Statehouse Update

May 19, 2017

Monday, May 15, 2017

PROPERTY TAX REIMBURSEMENTS CONTRIBUTE TO SIGNIFICANT APRIL UNDERSPENDING

Ohio's lagging tax revenue was again balanced by significant underspending on the other side of the ledger in April. While the Medicaid program, a consistent source of underspending, came in below estimates, it wasn't the main contributor to disbursements coming in more than 10% below what analysts expected.

Property tax reimbursements accounted for the bulk of the $289.7 million underspending reported in April, according to the Office of Budget and Management's Monthly Financial Report.

That total means the state was 10.3% below estimates on spending, along with coming in 6.4% below revenue estimates for the month.

Disbursements from the General Revenue Fund were $2.519 billion, or $289.7 million below what analysts expected, according to OBM. Total revenue was $2.682 billion, or $182.6 million below projections.

The lagging revenue, driven by slowing economic growth, has caused lawmakers to keep a watchful eye on tax receipts as they prepare the next biennial budget. For the fiscal year to date, total revenue is 5% or $1.47 billion, below what the state expected.

Spending, meanwhile, is below estimates by $1.17 billion, or 3.8%, through April.

Property tax reimbursements made up the bulk of April's underspending at $234.8 million, or nearly 60% below estimates. For the year to date, property tax reimbursement spending is $143.9 million, or 10%, below estimates. The variance is due to requests from counties coming later than anticipated, according to OBM, and total disbursements for the latter half of the fiscal year are anticipated to be somewhat below estimates.

Debt service payments in April were also $16.1 million, or 21.8%, below projections, due to the use of unspent bond proceeds in the site development program to offset debt service and interest rates on recent bonds being below estimates, according to OBM.

The Medicaid program continued its trend of underspending, though at a more modest rate than recent months. For all-funds spending, it came in $55.25 million below projections, at just under $2.1 billion, according to the Legislative Service Commission's Budget Footnotes.

For the fiscal year to date, the Medicaid program is $1.28 billion, or 5.7% below estimate, with GRF spending $873 million less than anticipated.

For the year to date, the largest positive variance in Medicaid was in the Medicare buy-in category, driven by increases in Medicare Part B premiums. Other Medicaid spending that was above estimates included payments for the comprehensive primary care program, which began making payments to participating practices in February.

OHIO PROPERTY OWNERS SUE OVER PLANNED PIPELINE

Dozens of northeast Ohio property owners are suing a company behind the development of a planned natural gas pipeline for allegedly violating their due process rights.

In all, 39 households - comprising 65 individuals - have signed onto the complaint filed late Friday in the U.S. District Court's Northern District of Ohio. Defendants include Nexus Gas Transmission LLC and the Federal Energy Regulatory Commission.
Nexus does not comment on ongoing litigation, but has touted the benefits of the project, which is aimed at transporting shale gas to high-demand markets in Ohio, Michigan, Chicago and Ontario.

"By expanding access to natural gas in these markets, NEXUS will provide consumers across the region with affordable, cleaner-burning and domestically-abundant natural gas to help meet the growing demand for cleaner power generation, industrial and commercial use, and home heating," the company said.

Plaintiffs in the lawsuit include 26 households that are among those targeted by eminent domain and 13 others that reside within 1,200-1,500 feet of the "blast or impact radius" of the pipeline.

They're requesting a preliminary and permanent injunction against FERC in order to halt the project and calling for the commission to vacate its prior Final Environmental Impact Statement.

The FEIS, the group contends, violates the National Environmental Policy Act, "ignores critical filings by stakeholders, lacks evidentiary support, (and) is contrary to FERC's own findings."

But the plaintiffs' larger complaint centers on the use of eminent domain and claims that FERC failed to provide adequate information regarding homeowners' options when it comes to the project.

"Plaintiffs have been given false and misleading information from FERC," the lawsuit contends. "This false and misleading information is designed to trick plaintiffs into waiving their constitutional and legal rights. Further, the FERC process offers plaintiffs no meaningful opportunity to contest the taking of their property and is deficient in many respects."

Like Nexus, FERC does not comment on ongoing or pending litigation.

Plaintiffs claim that FERC neglected to tell property owners a pipeline cannot move forward until after a certificate is issued by FERC, and that the FERC's test for an issuance takes into consideration how many property owners refuse to sign an easement.

They claim that the company began approaching landowners regarding easements in February 2016 - four months prior to the project's draft environmental impact statement and nine months before the FEIS.

In addition, they claim there is no evidence the export pipeline will serve a public use and therefore the use of eminent domain in this case is a violation of both the Fifth Amendment of the U.S. Constitution and the Natural Gas Act.

"Nexus' taking is unconstitutional because it does not constitute a public use," the complaint reads. "The public benefits from not having their property taken to export a commodity to enrich a foreign entity."

**Rover Pipeline Company Seconds History Connection's Request for Federal Dispute Resolution**

Rover Pipeline LLC has agreed that federal assistance is needed in sorting out a dispute with Ohio History Connection. OHC CEO Burt Logan earlier wrote to the Federal Energy Regulatory Commission saying that the company - which is building the Rover Pipeline - has failed to live up to its end of a memorandum of agreement.

The agreement spells out how the company plans to support historic preservation in the state and was developed after the company improperly demolished the 173-year-old historic Stoneman House in Carroll County last year.

The company's obligations under the agreement include in part the creation of: a $1.33 million endowment; a $50,000 archeological database; a $1 million community historic preservation fund. But the History Connection argues the company has failed to make good on that promise.

Rover has now responded to the OHC's request, with attorneys writing in a letter to FERC Acting Chairwoman Cheryl LaFleur the company "agrees that the commission's assistance is needed to resolve (the) dispute."

In the letter, Rover's attorney said the company "believes any additional contribution is unwarranted and unfair and Rover is willing to vigorously defend itself against any attempts to leverage any additional contribution."
But Rover and OHC are on the same page when it comes to their desire to enlist a third-party mediator. And like the OHC, Rover's attorneys also want the resolution process fast-tracked.

"Certain facts regarding the generation and completion of the MOA and the handling of the mitigation monetary provision were misleading and in error, and therefore we do believe that there is an impasse to resolution at this time," Rover's attorneys wrote.

"Given the high-profile nature of this project, Rover requests that this matter be assigned directly to the director of the Dispute Resolution Service, Deborah Osborne, for further proceedings. Rover also requests that an Administrative Law Judge be assigned to oversee the limited discovery that may be needed to resolve and illuminate these issues."

**Tuesday, May 16, 2017**

**BWC BUDGET PREPPED FOR HOUSE FLOOR VOTE OVER DEMOCRATS' OBJECTIONS**

Late changes to the two-year budget for the Bureau of Workers' Compensation continued to prompt Democrats' concerns Tuesday as the bill nevertheless cleared two committees and is on its way to a House floor vote.

One of the more contentious changes made in the substitute version of the $566.5 million measure (HB 27) unveiled last week was removed in the House Insurance Committee. Democrats, however, objected to several other provisions and subsequently voted against the report.

Key remaining sticking points for the minority party are provisions that: reduce the time allowed for filing claims from two to one year; bar illegal aliens from workers' compensation coverage; and prohibit state agencies from making rule changes that entail a "substantive or procedural retrospective effect."

Democrats offered amendments to remove all of that language, with Republicans defeating the proposal on illegal aliens and tabling the others.

Prior to the Insurance Committee's debate on the revised bill, Rep. Michael Henne (R-Clayton) won support for an amendment to remove a provision that had prompted considerable criticism last week.

The substitute language would have created a "rebuttable presumption" for firefighters filing cancer claims, requiring them to prove that they had used their protective equipment properly. Rep. Henne's amendment replaced that provision with language that instead places the burden on the employers of firefighters to prove, based on scientific evidence, that the cancer in question could not have resulted from a firefighter's exposure to a carcinogen while on the job.

Representatives of the Ohio Association of Professional Firefighters and the Ohio Municipal League testified in support of the change.

Karen Turano, a workers' comp attorney speaking for the OAPF, had prepared testimony in opposition to the sub bill language but ended up relaying support for the new provision, saying that such determinations should be based on scientific fact rather than a doctor's opinion.

Her comments prompted Rep. Steve Huffman (R-Tipp City) to remark that the entire BWC system is based on medical opinions. The lawmaker also pointed out that attorneys for injured workers could also ask for second opinions.

Ms. Turano acknowledged that option, but noted that workers have to incur the costs of those other examinations. As for Mr. Huffman's earlier observation, she said, "I understand that is the status of our workers' compensation system now. I don't think it's a great status."

Josh Brown, director of communications for the Ohio Municipal League, said his group was supportive of the updated firefighter cancer language.

Responding to a question from Rep. Mike Ashford (D-Toledo), he said OML was a proponent of the bill in general but that the group would probably return to the legislature with more requests for workers' comp law changes at some point.

Rep. John Boccieri (D-Alliance) offered an amendment to delete the reduction in the claims filing period, arguing that it was prudent to allow more time because some injuries take a while to manifest themselves and workers may
not realize the extent of their woes. He characterized the GOP's shortening of the filing period as "taking away the rights of injured workers."

Rep. Henne said the purpose of the amendment was to get claims filed more quickly so they do not worsen and end up costing the system more money down the line. The quicker claims get filed the less the likelihood that the severity of the claim will increase, he said.

Rep. Boccieri was also critical of the sub bill language on undocumented workers, calling it a "legislative smokescreen" that would result in unscrupulous employers getting a "blank check" and off the hook for workers' comp costs. It would also shift those expenses to taxpayers when those injured workers have to go to the hospital and receive uncompensated care, he said.

Rep. Henne said the language was meant to remove a "defense" for people who hire illegals. He said the injured employees could still go to court and sue their employers.

That logic was questioned by Rep. Kristin Boggs (D-Columbus) who said it wouldn't be practical for an illegal alien to go to court and face other legal problems.

Chairman Rep. Tom Brinkman (R-Cincinnati), before calling for an up or down vote on the amendment versus a tabling, stated: "The point is, don't be illegal...and therefore you won't have these problems."

The amendment was defeated on party lines.

Rep. Boggs offered amendments to remove the rule language from the bill and allow for first responders to get coverage for post-traumatic stress disorder. Both were tabled along party lines.

Rep. Larry Householder (R-Glenford) defended the rule change restrictions, saying the legislature had ceded too much authority to the legislative branch over the years. He called the provision appropriate, adding, "And frankly, it's about time."

Chairman Brinkman said the PTSD issue would be vetted in committee next week in separate legislation (HB 161).

Rep. Ashford lamented the fact that the vote on the bill had turned partisan, saying it started out as sound legislation.

"The original bill was pretty good until we started adding all these statutes of limitations," he said. "This bill has some really controversial issues in it...that came out of the blue somewhere."

Rep. Brinkman pushed back on that notion, saying he had worked closely with a variety of interested parties in crafting the sub bill.

"We worked a lot of good things this budget...that should stand as we move this thing along," he said.

Finance Committee: The budget-writing panel took up the bill later in the day Tuesday per a rule that requires it to review measures with appropriations.

Rep. Brinkman went over the changes made in his committee and Barbara Ingram, the BWC's chief financial officer, reiterated statements that Administrator/CEO Sarah Morrison had previously delivered to the Insurance Committee.

Rep. Dan Ramos (D-Lorain) and other Democrats continued to question the Insurance Committee changes and eventually joined together in opposing the bill, which cleared the committee on party lines.

"What is the purpose of making this bill about immigration?" Rep. Ramos asked.

Rep. Brinkman said the language on illegal aliens stemmed from past legislation sponsored by Rep. Bill Seitz (R-Cincinnati). He noted that illegal immigrants aren't eligible for food stamps or unemployment benefits either, so the majority believed it was prudent to include the workers' comp prohibition.

The chairman continued to maintain that the bill would serve as a "disincentive" to both employers and illegal aliens, saying the latter would have recourse through the courts if they are injured on the job.
"We're not just closing them out and sending them along their way," Rep. Brinkman said. "We're trying to create a disincentive for both workers who are here illegally and employers who hire them.

Rep. Nickie Antonio (D-Lakewood) raised concerns about what she deemed the lack of vetting before putting the provision in a budget measure. "This isn't something there were hearings on," she said, adding that the proposal appeared to be "totally based on assumption" rather than facts.

Citing Mr. Seitz and Governing Magazine, Rep. Brinkman said there are 8 million illegal aliens currently employed in U.S., mainly in construction and farming, so it's likely that a few hundred thousand of those are in Ohio.

Responding to a question from Rep. Alicia Reece (D-Cincinnati), Mr. Brinkman said the language on firefighter cancer does not apply to police claims.

Rep. Jack Cera (D-Bellaire) questioned why the firefighter cancer law (SB29, 131st General Assembly) was being amended when it just became effective in April. He said the state doesn't have any experience with the changes on which to base revisions.

Rep. Brinkman said the original bill "cried out for something to be put in place right away" and cities also "felt like something needed to be put in there" to limit cancer claims to those incurred at work.

"We've kind of raised the bar" in making sure such claims are valid, he said.

Responding to Rep. John Patterson (D-Jefferson), who opined that some injured workers may not make the new one-year deadline under certain circumstances, Rep. Brinkman said 99.8% of claims are filed within that timeframe. The chairman said the change, which was backed by NFIB/Ohio, would give businesses more predictability and encourage the claimants to file more quickly.

Ms. Ingram was asked to comment on the House changes, but said the bureau has not had time to review the proposals. The bureau reported that an actuarial review of SB29 found that it could cost the system about $74 million a year, which could be realized through rate adjustments to public employers.

Among the unanswered questions was one from Rep. Patterson, who asked about the financial impacts of changing the statute of repose for the firefighter cancer law from 20 to 15 years.

Prior to voting the bill, the panel also heard from Seamus Culligan, a firefighter from Willoughby who has been diagnosed and treated for brain cancer, and his wife, Cyndie. They asked that the firefighter cancer claims law not be changed.

"His illness is an injury," Ms. Culligan said.

Rep. Tom Patton (R-Strongsville), who sponsored SB29 when he served in the Senate last session, told the witnesses that the changes in the bill would not impact Mr. Culligan's coverage.

The lawmaker did, however, question why the law was already being amended given it's only a month old.

Rep. Cera said before the vote that the BWC and IC budgets should be reviewed in the Finance Committee, noting that members were not allowed to offer amendments and had to vote on the spending and policy provisions after just a single hearing.

Finance Chairman Rep. Ryan Smith (R-Bidwell) said the process of including other committees aimed to spread the workload during the busy budget season.

TESTA PROPOSES OPT-IN PROGRAM FOR CENTRALIZED BUSINESS TAX COLLECTION AS ADMIN OFFICIALS PUSH BACK ON HOUSE BUDGET CHANGES

Tax Commissioner Joe Testa is looking to compromise on a controversial executive budget proposal to centralize the collection of municipal net profit fee taxes that was nixed in the House.
The administration presented the budget (HB 49) plan to mandate business tax collections through the Ohio Business Gateway as a way to save municipalities money on administrative costs despite a 1% service charge paid to the state.

However, municipalities opposed the proposal, characterizing it as a power and money grab by the state.

The House subsequently scrapped the proposal in favor of a more modest plan entailing improvements to the OBG and phased-in permissive filing authority for businesses.

In response, Commissioner Testa on Tuesday asked the Senate to consider a further revised plan that would allow businesses to opt-in for tax administration that's performed by the Department of Taxation.

"We heard a number of municipalities testify in the House that some businesses prefer to continue to have their local municipality administer their net profits tax," he said. "We listened to these and other comments and are addressing these requested changes."

Those businesses that opt in would file one return through OBG rather than with each municipality in which they do business, Mr. Testa said. Businesses commit to five years in the program with an automatic renewal unless they cancel the service.

ODT will distribute the tax collections with interest - minus a 1% administrative fee - to appropriate municipalities each month, he said.

"The revised proposal significantly reduces compliance costs for businesses that opt-in, takes advantage of economies of scale leading to a more efficient and streamlined tax system, is less costly than third-party administrators and improves compliance by cross-checking with other data that can be accessed by ODT, thereby increasing revenue for the municipalities," Mr. Testa said. "Everyone wins with this proposal."

ODT is also seeking spending authorization of $2.25 million in Fiscal Year 2018 and $5 million for Fiscal Year 2019, he said. Those totals are the anticipated administrative fees that would be collected for the tax centralization.

The commissioner told the panel that his agency's amendment has been in the works since last month and he has not heard any negative feedback on it as of yet.

Mr. Testa was one of a handful of agency directors to testify on House budget changes before the Senate Finance Subcommittee on General Government and Agency Review on Tuesday.

Department of Veterans Services Director Chip Tansill said he'd like to work with the Senate to revise House language requiring the agency to create a job website and peer-to-peer program for Ohio's veterans - both of which already exist in some capacity.

"There are several exemplary veteran peer-to-peer operations already in existence around Ohio," he said, adding: "We believe that private programs like Bunker Labs, Overwatch Partnership, and others in Ohio already are doing a wonderful job and that the directive would be unable to be carried out without specific funding."

"We look forward to continuing to work with the Senate on this provision and believe DVS could better serve to inventory these programs and make them known to more Ohio veterans," he said.

Meanwhile, OhioMeansVeteranJobs.com already serves as an "easy entry point to build civilian resumes, match their skills to Ohio's in-demand jobs and find military-friendly employers," Mr. Tansill said.

Department of Youth Services Director Harvey Reed asked lawmakers to return dollars back to line items that received across-the-board cuts, particularly those that pay for community programs.

"Cuts to those line items will directly impact our DYS population in that courts will send more youth to DYS facilities due to fewer available diversion dollars," he said. "In short, courts will be faced with less funding for options that are alternatives to DYS facilities."
He said that any short-term savings from cuts to diversion programs would ultimately result in long-term costs tied to creating more space at DYS facilities.

**ZEN HEARINGS CONTINUE AS FIRSTENERGY CEO MOBILIZES SHAREHOLDER SUPPORT**

Proponents and opponents on Tuesday continued to clash over a proposal to support Ohio's nuclear plants as FirstEnergy CEO Chuck Jones urged shareholders to redouble pressure on lawmakers to pass the bill.

Shortly before the House Public Utilities Committee met to consider the controversial bill (HB 178) for a third hearing, Mr. Jones addressed company shareholders and the media during a shareholder meeting in Akron.

There, he reemphasized that the bankruptcy of the company's subsidiary, FirstEnergy Solutions, remains on the table without the proposed ZEN support. He also said that even with the zero-emission nuclear credit program, the subsidiary's fiscal health is not assured.

"The need for this action is demonstrated by the fact that nuclear facilities across the nation are closing prematurely," Mr. Jones told shareholders. "For example, four nuclear facilities in Wisconsin, Vermont and Nebraska have already shut down, and at least seven others across this region are in danger of closing. We simply cannot allow this to happen in Ohio and Pennsylvania - so if you share our concerns and live in either state, I encourage you to reach out to your local senator or representative."

Mr. Jones, who previously testified in support of the House bill, is expected to testify before the Senate Public Utilities Committee this week during the second hearing of its companion bill (SB 128).

At the Statehouse Tuesday, scores of stakeholders packed into a hearing room and a nearby overflow area to follow the latest round of debate on the House bill.

Proponents continued arguing the bill would support jobs and economic growth by staving off the potential closures of FirstEnergy's Davis-Besse and Perry plants and the economic calamity that would accompany them.

"There's just no doubt that the region and entire state benefits from having FirstEnergy as a strong corporate partner," Summit County Executive Ilene Shapiro said. "With ZEN in place, FirstEnergy will be able to spend time fostering relationships with customers and the community instead of directing its focus on navigating the uncertainty of the future."

Opponents continued to question what they consider to be a bailout of uncompetitive nuclear plants at the expense of cheaper natural gas.

Ohio State University Professor Ned Hill, clarifying that he is not speaking on behalf of OSU, called the financial engineering behind the proposal "fanciful" and said that if a projected gap in nuclear power production is filled with out-of-state power "the subsidy can grow to nearly $11.2 billion" over the program's 16-year lifespan.

"It is the latest in a multi-year series of attempts by Ohio's (investor-owned utilities) to thwart the intent of the state of Ohio to allow competition in the market for electricity generation and provide lower prices for Ohio's electricity users," Mr. Hill said.

"FirstEnergy has been consistent," he added. "It is looking for subsidies for its non-competitive power generation units, and it looks to Ohio's Statehouse and its Ohio customers as the source of subsidy for its loss-making Ohio and Pennsylvania power plants."

Responding to Rep. Mike Ashford (D-Toledo), Mr. Hill expressed skepticism of proponents' job impact studies because they assume no other new jobs will enter the community and also that all FirstEnergy jobs will disappear instead of some being retained under new ownership. "Don't believe the numbers," he cautioned.

But doing nothing in the face of potential plant closures, proponents argue, would cripple local economies. Ottawa County Improvement Corporation Director Jamie Beier Grant sought to put those numbers into perspective.

"Davis-Besse's 600 full-time jobs stimulate another 2,100 jobs in Ottawa County and 1,800 additional jobs in other Ohio industries," Ms. Grant said. "That $60 million of total annual payroll also flows downstream into every aspect of northern
Statehouse Update

Ohio’s economy - residential property ownership, support of local public school districts, professional services, construction and trades, retail, etc."

Ms. Grant said a 2015 Nuclear Energy Institute report determined that for every dollar of output generated by Davis-Besse the local economy sees $1.66 in output and the state economy produces $2.25 in output.

NEI President Maria Korsnick seconded that sentiment, opining that the closure of both plants would result in higher energy costs and long term economic damage. "Getting this right is very important," she said.

"If these plants close, the downstream consequences of premature plant closures are dire and irrevocable," Ms. Korsnick said.

Rep. Kent Smith (D-Euclid) questioned the witness on whether the bill would assist outdated nuclear plants at the expense of newer natural gas plants.

"I would look at that and say don't judge by age, judge by behavior." she replied. "These are extremely well maintained assets, very well invested in. Don't judge them by age, judge them by performance."

FirstEnergy and proponents have argued the proposal is similar to programs in New York and Illinois that are currently being challenged in court. But economist James Wilson, speaking for the Natural Resources Defense Council, said the legislation is "not at all similar" to those programs.

"It is not being proposed to support state goals to expand emissions reductions and renewable generation," Mr. Wilson said. "Ohio's renewable portfolio standards and goals are modest compared to those in New York and Illinois and Ohio House Bill 114 would make even those standards voluntary. Therefore, unlike in New York and Illinois, a nuclear subsidy program in Ohio would not be supporting a long-term state energy and environmental vision and associated goals."

And Lucas County Commissioner Pete Gerken, another opponent, called the bill "yet another attempt by FirstEnergy to try to manipulate electric price structures in their favor."

"This competitive market is in fact working and thankfully generating billions in direct investment to our community while creating thousands of jobs and millions in tax revenues," Mr. Gerken said, prodding FirstEnergy for its prior support of deregulation. "I respectfully ask that you reject the special fees and market manipulation as described in HB178."

In addition to a number of other opponents, the Buckeye Institute and Environmental Progress testified on the bill as interested parties.

**INTRODUCED IN THE HOUSE**

<table>
<thead>
<tr>
<th>Bill</th>
<th>Subject</th>
<th>Details</th>
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<tbody>
<tr>
<td>HB 218</td>
<td>PARK DISTRICTS</td>
<td>(Seitz, B.) To expand a probate court's powers and duties with regard to a park district. Am. 1545.06</td>
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<tr>
<td>HB 219</td>
<td>SPEED LIMITS</td>
<td>(Boccieri, J.) To specify that a speed limit becomes effective at a reasonable distance from the appropriate sign giving notice of the speed limit. Am. 4511.21</td>
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<tr>
<td>HB 221</td>
<td>WATER SEWER PROJECTS</td>
<td>(Holmes, G.) To expressly include, as eligible projects under the State Capital Improvements Program administered by the Ohio Public Works Commission, water and sewer laterals located on private property. Am. 151.08 and 164.01</td>
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<tr>
<td>HB 225</td>
<td>OIL GAS WELLS</td>
<td>(Thompson, A.) To allow a landowner to report an idle and orphaned well or abandoned well, to require the Chief of the Division of Oil and Gas Resources Management to inspect and classify such a well, to require the Chief to begin plugging a well classified as distressed-high priority within a specified time period, and to authorize an income tax deduction for reimbursements paid by the state to a landowner for costs incurred to plug an idle or orphaned well. Am. 1509.071, 1509.34, and 5747.01</td>
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| HB 226 | FIREWORKS | (Seitz, B., Sweeney, M.) To establish a fireworks study group to review and make recommendations regarding the Fireworks Law, to extend to July 1, 2020, the moratorium on issuing fireworks manufacturer and wholesaler licenses, to eliminate, beginning January 1, 2021, the moratorium on geographic transfer of fireworks manufacturer and wholesaler licenses, and, beginning July 1, 2020, to impose a fee on the retail sale of consumer grade fireworks in this state and to expand the ability of individuals to obtain 1.3G display fireworks and obtain and use 1.4G consumer fireworks. Am. 1705.48,
3737.51, 3737.71, 3737.99, 3743.04, 3743.17, 3743.44, 3743.60, 3743.61, 3743.63, 3743.65, 3743.75, 3743.99, 5703.052, 5703.053, 5703.19, 5703.70, and 5703.77 and to enact sections 3737.04, 3737.05, 3737.06, 3737.07, 3737.08, 3737.09, 3737.10, 3737.11, 3737.12, 3743.46, 3743.47, 3743.591, and 3743.67

**HOUSE COMMITTEE HEARINGS**

**Ways & Means**

**HB 105 WELL FUND** (Cera, J., Hill, B.) To limit the amount of revenue that may be credited to the Oil and Gas Well Fund and to allocate funds in excess of that amount to local governments, fire departments, and a grant program to encourage compressed natural gas as a motor vehicle fuel. (CONTINUED; 2nd Hearing-Proponent)

Representatives from several counties and townships testified before the committee, describing how the bill would help support local infrastructure projects and economic development. The bill would limit revenue credited to the Oil and Gas Well Fund and allocate the excess to support local governments.

Dale Dietrich, president of the Monroe County Township Association, said the measure would help local schools offer more technical courses to meet workforce demands.

"Our local townships would be able to greatly enhance their road maintenance," Mr. Dietrich added. "With the establishment of the county fund, our county would be able to budget their money for the many infrastructures that all of our citizens need. Examples are: water and sewer projects, improved EMS service and, last but not least, better and modernized equipment."

Answering a question from Chairman Rep. Tim Schaffer (R-Lancaster), sponsor Rep. Jack Cera (D-Bellaire) said the bill would still allocate 14% of funding to the idle orphan well program.

Rick Frio, chairman of MPR Transloading and Energy Services LLC, said the bill is necessary to build on successes that resulted from the shale gas boom.

"We must be in position to welcome these new companies and factories without delay and to do this we need the revenues from the severance tax to return to our area," Mr. Frio said. "The entire state then benefits with job creation and additional tax revenues for many generations."

Franklin Schaffer, a township trustee in Belmont County, said his area is facing six major road and bridge repair projects costing $900,000. That's just shy of the community's annual budget, he said.

"Some of the roads that have embankment failures no longer are able to receive mail service, school bus pickup for children and emergency and fire vehicle protection," he said. "At some point we may have to close roads until a funding source is found. These situations are happening all over the county."

Rep. Schaffer asked witnesses how they respond to claims from the bill's detractors arguing that the shale region already receives benefits from the increased activity.

Belmont County Commissioner Mark Thomas said that's a misconception in his area and that sales tax revenue is down due to the national retail downturn.

"How does Belmont County directly benefit from the increase in activity because we don't have taxing powers?" Mr. Thomas asked. "No, our coffers at this point are not increased."

Also testifying as proponents were representatives from the Belmont County Port Authority; the Jefferson County Township Association; Putney and Augusta townships; and Belmont, Guernsey, and Monroe counties.

**State & Local Government**

**HB 168 CEMETERY REGISTRATION** (Stein, D.) To modify duties of the Division of Real Estate in the Department of Commerce regarding cemetery registration, to specify cemetery owners must reasonably maintain cemeteries, to establish the Cemetery Grant Program, and to make an appropriation. (CONTINUED; 2nd Hearing-All testimony)

Marilyn Brandt, president of the Ohio Cemetery Association, said the legislation would codify many of the recommendations of the Ohio Cemetery Task Force.
Ms. Brandt also spoke highly of the provision in the bill that would create the Cemetery Grant Program.

Matt DeTemple, executive director of the Ohio Township Association, also spoke in favor of the grant program, saying it will help townships across the state in maintaining more than 2,400 cemeteries.

He said the program will be especially beneficial in light of cuts to local governments in recent years.

"With reduction in revenue that is primarily used for general township purposes, townships have been forced to seek additional revenue. In November 2016, there were 59 cemetery levies on the ballot across Ohio. While a good majority of those levies passed, 15 of those levies were for additional funding and nine of those levies failed," he said.

"Being that the care and maintenance of the cemeteries is mandated by law, a township must find the funds to care for the cemeteries. Unless a township is collecting on a cemetery levy, general fund and cemetery fee monies are primarily used to provide for the maintenance and operation of township cemeteries."

Larry Keough, associate director at the Catholic Conference of Ohio, also spoke in favor of the grant program and how the funding would be awarded, which would be through the Division of Real Estate within the Department of Commerce.

Linda Ellis also provided written testimony in support of the bill.

HB 51 AGENCY REVIEWS (Faber, K.) To require standing committees of the General Assembly to establish a schedule for the periodic review and sunset of state departments that are currently in the Governor's cabinet, and to require that Auditor of State performance audits be scheduled to coincide with the periodic review. (REPORTED-AMENDED, 4th Hearing-All testimony-Possible amendments & vote)

Prior to the bill's passage out of committee, members voted along party lines to approve an amendment that would change the review process from once every four years to once every six years.

Wendy Patton, senior project director for Policy Matters Ohio, offered written opponent testimony, saying the legislation "proposes an expensive process that would divert time and resources from the delivery of important public services."

"No one would seriously suggest that we shut down our universities, prisons and nursing homes, lay off our state highway patrol officers and end all projects to keep up our roads and bridges," she wrote. "If legislators want to make sure these operations are accountable, there are numerous existing ways to do so."

Ms. Patton said lawmakers can hold agencies accountable through the budget process, through consolidation outside the budget process or through investigation by the auditor's office or the inspector general's office.

"The notion that we are going to shut down the state budget office, the Department of Natural Resources or other critical agencies is no laughing matter," she wrote. "HB51 proposes an expensive process that would divert time and resources from the delivery of important public services."

The committee narrowly reported the bill in an 8-6 vote, with Rep. Anielski and Rep. Steven Amrdt (R-Port Clinton) voting against the measure.

SB 37 POLICE CHIEF TRAINING (Hite, C.) To require the Ohio Peace Officer Training Commission to develop and conduct a chief of police training course for newly appointed village, city, and township chiefs of police. (CONTINUED; 1st Hearing-Sponsor)

The legislation is designed to "create an opportunity for local police chiefs to get the training that they need to be effective and dynamic leaders," sponsoring Sen. Cliff Hite (R-Findlay) said.

The 40 hours of semi-annual training the legislation would require would be offered through the Ohio Peace Officer Training Commission.

The training would include diversity, historical perspectives and community-police relations.

Asked by Rep. Perales about the view of the Ohio Association of Chiefs of Police on the measure, Sen. Hite said they are in favor of the bill, which would only apply to new chiefs.

"They are fully behind this bill," he said.
Rep. Perales also inquired about police chiefs at private colleges and whether they would be required to undergo the training. Sen. Hite said he is unsure.

Public Utilities

HB 133 DISASTER WORK (Ryan, S.) To create the Disaster Relief Act to exempt out-of-state disaster businesses and qualifying out-of-state employees from certain taxes and laws with respect to disaster work on critical infrastructure performed in this state during a declared disaster. (CONTINUED; 1st Hearing-Sponsor)

Rep. Scott Ryan (R-Newark) said his proposal will enable out-of-state communications companies, utilities, and other infrastructure companies to "rapidly deploy resources and out of state personnel" when responding to disasters.

"Out-of-state businesses and employees engaging in disaster work in Ohio during the temporary time frame would be exempt from filing any documents before engaging in the disaster work," Rep. Ryan said. "They would also not need to register, file or remit state or local taxes or be subject to any state licensing or registration requirements for a set period of time for both themselves and their equipment."

Employees and companies would still be subject to taxes and other requirements in their home state during this period, the sponsor said. He added that the bill also exempt those employers and their workers from Ohio's workers' compensation and unemployment compensation.

"This expedites the often enormous and overwhelming task of cleaning up, restoring and repairing damaged buildings, equipment and property," Rep. Ryan said. "HB133 gives these businesses a greater ability to focus on quickly responding to the needs of the state and its citizens during an emergency."

Economic Development, Commerce & Labor

HB 128 BUILDING INSPECTIONS (Roegner, K.) To permit a general contractor or owner of specified buildings to enter into a contract with a third-party private inspector or a certified building department for building inspection and to make other changes relating to building inspections. (CONTINUED; 2nd Hearing-Proponent)

Bryan Williams, director of government affairs for Associated Builders and Contractors, said the bill would allow permissive third party, fully licensed inspections paid for by the general contractor or project owner in lieu of the public building department.

The practice already happens on a regular basis in Ohio, he said.

"Why is this necessary? Because many building departments stymie the timely construction of projects in their jurisdiction simply because they are unable or unwilling to hire more inspectors," he said. "Additionally, some departments are not willing to admit that their departments lack the professional expertise to inspect a unique and complicated aspect of a specific project."

Mr. Williams said it won't decrease the qualifications for individuals who conduct inspections, and that it wouldn't let contractors "shop" for friendly inspectors. The state would create a list of licensed people and the inspector would be assigned from that list.

Wednesday, May 17, 2017

HOUSE APPROVES BW C BUDGET WITH CONTROVERSIAL LANGUAGE

The House on Wednesday approved the Bureau of Workers' Compensation's two-year budget, but not before striking down several Democratic amendments.

The $566.5 million measure (HB 27) that was approved in a 65-29 vote will fund the agency for the next two years, but Democrats said the bill goes too far beyond a spending plan.

Republicans, however, defended the measure and said it will strengthen the workers' compensation system.

"A lot of good things were done in this budget." Rep. Michael Henne (R-Clayton) said.

The Democratic amendments were designed to curtail last-minute changes to the bill that they objected to in committee.

A particular point of contention for Democrats was a provision that would bar illegal aliens from workers' compensation coverage.
Rep. Dan Ramos (D-Lorain) attempted to strip the provision from the bill with an amendment that was rejected on an 18-75 vote. He said the provision would both reduce workplace safety and encourage employers to hire illegal aliens, a term he also took issue with during a floor speech.

"They aren't aliens. They aren't illegals. They are people," he said, before adding, "It's hard to tell the world you're the best and then be surprised when they show up."

Rep. Ramos said the issue was of particular concern to him because of his Latino background and his large Hispanic constituency.

"I represent Bob and Betty Buckeye and I represent Roberto and Isabella Buckeye, too," he said.

But Rep. Bill Seitz (R-Cincinnati) said the provision brings workers' compensation benefits in line with nearly all other state-provided benefits, including food stamps, Medicaid, except in an emergency, and unemployment compensation.

"For years, the Bureau of Workers' Compensation has never checked to see whether illegal aliens are receiving workers' compensation," he said.

Rep. Seitz said he hopes the provision will encourage illegal aliens to "get the message" and become legal immigrants.

Another amendment, offered by Rep. John Boccieri (D-Alliance), would have required employers to pay for the hospital costs of illegal aliens injured on the job.

"Don't create a situation where hospitals are going to have to foot the bill while everything is litigated in court to find out whether this person was illegal or undocumented, or whatever you have," he said. "Let's hold our employers to a higher standard. Let's hold them responsible for hiring undocumented workers in the first place."

Rep. Seitz said the amendment, which was tabled in a 65-29 vote, might have gained more traction had it targeted only employers that knowingly hire illegal aliens.

"This amendment would hold all employers responsible for medical bills of illegal aliens whether they knew or not, or had reason to know or not," he said.

Another amendment offered by Rep. Boccieri, which would have kept the statute of limitations on injury claims at two years, was also tabled.

But sponsoring Rep. Tom Brinkman (R-Cincinnati) said the aim of cutting the statute of limitations in half is to get injured workers back on the job as soon as possible by promptly getting them care.

Rep. Brinkman also spoke out against an amendment offered by Rep. Mike Ashford (D-Toledo) that would have taken the legislation back to the as-introduced version. He said that would usurp the authority of the legislative branch.

"We have something to say and we should have that authority back," he said.

**CHAIRMAN: NO PLANS FOR ADDITIONAL HEARINGS ON FIRSTENERGY ZEN BILL**

Rep. Bill Seitz said his committee's hearings on a controversial bill to financially support FirstEnergy's nuclear plants are finished - at least for now.

The Cincinnati Republican and chairman of the House Public Utilities Committee said in an interview he has "no current plans to hold additional hearings" on the bill (HB 178).

"We've had extensive hearings, 10 hours of testimony," Rep. Seitz said. "It's obviously very contentious."

Rep. Seitz's committee wrapped up the third hearing on the bill Tuesday evening. Meanwhile, an identical bill in the Senate (SB 128) is scheduled for a second hearing Thursday, although leaders in that chamber are skeptical whether the bill has adequate support among majority Republicans.
"We'll see what goes on over in the Senate," Rep. Seitz said. "We'll see what goes on as the year unfolds with FirstEnergy's situation."

FirstEnergy has argued that without the ZEN program the Davis-Besse and Perry power plants will likely close and the subsidiary that owns them, FirstEnergy Solutions, may plunge into bankruptcy.

But Rep. Seitz said Mr. Jones' remarks Tuesday during a shareholders' meeting don't boost lawmakers' confidence in the bill. Mr. Jones remarked to media that even if the ZEN program passes, it may not be enough to rescue the company.

"I read yesterday where Chuck Jones is not even certain passage of the bill would be of sufficient relief to them to keep these open," Rep. Seitz said. "So I'm not planning further hearings at this time. Obviously things could change if dramatic things happen in the next couple months."

Mr. Jones had previously told the House committee something similar, testifying that he could not guarantee the plants' survival even if the bill became law.

Rep. Seitz said additional hearings on the bill likely won't turn up anything members haven't already heard.

"We're at the point now we're not getting any new information, just a rehash of everybody's arguments, and I don't want to beat a dead horse," he said.

Thursday, May 18, 2017

ZEN BILL: 'BENEFITS OUTWEIGH COST,' FIRSTENERGY CEO TELLS SENATORS

FirstEnergy CEO Chuck Jones made a full court press Thursday to enlist Senate support for a controversial bill to financially support the company's two nuclear plants. After testifying for more than an hour before the Senate Public Utilities Committee, Mr. Jones spent much of the day in meetings with lawmakers working to sway their opinions on the bill (SB 128).

The company argues the bill and its House companion would reward nuclear plants for their reliability and cleanliness while protecting thousands of direct and indirect jobs that would vanish if the Davis-Besse and Perry nuclear plants closed. The survival of those plants, Mr. Jones said, is on the line.

"(Lawmakers) need to decide are the attributes of these plants worth $5 a month for the average customer - the fuel security attributes, the 24/7, round-the-clock service attributes," Mr. Jones said in an interview.

His appearance during the bill's second hearing came the day after Rep. Bill Seitz (R-Cincinnati) said he has no intention of continuing hearings on the House companion bill (HB 178) before the House Public Utilities Committee. And Senate leaders have said the bill faces long odds in that chamber too.

"Is it an uphill battle?" Mr. Jones remarked. "I think any piece of legislation that has a cost to it as clear as this one is always going to be an uphill battle. But our job is to convince them the benefits outweigh the cost."

Chairman Sen. Bill Beagle (R-Tipp City) said he is planning to have more hearings on the bill prior to the chamber's June recess, but that the schedule is uncertain given the ongoing focus on the operating budget (HB 49).

"Today we heard one side of the story," Sen. Beagle said of Mr. Jones' testimony. "It's an interesting side, an intriguing side, an important side. But we have a lot more testimony to go with other subject matter experts who may have a different perspective on some of the same facts.

"If nothing else we need to make sure we get the remaining proponent and opponent testimony going so that our committee can inform the caucus on what the issues are," he continued.

Meanwhile, a coalition of opponents including AARP, the Ohio Manufacturers' Association, and local governments praised the House committee for not bringing the measure to a vote and vowed to continue fighting the Senate bill.

"We expect these efforts by FirstEnergy will continue, so the coalition will continue to monitor this legislation and to educate Ohioans on the threat this legislation poses to Ohio consumers, families, and communities," the group said in
a statement. "And, the coalition urges the Senate to follow the lead of the House and to suspend deliberations on Senate Bill 128."

Mr. Jones' Senate testimony mostly mirrored his previous remarks in the House last month, although he did modify his testimony to head off some criticism. Both opponents and House lawmakers turned FirstEnergy's prior remarks against it, citing the company's testimony on a previous bill in which the company touted the benefits of competitive markets.

"I'll simply point out that, although our company supported the evolving markets, it soon became clear those markets and the related capacity auctions weren't working as intended," Mr. Jones said. "As a result, we made the decision to move away from competitive markets and transition to the regulated model."

Although the company understands the benefits of free markets, Mr. Jones said, "that's not how anyone truly close to our business would describe markets for electric generation."

Sen. Lou Terhar (R-Cincinnati) and Sen. Matt Huffman (R-Lima) probed Mr. Jones on exactly why he believes the two plants can't be sold for a profit on the open market. Mr. Jones replied that the plants are currently valued at about $1.5 billion with $3.5 billion worth of debt, meaning bankruptcy is the only viable option for the company to unload the plants onto a buyer.

And the CEO told Sen. Sandra Williams (D-Cleveland) that the long-term costs on consumers would be greater if the legislation didn't pass and the plants closed - about $1.3 billion over the next decade. Sen. Troy Balderson (R-Zanesville) voiced a frequent question lawmakers have asked in hearings: How can lawmakers support the program while at the same time pursuing a bill (HB 114) to remove subsidies from renewable energy sources?

"This issue is different," Mr. Jones replied, reiterating the 24/7 nature of nuclear power as well as the security and resiliency the plants bring to the grid. "You need to value the cost against the benefits and make a decision."

Sen. Beagle questioned in theory whether lawmakers could agree that Mr. Jones' concerns on fuel diversity are justified but disagree that the bill is the correct course of action.

"You get to make that decision," Mr. Jones answered. "But I can tell you this: If we had a better solution we would have brought that to you. This is the right solution."

Opponents have said the bills would subsidize outdated plants at the expense of cheaper natural gas, but Mr. Jones again pushed back on claims the bill is a bailout.

"There's no way under any circumstances these plants are going to be rolling in money," he said. "This is enough money to keep them operating. That's why I'm not sure in any bankruptcy anybody will buy them or they'll even continue running. Even if you jettison $3.5 billion worth of debt they still may not be viable."

He also addressed his recent remarks to shareholders and members of the media in which he said even with the ZEN program the fiscal health of FirstEnergy Solutions, the subsidiary that owns the plants, isn't assured. Rep. Seitz cited that remark as a factor in the bill's lack of support among some lawmakers.

"It doesn't solidify the help of FirstEnergy Solutions, but I believe if this legislation passes these plants will keep running and somebody will keep operating them," Mr. Jones said. "Without this legislation, I'm not sure that's going to happen."

**OPPONENTS CALL FOR PROPERTY VALUE DISPUTE PROVISION TO BE REMOVED FROM BUDGET**

A plan to force government entities to shoulder the financial burden of lost property valuation cases could prove costly, members of a Senate panel were told Thursday. The provision inserted by the House into the state's budget (HB 49) requires a public body to pay a property owner's fees and court costs in certain property tax appeals cases.

Union County Auditor Andrea Weaver, representing the County Auditors Association of Ohio, told members of the Senate Finance Subcommittee on General Government & Agency Review that the provision could lead property valuation tools and methodology utilized by the state's auditors to "become diluted and sometimes moot."
She also said the provision will have a "chilling effect" on government entities who in the past may have appealed a property tax dispute all the way to the Ohio Supreme Court.

"If the state insists on this cost-recovery mechanism, at a minimum, it should be fair to both sides," Ms. Weaver said. "If the property owner loses an appeal, he or she should also be required to pay attorney fees and costs of the taxing authority."

Ms. Weaver also said the language in the provision is problematic, as it uses the word "prevails."

However, Ms. Weaver said most non-sale case decisions result in a compromise value. The term, she added, "will be irrelevant as both parties will correctly claim a partial victory."

Jeffery Rich of the Ohio Coalition For Fair Taxation said the budget provision creates a "lopsided, one-way, loser-pays system."

Mr. Rich said one of the stated reasons for placing the provision in the budget was that government agencies have a "home court advantage" at the county board of revisions level.

However, he said that is not the case. Since 2008, Mr. Rich said, more than 50,000 complaints have been filed in Franklin County, with less than 10% of those filed by school districts seeking property valuation increases.

"There have been hundreds of millions of dollars more in reductions granted over this time period than the amount of increases granted. Therefore, it is quite clear that it is the property owner that has the 'home court advantage' at the BOR and the BOEs are simply trying to stem the bleeding," he wrote.

As an alternative to the budget provision, Mr. Rich suggested that lawmakers eliminate private citizen complaints and require boards of education to pass resolutions outlining the parameters of when they will challenge a property valuation.

"This would eliminate the potential of favoritism among filing complaints as the complaint would be filed regardless of who owns the property, thereby keeping the blindfold on justice," he wrote.

Ryan Jenkins, treasurer and CFO at the Pickerington Local School District, said his school system has done just that.

He also said the budget language "punishes school districts that choose to protect their local funding through challenges to property valuation in their districts."

"This language would have a chilling effect on those school districts, such as Pickerington, that even seek to question a low property tax valuation, much less challenge that valuation before the county board of tax revision or appeal an erroneous decision of a board of revision," he said.

Matt DeTemple, executive director of the Ohio Township Association, also spoke out against the proposal.

"The current system allows for a proper 'checks and balances,' making sure taxpayers in the township are not paying more than their fair share. The provision in HB49 may have an effect on legitimate challenges to values that are clearly low, thereby causing the other taxpayers to pay more," he said.

**SENATE COMMITTEE HEARING**

**Finance: General Government & Agency Review Sub.**

**State Auditor:** Shawn Busken, director of policy and legislative affairs at the auditor's office, suggested several changes to the state's budget, including language clarifying that village owned utilities are able to aggregate additional liabilities in order to continue to operate the utility.

Mr. Busken also said a provision was added in the House-passed version of the bill requiring the auditor's office to establish a uniform chart of accounts and uniform accounting procedures within two years. However, the bill does not contain the $350,000 the office needs to follow through with that mandate.
Sen. Kenny Yuko (D-Richmond Heights) wondered why cyber security training is not mandatory for all fiscal officers, given the risk of cyber-attacks in current times. Mr. Busken explained it is simply not necessary for every officer to be trained in cyber security, but he is open to discussing a possible mandate.

**Public Works:** Michael Miller, director of the Public Works Commission, said the spending outline amounts to a continuation budget that will allow the commission to maintain existing programs and staff.

Those programs include the State Capital Improvement Program and the Local Transportation Improvement Program.

PWC's portfolio of active projects includes more than 1,800 infrastructure and Clean Ohio projects and more than 2,400 active loans.

"I expect this number to increase as we continue to process district submissions," Mr. Miller said. "The Commission stands committed to working with our local partners in seeing these projects to completion with the resources contained in this legislation."

**Public Transportation:** Jack Shaner, testifying on behalf of Policy Matters Ohio, called for additional funding for public transportation.

"The governor's budget and the budget as passed by the House lets public transit fall further behind during this biennium. Total funding proposed, between federal flex funds of the Ohio Department of Transportation budget (House Bill 26) and the House operating budget (House Bill 49), total less than $40 million a year," he said.

"That's an increase over 2017, but changes to the state sales tax base, upon which eight of the state's largest public transit agencies levy a local sales tax, offset these gains and result in a net loss by 2019."

Mr. Shaner said the loss of the MCO tax revenue will deprive transit authorities of $40 million per year in 2019.

"Lawmakers can address this loss in the operating budget. The governor's budget restructures the MCO tax to make the state coffers whole but the restructuring is presented as a "done deal." It does not have to be a done deal," he said. "The restructuring could be done in a way that replaces all lost revenues, including revenues lost to public transit and counties."

**Oil & Gas:** Brian Zimmerman, CEO of Cleveland Metroparks, said a provision in the budget bill has the potential to jeopardize public lands.

He said the provision mandates the Department of Natural Resources to issue a unitization order for operation of a pool that encompasses a unit area consisting of oil or natural gas resources owned or controlled by the state or political subdivision. The only exception is for land found in state parks and nature reserves.

"Under the proposed language, a park district would have no say and would have no opportunity to be heard regarding whether a unitization order should be implemented," he said. "This runs afoul of the General Assembly's actions taken 100 years ago."

**Turbine Setbacks:** Dayna Baird Payne, president of Government Edge, called for the budget to be amended to return the property line wind turbine setback to be returned to its original distance of 1.1 times the height of a turbine from the base to vertical blade tip.

She said since the setback distance was changed, not a single application for a wind farm has been made since the 2014 effective date of the legislation that changed the law.

"The current property line setback is an artificial, unfounded market barrier for companies wanting to build wind farms and those wanting to purchase the power from them. In 2015, corporate purchasers of wind power exceeded traditional utility purchasers for the first time. Yes, many of these companies have commitments to being powered by renewable energy over a period of years, but they also recognize that wind - with no fuel costs - provides a long-term hedge against fluctuating energy prices," she said.
Statehouse Update

"The ability to construct and purchase utility scale wind is becoming an increasingly significant factor in site selection. If Ohio wants to keep as many doors open as possible to investments such as Amazon's - more than 6,000 Ohio employees, multiple facilities, and billions in investment - then now is the time to return to the previous wind setback requirement."

**Township Issues:** Matt DeTemple, executive director of the Ohio Township Association, praised several provisions in the budget, including additional Local Government Fund revenue funneled to townships. He also spoke highly of a change that would allow townships to sell advertising on their web sites, a provision that permits townships to require registration by vendors and impose time, place and manner restrictions on sales calls, and a change in law that would no longer require county engineers to provide prospective bidders with an estimate cost of township road projects.

"There is no incentive for a prospective bidder to come in significantly under budget when the engineer has provided the estimated cost," he said. "There may be competition, but money is left on the table when the bidders know the approximate cost of the job and, that if the township is bidding the work, the township must have the money available to pay the estimated amount."

However, Mr. DeTemple also raised the issue of unitization for oil and gas wells on public lands.

"This change mandates ODNR grant unitization requests pertaining to mineral rights owned by a township and permits drilling on township property without the consent of the board of trustees," he said.

**Friday, May 19, 2017**

**HIGH COURT CLARIFIES APPEALS PROCESS FOR INJURED WORKERS WITH PREEXISTING CONDITIONS**

The Ohio Supreme Court has ruled that an injured workers' right to appeal the elimination of benefits for a preexisting condition are limited.

The court found an Industrial Commission order determining a preexisting condition aggravated by a workplace injury that has returned to a pre-injury level is not appealable to a common pleas court.

Instead, the decision authored by Justice Bill O'Neill found, those are extent of disability claims and must be appealed directly to the Ohio Supreme Court or the Tenth District Court of Appeals.

"Under R.C. 4123.512, decisions regarding the extent of the claimant's disability are not appealable to a court of common pleas," Justice O'Neill wrote for the majority. "The decisions that are appealable to a court of common pleas under R.C. 4123.512 are those decisions that resolve an employee's right to participate or to continue to participate in the workers' compensation fund."

The case stems from a 2008 shoulder injury suffered by Audrey Clendenin while working for the Girl Scouts of Western Ohio. The shoulder injury led to a skin condition called dermatomyositis.

The court found that the statute requires decisions appealed to the common pleas court to be for disallowed claims, the court's media arm reported.

"Despite the fact that the commission's order stated that benefits were no longer to be paid for Clendenin's preexisting condition, the commission's order continued to refer to Clendenin's claim and condition as allowed," Justice O'Neill wrote.

"There is no dispute whether Clendenin's claim and this condition were the result of the work-related injury. In order for this decision to be appealable to the court of common pleas, the commission would have had to make a finding that the preexisting condition was not aggravated in the course of Clendenin's employment and that the condition was therefore disallowed. No such finding was made here."

By 2013, the Bureau of Workers' Compensation determined the condition had returned to pre-injury levels and asked the Industrial Commission to terminate benefits and compensation for the skin ailment.
Ms. Clendenin appealed the determination to the Hamilton County Common Pleas Court. The BWC succeeded in asking the court to dismiss the case, which was then appealed to the First District Court of Appeals.

The appellate court determined the common pleas court was the appropriate venue for the case.

Chief Justice Maureen O'Connor, and Justices Sharon Kennedy and Judith French joined the opinion. Eighth District Court of Appeals Judge Sean C. Gallagher, sitting for Justice Patrick Fischer, and Fifth District Court of Appeals Judge Patricia A. Delaney, sitting for Justice Patrick DeWine, also joined the majority opinion. Justice Terrence O'Donnell concurred in judgment only.

**STATE UNEMPLOYMENT RATE DROPS SLIGHTLY IN APRIL**
Ohio's unemployment rate dropped to 5% in April from 5.1% the month before, although total jobs also decreased for the month, the Department of Job and Family Services reported Friday.

Total nonagricultural wage and salary employment decreased 5,700 over the month to 5,512,800, according to the latest jobs data. The number of unemployed workers in the state dropped 5,000 compared to March, to 288,000.

The U.S. unemployment rate for April was 4.4%, also reflecting a 0.1% drop from March.

Ohio's unemployment statistics have held fairly steady over the last year, state data show. The April 2016 rate was also 5%, and the number of unemployed has increased by 5,000 in the past 12 months.

Meanwhile, U.S. trends remain ahead of Ohio's, as the national rate has dropped by 0.6 percentage points since April 2016.

Business survey statistics provided by the U.S. Department of Labor in cooperation with ODJFS found the largest job losses in goods-producing industries, which dropped 13,200 over the month largely due to employment losses in construction (-7,400) and manufacturing (-5,800).

Meanwhile, some of the largest gains occurred in the private service-providing sector, which increased 9,400 due in part to boosts in professional and business services (+6,100), and leisure and hospitality (+5,000).

Ohio has added 35,900 jobs since April 2016, with increases led by educational and health services (+18,100), leisure and hospitality (+8,100), professional and business services (+5,700) and goods-producing industries (+5,600), ODJFS reported.

Government jobs led the declines, as Ohio saw losses in both state (-8,300) and local government positions(-1,800) overwhelm smaller gains in federal government jobs (+900).

The April jobs report received mixed reviews.

Orphe Divounguy, lead economist for the Buckeye Institute, said that while the report marked two consecutive months of employment losses and the private sector lost 3,800 jobs in April, private sector employment for the first four months of 2017 has performed above expectations by creating only 500 fewer jobs than during the first four months of 2016.

"Employment in goods-producing industries fell in April but performed well over the past 12 months. This is something to keep a watchful eye on, since demand had been a concern for the US economy. Despite a tight labor market, wage growth continues to be slower than expected," he said in a statement.

"The big story in Ohio continues to be public sector job losses," he said, adding that April marked five consecutive months of declining employment in the public sector, with both federal and state governments shedding jobs.
"Although, falling state government employment should come as no surprise since Ohio's state tax collections have consistently failed to meet expectations."

Hannah Halbert, a researcher with Policy Matters Ohio, found the report worrisome.
"The monthly numbers are preliminary and subject to revision, so it is best not to make too much of the month-to-month changes, but today's report is still concerning," said. "April's declines compound our losses in March. It's also a departure from the national trend," she said. Since December, Ohio added just 9,100 jobs, growing by 0.2 percent. Over the same time, the nation's jobs grew by 0.5 percent.

"Ohioans have been asking where are the good jobs? Policymakers have not responded with new strategies," she said. "Tax cuts for the wealthy have not borne the promised fruit. We have slow growth and less revenue to invest in our future. Ohioans need a raise and real investment in our communities."

Ms. Halbert called the increase in the state's labor force a "bright spot."

LEGISLATIVE COMMITTEE SCHEDULES BEGINNING 5/19/2017
Tuesday, May 23
House State & Local Government (Chr. Anielski, M., 644-6041), Rm. 116, 10 a.m.
HB 168 CEMETERY REGISTRATION (Stein, D.) To modify duties of the Division of Real Estate in the Department of Commerce regarding cemetery registration, to specify cemetery owners must reasonably maintain cemeteries, to establish the Cemetery Grant Program, and to make an appropriation. (3rd Hearing-All testimony-Possible vote)
HB 207 PHOTO MONITORING (Patton, T.) To prohibit a municipal corporation or township that does not operate either a fire department or an emergency medical services organization from utilizing traffic law photo-monitoring devices. (1st Hearing-Sponsor)
HB 208 PHOTO MONITORING (Patton, T.) To prohibit a local authority with a population of 200 or fewer from utilizing traffic law photo-monitoring devices. (1st Hearing-Sponsor)
HB 209 PHOTO MONITORING (Patton, T.) To prohibit a local authority, in any year, from issuing a total number of traffic tickets based on the use of traffic law photo-monitoring devices that exceeds two times the population of the local authority. (1st Hearing-Sponsor)
HB 210 PHOTO MONITORING (Patton, T.) To prohibit a local authority from deriving more than 30 per cent of the total annual revenue of the local authority from the issuance of tickets for traffic law violations based on evidence recorded by traffic law photo-monitoring devices. (1st Hearing-Sponsor)
SB 37 POLICE CHIEF TRAINING (Hite, C.) To require the Ohio Peace Officer Training Commission to develop and conduct a chief of police training course for newly appointed village, city, and township chiefs of police. (2nd Hearing-All testimony)

House Economic Development, Commerce & Labor (Chr. Young, R., 644-6074), Rm. 017, 1:30 p.m.
HB 128 BUILDING INSPECTIONS (Roegner, K.) To permit a general contractor or owner of specified buildings to enter into a contract with a third-party private inspector or a certified building department for building inspection and to make other changes relating to building inspections. (3rd Hearing-Opponent)

Wednesday, May 24
House Insurance (Ch. Brinkman, 644-6886), Rm. 114, 10 a.m.
HB 161 WORKERS COMPENSATION (Patton, T.) To make peace officers, firefighters, and emergency medical workers diagnosed with post-traumatic stress disorder arising from employment without an accompanying physical injury eligible for compensation and benefits under Ohio's Workers' Compensation Law for up to one year and to prohibit such a person from receiving a disability benefit from a state retirement system for post-traumatic stress disorder arising from employment without an accompanying physical injury during the time period the person receives compensation and benefits under the Workers' Compensation Law for the disorder. (1st Hearing-Sponsor)

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