the OTA, please contact Ron Miller, OTA Finance/State Fair Committee Chairman, at [ronmill789@gmail.com](mailto:ronmill789@gmail.com) or 419.569.9920 or Heidi Fought at the State Association at [fought@ohiotownships.org](mailto:fought@ohiotownships.org).

Volunteers receive a free parking pass and two free admission passes. Photos and thank you letters from recipients are included in the November/December *Ohio Township News* magazine.

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### Ohio Township Association

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