

Ohio Township Association Legislative Alert



August 24, 2018

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Recent AG Opinion

2018-020

Syllabus:

A person appointed as a city's representative to the board of trustees of a joint ambulance district is not required to abstain from any discussions, deliberations, negotiations, or votes of the board of trustees solely because of the contemplated withdrawal of the city from the district. (1979 Op. Att'y Gen. No. 79-039 and 1994 Op. Att'y Gen. No. 94-035, overruled, in part, as a result of legislative enactment.)

Federal Update

The Senate was in session this week and the chamber completed its consideration of the \$854 billion "Department of Defense and Labor, Health and Human Services, and Education Appropriations Act, 2019," (H.R. 6157) which covers nearly 70 percent of discretionary federal spending.



Trump Delay of WOTUS Rule Invalidated by Federal Judge

On August 16, U.S. District Judge for the U.S. District Court for the District of South Carolina, David C. Norton, issued a nationwide injunction invalidating the Trump Administration's two-year delay of the 2015 "Waters of the United States" (WOTUS) rule, which clarified which waters and wetlands fall under the Clean Water Act's jurisdiction. The Environmental Protection Agency (EPA) and Army Corps of Engineers released a final rule on February 6, 2018 that delayed implementation of the WOTUS rule until Feb. 6, 2020. Judge Norton ruled that the EPA did not follow the Administrative Procedures Act (APA) in finalizing its rule to delay the WOTUS rule for two years, which was designed to allow the agency to complete a rewrite of WOTUS; a proposed new definition of WOTUS currently is under review by the White House Office of Management and Budget.

In his ruling, Judge Norton sided with the environmental groups and states who sued the EPA, saying the text of the proposed suspension rule and the EPA memorandum for the record on the suspension rule rule-making process made it clear the agency did not solicit any comments on the merits of the WOTUS rule or the merits of the 1980s regulation that EPA's suspension rule returned WOTUS to before the agency issued the suspension rule.

With Judge Norton's ruling, the 2015 rule is now in effect in 26 states, including California and Texas; because of court actions in other cases, the rule still remains on hold in the 24 other states. A coalition of businesses led by the American Farm Bureau Federation is challenging Judge Norton's decision and also used the ruling to put pressure on the U.S. District Court for the



Southern District of Texas to quickly rule on its request for a nationwide injunction on WOTUS. The map shows the 26 states where the 2015 WOTUS rule is now in effect.

Trump Administration Encourages States to Take Over Water Permitting

On August 7, it was reported that the Army Corps of Engineers and Environmental Protection Agency (EPA) are encouraging states to take over their controversial Clean Water Act (CWA) permitting program and are boosting their process for allowing

them to do so. The process of obtaining a dredge-and-fill permit can be one of the most time consuming and expensive aspects of major projects for industries such as mining, home building and oil and gas. The Trump Administration says its goal is to streamline that process, allowing states to be one-stop shops by assuming responsibility for implementing that part of the CWA.

A July 30 memo from R.D. James, Assistant Secretary of the Army for Civil Works, marks the first step in that process. James outlined a narrow interpretation of the CWA's requirement for the federal government to retain oversight of waterways used for interstate navigation, a move that would allow states to assume control of over most wetlands and streams within their boundaries. The issue is entirely separate from the question of which waterways are protected under the CWA - the fight over the definition of Waters of the United States. EPA, which holds ultimate oversight of the 404 program, is also updating its regulations for how the program can be taken over by the states, according to David Ross, EPA's Assistant Administrator for the Office of Water.

HUD Takes Steps to Revamp 2015 Affirmatively Furthering Fair Housing Rule

On August 13, Department of Housing and Urban Affairs Secretary Ben Carson announced plans to revamp an Obama-era fair housing rule from 2015, the "Affirmatively Furthering Fair Housing" (AFFH) rule, which requires jurisdictions that receive funding from HUD to assess fair housing and identify solutions to discriminatory barriers in housing markets.

The rule, which required communities and local governments receiving federal funding to submit fair housing assessments, was a way for HUD to ensure recipients were following the law and actively working to eradicate historical discrimination and segregation practices in housing. The changes encompassed in the rule were recommended by the Government Accountability Office and by HUD itself. In a statement, HUD said that it is accepting public comments on proposed changes to the rule in an effort to minimize housing regulations, give more control to local governments, and increase the housing supply.

HUD's announcement comes after it withdrew the Local Government Assessment Tool in May 2018, which helped local governments comply with the AFFH rule. In January 2018, HUD suspended the requirement for local governments to file plans under the rule until late 2020. HUD will receive public comments on the proposed changes until Monday, October 15, 2018.

Have You Filed Your Collective Bargaining Agreements?

Ohio law requires the State Employment Relations Board (SERB) to collect and analyze all public sector (including townships) collective bargaining agreements and provide the citizens of Ohio and collective bargaining stakeholders with a reliable source of information.

To assure the accuracy and integrity of SERB's "Clearinghouse" database, Ohio law requires **ALL** Ohio public employers to file copies of **all** contracts, memoranda of understanding, contract amendments, etc. with SERB within 30 days of completion. If you have not yet filed your documents, please send the information to SERB via email at research@serb.ohio.gov.

Should you have any questions, please contact Justin Brown, SERB Research Administrator, at 614.466.1122 or by email at justin.brown@serb.ohio.gov.



Desperately Seeking Suggestions!

Is there a topic for which you would like more information? Is there a township procedure or regulation you would like to learn more about?

If you answered yes to either question, we need your input! The OTA plans over 90 workshops for the annual winter conference but we need your help to make sure the subject matter and presenters are beneficial to you, our members and the conference attendees.

Please forward specific workshop suggestions to fought@ohiotownships.org or call Heidi at the OTA office at 614.863.0045.

Seeking Input for 133rd General Assembly Legislative Priorities

One of the OTA's important functions is to seek legislation from the General Assembly which enables township government to function more efficiently and to resist any effort that would deprive townships of any rights, duties or privileges which they now possess. This is accomplished by tracking legislation and educating members of the General Assembly on township issues. In preparation for the 133rd General Assembly, the OTA has begun discussing and collecting legislative priorities.



If you have an idea that you think should be a legislative priority, please email Heidi Fought at fought@ohiotownships.org or call at 614.863.0045.

Ohio Farmland Preservation - Local Sponsor Applications Now Being Accepted

Counties, soil & water conservation districts, land trusts, cities and townships are invited to apply to the Office of Farmland Preservation for Local Sponsor Certification. The Application for Local Sponsor Certification is open from August 21, 2018 through October 12, 2018. Any organization interested in being a local sponsor for the 2019 landowner application year must apply during this time period. For application, FAQs and other information, please click [here](#).

Local Sponsors who complete the above mentioned Local Sponsor Certification application and qualify will be allocated a portion of the Local Agricultural Easement Purchase Program (LAEPP) 2019 funds. These funds are used to purchase agricultural easements on Ohio farms.

Again, deadline for the Local Sponsor Certification Application is October 12, 2018. For questions, please contact:

Office of Farmland Preservation
Ohio Department of Agriculture
8995 East Main Street
Reynoldsburg, OH 43068-3342
Jody.Bowen@agri.ohio.gov
PHONE: 614.728.6210
FAX: 614.752.2282

Ohio Township Association News

Executive Director Job Search

The State Association is currently accepting resumes for a full-time executive director. Salary and benefits are competitive and negotiable. [Click here](#) for a formal job description for this position. If interested, please mail a cover letter and resume to:

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

Resumes accepted until September 7, 2018. Any resumes submitted shall remain confidential. We are an equal opportunity employer.

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



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