Monday, May 18, 2020
Administration Plans 'Surge' In Bar, Restaurant Compliance Checks
Law enforcement and health officials from multiple state departments will team up to make sure restaurants and bars are following reopening guidelines, Gov. Mike DeWine announced Monday.

The planned response follows the weekend reopening of many businesses for sit-down, outdoor service under state-imposed restrictions. Indoor service can resume Thursday.

Gov. DeWine said weekend reports indicated most bars and restaurants were doing "an amazingly good job" following the rules, "but it's clear we had some outliers."

The administration in response will convene "a large contingent of law enforcement and health officials from across state agencies and from our local communities" to "surge in" at establishments to conduct compliance checks, Gov. DeWine said. The group will be coordinated by the Department of Public Safety's Ohio Investigative Unit.

"If we're going to bring the economy back, people have to feel safe when they go out," he said. "They have to feel that the rules are being followed when they go to a restaurant."

The governor said he does not yet know how many people will be added to the existing 70-person OIU team as part of the effort.

The group will be able to issue administrative citations that could lead to liquor license revocations and will work with municipal prosecutors on potential criminal charges. Gov. DeWine said he would not rule out citing individual customers for breaking Department of Health rules.

Several citations were issued at bars and restaurants in Ohio over the weekend by state and local authorities, Gov. DeWine said.

Among the rules broken at some establishments were distancing requirements and a mandate that customers be seated when consuming food or drink, the governor said.

The announcement immediately drew pushback from a House Republican.

"Let me be blunt! If your administration unfairly attacks small business owners who need help and clarity during a time of need, as a member of the House Finance Committee, I'll recommend to cut your 'restaurant/bar police' budget!" Rep. Jon Cross (R-Kenton) wrote in a Twitter post directed at the governor.

Lt. Gov. Jon Husted said the state's rules "must be followed" to protect the health of customers and workers.

"Enforcement's the last straw, essentially. None of us want to get to that," he said. "But if you can't comply and if you won't comply…then there has to be enforcement."

The lieutenant governor said local officials can apply tougher restrictions on establishments or areas in which the protocols are being ignored.
The Department of Health on Monday afternoon reported 28,454 cases and 1,657 deaths, including probable cases. The number of cumulative hospitalizations reached 4,998, with 1,328 ICU admissions.

The governor's daily coronavirus briefing also featured updates on conditions inside the state's prisons, behavioral health facilities and veterans nursing homes.

The governor confirmed a third Department of Rehabilitation and Correction staff member — Bernard Atta, a 61-year-old nurse at the Correctional Reception Center in Orient — died Sunday from the virus.

"We've had three staff members pass away from COVID as well as 61 incarcerated adults," DRC Director Annette Chambers-Smith said. "We feel every single one of those. We work every day to try not to have another."

The director said the department's efforts to stop the spread of the virus have "evolved over time" in response to the availability of testing and guidance from the Department of Health that has changed as more has become know about COVID-19.

"We're looking for signs and symptoms. We're treating people," she said. "We have a new testing plan that we're following, and it's based upon interacting with the experts as well as utilizing the science of what we found going on inside prisons."

Ms. Chambers-Smith said the new plan, which involves testing people upon entry into the system and quarantining them for 14 days, has been instituted at Belmont Correctional Institution, which has become DRC's latest "hot spot" for cases.

The governor said the Department of Mental Health and Addiction Services on Sunday was notified a patient of Twin Valley Behavioral Healthcare Hospital in Columbus tested positive. Two other residents of the same unit later received positive results.

Gov. DeWine said Ohio State University is working with the department to conduct on-site testing for the entire 25-person unit. The hospital has taken additional steps to protect other patients and employees.

The governor last week ordered the testing of every resident and staff member at the Ohio Department of Veterans Services' two nursing homes.

The tests have confirmed 23 cases among residents and three among staff at the department's Sandusky facility, with only about half of the results submitted to the state. No cases have been confirmed at the Georgetown facility.

**ODA To Move Forward With Full H2Ohio Funding**

Stakeholders are cheering after the Department of Agriculture confirmed $50 million in planned funding for farm conservation efforts won't be trimmed along with other cost cuts.

Agriculture and environmental groups previously feared that money — which includes $30 million in H2Ohio funds — was on the chopping block as the DeWine Administration explored potential non-GRF cuts on top of the $776 million in GRF spending to be trimmed thanks to the coronavirus pandemic.

But ODA Director Dorothy Pelanda said officials have now decided they can still offer that support along with another previously planned $20 million in GRF dollars from prior legislation (SB299; 132nd General Assembly) to finance Lake Erie protection efforts.

"Although the economic impact of COVID-19 was unforeseen and required a reevaluation of Ohio Department of Agriculture's budget, ODA is pleased to be able to move forward with $50 million in funds...will be available to farmers currently enrolled in H2Ohio programs," Director Pelanda said.

"This exceeds ODA's expectations and positions the department to continue building valuable, conservation-based relationships with producers," she continued. "Although details are yet to be worked out, we plan to move forward quickly to meet with the 2,000 farmers who have enrolled more than 1.1 million acres, in addition to working closely with the 14 SWCDs to help them achieve necessary staffing levels."
Stakeholder groups said they learned late Friday of the administration's decision, which ensures funding to help farmers in 14 northwest counties adopt science-based best practices to curb nutrient runoff.

The news followed weeks of waiting to hear whether H2Ohio efforts might be curtailed thanks to the virus. State Budget Director Kimberly Murnieks had previously emphasized H2Ohio remained a priority, but she and other agency heads had signaled the fund would be among the non-GRF programs eyed for potential cuts in the days ahead.

Pete Bucher, water resources director for the Ohio Environmental Council, said the funding will be especially beneficial in helping farmers craft nutrient management plans and that the administration's continued support bodes well for the program moving forward toward an uncertain Fiscal Year 2021.

"We're appreciative they are able to keep the program a priority and get the foundation set because there were so many people signing up and showing interest," Mr. Bucher said in an interview. "It's a pretty good foundation to keep it going in the future."

Ohio Farm Bureau spokesman Ty Higgins said farmers too are celebrating given their past anxiety about how the program funding might be affected by the virus's adverse impact on tax revenue.

"H2Ohio moving forward is great news and shows that the DeWine administration is just as committed to clean quality as the thousands of northwest Ohio farmers that have already signed up over a million acres of the Maumee River Watershed into the program," Mr. Higgins said.

"We appreciate the governor's understanding of farmers' eagerness to do their part, as these funds will help to put nutrient management plans in place and allow farmers to implement more best nutrient management practices to improve water quality for years to come."

Officials at other agencies have largely paused H2Ohio efforts, including the previously planned spending of $12.4 million through the Department of Natural Resources. Ohio EPA Director Laurie Stevenson has also predicted $1.73 million in cuts to her agency's H2Ohio efforts should it not be spared the administration's 20% reduction goal.

Although ODA's H2Ohio funding is expected to remain intact, other programs have faced the ax with the agency eyed for $4.7 million in GRF cuts and $6.3 million in non-GRF reductions over the rest of the fiscal year.

Line-item detail on the final cuts has yet to be released, but Director Pelanda's recommended reductions submitted to the Office of Budget and Management included cuts of: $320,000 to Ohio Grape Industries, $150,000 to the Commodity Handlers Regulatory Program, $75,100 to County Agricultural Societies, and $50,000 to the laboratory administration costs.

That doesn't include a recommended $400,000 in cuts to ride inspectors, which the agency has said is a result of a significant loss in fee revenue due to COVID-19's impact on events.

**House Republicans Join Push For Stricter Wind Power Regulations**

Two House members are urging the Ohio Power Siting Board to use an ongoing rule review to beef up requirements for wind turbines.

Rep. Bill Seitz (R-Cincinnati), the chamber's majority floor leader, and Rep. Bill Reineke (R-Tiffin), are among a host of parties who have submitted feedback in person or in writing to the board as it moves forward with its wide-ranging rule rewrite.

Launched earlier this year under a revised process aimed at generating more input, the five-year rule review touches on a host of Administrative Code provisions encompassing everything from case procedures to board meeting protocols.

So far, wind power continues to be a main point of contention between residents and wind advocates and now lawmakers too are wading in.
Rep. Reineke, who has authored a controversial measure (HB 401) to potentially subject wind farm approvals to a referendum, recently urged the board to be more expansive in gathering input during proceedings, writing that several of his constituents felt their concerns haven't been taken seriously at past public hearings.

Wind setbacks should also match those recommended by manufacturers and residents are too often left in the dark regarding the size and scope of those projects, Rep. Reineke added in comments.

"Other areas of concern include the promise of monetary gain for local school districts and the community," he said. "Energy project developers make grand promises about the monetary gain that local schools will get as a result of these projects, and then try to back out or lessen the amount that the local community will receive upon project completion. These promises should be notarized in writing as an enforceable measure."

Board Chairman Sam Randazzo addressed the lawmaker's concern on feedback gathered at a stakeholder meeting last week, saying that the board has at least one member present at each public hearing but that there is work to be done at the local level in gathering input.

Rep. Seitz also focused his critique on the subject of wind generation, writing: "There needs to be changes ensuring that the construction of wind turbines is performed in accordance with building codes that would be applicable to any other such immense structure. Calling them windmills and exempting them from the Ohio basic building code simply does not cut it."

Renewable backers, including developers and the American Wind Energy Association, have argued the board's processes are adequate, with the association saying they go "above and beyond" to ensure citizens have a voice.

The latest defense of wind came from Ohio University Professor Gilbert Michaud and Executive-in-Residence Michael Zimmer on behalf of the Energy Group at the Voinovich School of Leadership and Public Affairs. The pair argued against separate siting regulations for wind compared to other renewables.

"They are not imposed upon biomass, hydro, or other renewable energy technologies," the group wrote of the requirements. "Such discrimination is unique, is not supported by effective regulation, and is inconsistent with comparable policies adopted in other states."

"The only siting regulation for renewables should be the standard requirements modified and updated by the Board by the end of this year. A coordinated review should also be considered by the board to weigh PowerForward recommendations, as applicable in the proposed rules."

The group also urged the board to find ways to emphasize flexibility and transparency in light of the coronavirus pandemic. The group said for example that fewer large-scale public meetings coupled with additional tele- and video communications efforts might be warranted.

"Health and safety benefits should be integrated into stakeholder processes to protect Ohio citizens while providing adequate engagement and public comment opportunities," the group wrote.

The Department of Transportation's Office of Aviation recommended the board's certification process be amended to include guidelines from a report authored by the Airport Cooperative Research Program.

"As the sole statewide permit authority for tall structures in power generation and distribution projects that could potentially negatively impact the navigable airspace, it is the responsibility of the Ohio Power Siting Board to ensure that every certificate issued has considered and has mitigated the impacts Ohio's airport system," the agency wrote.

Among other suggestions was an idea from the Ohio State Historic Preservation Office to create a process to mitigate projects' potential adverse impacts on historic properties.

The office recommended a similar process to that used under the National Historic Preservation Act and that the project applicant work with the office to approve the scope of the project before it is certified.
"This process would allow potentially lengthy investigation to happen as the project moves through the OPSB process but give a level of confidence to both the SHPO and OPSB that cultural resource investigation will happen and potentially adverse effects to cultural resources will be dealt with according to the already approved scope of work," the office wrote.

Tuesday, May 19, 2020

**Modified Tax Amnesty Plan Advances In House**

A House committee on Tuesday sent to the floor a fast-tracked bill to create a tax amnesty program after shortening the proposed program window from five months to three.

The House Ways & Means Committee also took steps to hold local governments and other entities harmless before passing a substitute version of the proposal (HB 609) from Rep. Thomas West (D-Canton).

The measure, which had two hearings before the committee, is scheduled for a floor vote Wednesday and had been eyed for quick passage as the state faces a $775 million revenue shortfall in this fiscal year alone due to the economic impact of measures taken to slow the spread of the novel coronavirus.

Among other changes, the committee temporarily added an emergency clause in adopting the sub bill but quickly removed it with a separate amendment, with Chair Rep. Derek Merrin (R-Monclova) saying the chamber will leave it up to the Senate to determine whether such a clause is appropriate.

"The reason for that is we don't know exactly when this bill will be passed by the Senate and we're confident they'll have the ability to do that," Rep. Merrin said. "It will be at their discretion to add that and we want to be careful about adding emergency clauses unless we need it."

The substitute changes move the program term to Jan. 1, 2021, to March 31, 2021, reducing it from the five-month timeline laid out in the as-introduced version. The repeal of the provision authorizing the program is likewise delayed until April 1.

The substitute also requires all taxes collected that would be credited to the General Revenue Fund to be credited to the Budget Stabilization Fund. The change would hold harmless the Local Government Fund and Public Library Funds for dollars that might otherwise have been lost due to that diversion. Rep. West had previously said lawmakers intended to ensure support for local governments and other entities were maintained despite the program.

Chair Merrin said the bill is essentially similar to legislation authorizing similar amnesty programs in recent years and emphasized that it only impacts unpaid taxes the state is unaware of.

"The goal is to help people move forward with their lives, generate a little extra income for the state and also…we want everyone to comply with the law," he said.

But term-limited Rep. Gary Scherer (R-Circleville), who said he supports the legislation, cautioned lawmakers on seeking amnesty programs too frequently.

"I think this is a good thing," he said, adding: "The timing of it does give me concern."

"It's only been two years since we did one of these before and as a (tax) practitioner…I just want to caution you moving forward," he continued. "We have a highly unusual situation right now and I get that, but if we do these too often we kind of have a reverse motivation on the part of taxpayers."

Two parties submitted written proponent testimony urging the panel's support.

Lora Miller, director of governmental affairs and public relations for the Ohio Council of Retail Merchants, said the group urged Gov. Mike DeWine to extend state tax filing deadlines for all personal and business taxes and to waive late payment penalties.

Although the legislature granted the tax commissioner authority to do that, the only deadlines extended were individual income tax, school district income tax, pass-through entity income tax and municipal net profit tax, she wrote.
"The relief that would be provided by passage of House Bill 609 would be welcomed by many business owners who have been struggling to keep their enterprises afloat," she wrote.

Chris Ferruso, Ohio legislative director for NFIB, wrote the state's prior amnesty programs have been a success.

"House Bill 609 will allow taxpayers an opportunity to remit certain unpaid taxes and avoid penalties and interest, so long as no notice for assessment or audit has been issued," Mr. Ferruso wrote. "House Bill 609 is timely, allowing businesses to avoid what may be substantial penalties and interest during this difficult economic time. For taxpayers who can remit unpaid taxes under this bill, extending this amnesty opportunity will help alleviate one economic pressure."

**Governor To Replace Stay Safe Order With Health Advisory**

State officials announced Tuesday they will be replacing a previous order that limited Ohioans' movement with an "urgent health advisory" that instead recommends citizens follow best practices to help slow the spread of the coronavirus.

The advisory, which was not released Tuesday, preserves recommendations to avoid groups of more than 10 people, practice physical distancing and maintain advanced sanitation practices. It also maintains limits and best practices on businesses that have partially opened in recent days and weeks.

"Ohioans have risen to the challenge in the past," Gov. Mike DeWine said. "We will continue to do so as we move through this period of time."

The governor said many things have changed since stay-at-home orders were issued in recent months, most notably the curve of charted cases being flattened. Social distancing steps, he said, helped the state avoid overwhelming hospitals and the health care system.

Limits on travel will also be loosened, the governor said. "We're now moving from orders to strong recommendations."

Mr. DeWine said the new language sets the stage for Ohioans to take care of each other by making safe choices. "That is really the core of who we are," he said.

Ohioans' behavior at this stage will also determine how well the economy recovers, he added. "This phase is about learning to live with the virus."

"We squashed the curve and avoided thousands of deaths," Lt. Gov. Jon Husted added. "We have little choice but to trust people....We want to build trust in this process, not violate it."

The governor said that while 1,720 Ohioans have now died from COVID-19, the virus has significantly disrupted the lives of 28,952 people who have tested positive.

"It shouldn't be just the deaths that we count," he said, noting that the new health advisory will include specific language regarding older people and those who are most at risk.

He said Ohioans should also keep in mind that anyone can still be a carrier.

In making travel-related decisions, the governor said Ohioans should use "common sense." He suggested limiting interactions and making choices that are appropriate depending on who will be traveling.

Even with the loosening of the earlier order, the governor still recommended that people stay at home when possible. Limiting interactions, he said, will help protect those who are the most vulnerable.

Mr. DeWine said the young and healthy should continue to take proactive steps to protect others in the community, saying that anyone could unknowingly pass the virus on to others.

The announcement was made without State Health Director Dr. Amy Acton, who the governor said wasn't feeling well.

Mr. DeWine also said Tuesday that:
Statehouse Update

- A veteran at the Ohio Veterans Home has died of COVID-19.
- Another staffer of the Department of Rehabilitation and Correction died of the virus.
- The Ohio Bureau of Workers’ Compensation on Wednesday will begin mailing 2 million face coverings to public and private employers across the state. Each employer will receive at least 50 coverings.

Sen. President Larry Obhof (R-Medina) said Ohioans came together to flatten the curve. "Because we were proactive and worked together, we are better prepared as a state to re-open our economy and begin a much-needed economic recovery, he said. "By the end of May more than 95% of Ohio's economy will be re-opened."

"Rescinding the stay-at-home order and lifting Ohio's travel prohibitions mark a significant new step in this process. Ohio is leading the way for the rest of the Midwest today."

Broadband Expansion Bill Undergoes Major Changes
A priority House bill aimed at boosting access to broadband services in rural and underserved areas got a significant overhaul Tuesday.

The House Finance Committee accepted a substitute version of the measure (HB 13) that dramatically increases the scope of the bill.

Sponsor Rep. Rick Carfagna (R-Genoa Twp.) said the initial version of the bill was "more of a micro-level approach," but Speaker Larry Householder (R-Glenford) and Gov. Mike DeWine's office encouraged him to think bigger.

"This is a demonstrative effort, a statement I think on our body's part to address this pandemic," he said. The increased reliance on internet access during the coronavirus pandemic has "really laid bare the disparities."

The latest version would create a Broadband Expansion Program Authority under the Department of Commerce empowered with $20 million in funding this biennium to cover the unmet costs of broadband expansion.

The bill will no longer require local governments to serve as middlemen in the broadband expansion projects, and it eliminates a previous proposed requirement for a local funding match, Rep. Carfagna said.

The authority would accept applications for funding to address the difference between what money is available for expansion and what it would cost, he said.

"We're not proposing the state pay the total project cost under this bill," he said. "What we want to do is determine what will be that cost hurdle."

The authority would consist of the director of the Department of Commerce, the president of JobsOhio, and one appointee each from the House, Senate and governor, he said. It would prioritize first projects that go into unserved areas.

"Those are the areas that most need it," Rep. Carfagna said. "The people who have no option."

The next priority would be projects in distressed areas, he said. After that would be projects receiving other financial support.

The $20 million in initial funding was identified by the governor's office as being available in an existing line item at the Development Services Agency, he said.

Another part of the bill includes regulatory and industry changes, including provisions dealing with rural electric co-op easements and railroad crossings. Those provisions have drawn pushback from co-ops and railroads, but Rep. Carfagna said he hopes compromise language can be reached.

"We do have revised language that we are starting to get drafted," he said. "I'm confident that we're going to have some substitute provisions for those things in the bill."
Rep. Jack Cera (D-Bellaire) said the measure provides an incentive for companies but asked if the state should consider other ways to encourage them to invest in rural areas.

"Has there been any thought now that we have a carrot that somehow we need a stick to make sure that these companies are going to get off their rear end and understand they need to make a commitment to all of Ohio and not just the places where they think it makes economic sense?" he asked.

The companies want to expand their customer bases, Rep. Carfagna said. "I think that if we get this through and get it done, it takes away a lot of excuses."

Rep. Stephanie Howse (D-Cleveland) asked if the state is rewarding companies who have refused to provide service in certain communities.

"We need to talk about making sure that we are not rewarding people who have been intentionally cutting people out," she said.

**House Committee Hearings - Criminal Justice**

SB 10  THEFT IN OFFICE (Wilson, S.) To expand the penalties for theft in office based on the amount stolen and to include as restitution audit costs of the entity that suffered the loss. REPORTED (5th Hearing-All testimony-Possible vote)

The bill was unanimously reported.

Stark County Auditor Alan Harold, president of the County Auditors' Association of Ohio, called for removal of language that would allow a local judge to submit a court order for payment of its bills, which would change a law put in place in 1936.

"This is a major change to law and public policy that is of utmost concern to County Auditors. And make no mistake, this is a local problem, not one that affects me or 86 of my other auditors. The problem needs addressed at its roots – not at the hands of the legislature, and not at those of my colleagues across the state," he said in written testimony.

Mr. Harold also said a 2019 advisory opinion from the attorney general's office reiterated the law.

"In summation, the law in place has served the taxpayers and county elected officials well since 1936, this amendment arises from a local dispute that is not a problem elsewhere in our State, and allowing the amendment to carry forward will erode the public's trust, which we value so dearly and work diligently every day to maintain," he said.

"Its inclusion sets a dangerous precedent that undermines the fiduciary responsibility of the County Auditor to protect taxpayer dollars by ensuring that expenditures are appropriate, and it will open the door for additional entities to request a similar exception to providing evidentiary material."

**House Committee Hearings - Ways & Means**

SB 212 PROPERTY TAXATION (Schuring, K.) To authorize townships and municipal corporations to designate areas within which new homes and improvements to existing homes are wholly or partially exempted from property taxation. CONTINUED (1st Hearing-Sponsor)

Sen. Kirk Schuring (R-Canton) said his plan grants permissive authority to townships and municipalities to create Neighborhood Development Areas if they will serve the public purpose of encouraging affordable housing development.

"The property tax exemption within the Neighborhood Development Area is 70% for existing owner-occupied dwellings for a period of 5 years for home improvements of $10,000 or more," the sponsor said. "It also provides 70% property tax exemption for new home construction for the homebuilder and subsequently, after it is sold, to the new homeowner for a period of 10 years."

The entity could request a school district within the area approve a 100% property tax exemption if it negotiates in good faith with the school board and reaches a resolution within 60 days.

Chair Rep. Derek Merrin (R-Monclova) said he shares the sponsor's passion about the lack of affordable housing and applauded the goal of granting municipalities more flexibility to address the issue.
House Committee Hearings - Finance
SB 310 FEDERAL FUNDS (Dolan, M.) To provide for the distribution of some federal coronavirus relief funding to local subdivisions, to make an appropriation, and to declare an emergency. CONTINUED (2nd Hearing-All testimony)
In written testimony, the Ohio Municipal League, the Ohio Mayors Alliance, the County Commissioners Association of Ohio, the Ohio Township Association, the Northeast Ohio Mayors and City Managers Association and the Cuyahoga County Mayors and City Managers Association all expressed support for the measure.

"We believe allocating a substantial portion of the CARES Act funds to Ohio's local governments will provide immediate and much-needed relief. Local governments across the state have been hit hard by lost revenue due to the economic downturn caused by the pandemic," they wrote. "Should the U.S. Congress or U.S. Treasury provide greater flexibility to state and local governments for the use of CARES Act funds or future funds, we recommend the second phase of funding to also allow for local government revenue replacement based on specific community needs."

They also urged lawmakers to keep the remaining $850 million in CARES Act money focused on local governments.

"Local governments are serving Ohioans on the front lines of the COVID-19 pandemic while experiencing steep revenue loss due to the ensuing economic fallout. Quite simply, the costs of providing quality local services are increasing, but local tax revenue continues to sharply decline," they wrote. "To sustain Ohio's locally-implemented frontline response, there must be a fast, fair and effective distribution of CARES Act funds to Ohio's local governments. SB 310 will help ensure"

Jason Warner, manager of government affairs for the Greater Ohio Policy Center, said the legislation would provide financial support for local governments facing the strain of the coronavirus pandemic.

"Assisting Ohio's legacy cities respond to the COVID-19 crisis and be prepared for new economic realities must be a partnership between local and state leaders, with local leaders making and executing revitalization plans that guide state investments and support," he said. "That is why we encourage and support any and all efforts to work with leaders at the federal level to provide these communities with greater flexibility for the use of CARES Act funding or any future funding which may be made available for these entities. We also believe that any future funding should be needs-based, ensuring that communities that have been hardest hit are able to recover in an expedient manner."

Wednesday, May 20, 2020
Senate Rejects House Plan On State Health Orders
The Senate on Wednesday unanimously blocked the House's attempt to rein in Department of Health orders by refusing to concur with amendments to a measure (SB 1) on rule restrictions.

The unanimous vote came despite support for the House's intent previously stated by the bill (SB 1) sponsors – Sen. Rob McColley (R-Napoleon) and Sen. Kristina Roegner (R-Hudson). Those lawmakers have also teamed up on similar standalone legislation (SB 311).

As pushback intensified against the DeWine Administration's restrictions on businesses and other activities in the wake of the coronavirus pandemic, House Republicans earlier this month inserted language in the regulatory legislation to require the approval of the Joint Committee on Agency Rule Review for an ODH order to extend beyond 14 days.

The House's move was opposed by Democrats and questioned by some Senate Republicans, although Senate President Larry Obhof (R-Medina) has not ruled out revisiting the legislature's authority over health orders. Gov. Mike DeWine, however, promised to veto the language.

Sen. Roegner said in a floor speech that other potential issues have come to light with SB1’s amendments, including a broader application to health orders than what was intended.

"What we would like it to be is broader statewide issues," she said, while also urging colleagues to prioritize the issue.

Sen. McColley said that while he at first "shared the enthusiasm" with the House's attempt to do what he described as restoring checks and balances in state government, he agreed more work needs to be done on the language.

"There are some changes that absolutely need to be made because we're only going to get one shot to do this," he said.
One of the issues he raised is the 14-day window before JCARR weighs in, saying that would not provide enough time to address an issue such as polling locations being closed the day before an election.

Sen. Nickie Antonio (D-Lakewood) said the legislature already can override executive orders with a supermajority vote, so checks and balances regarding health orders currently exist. She also objected to handing over the General Assembly's authority to JCARR in such instances.

Sen. Sandra Williams (D-Cleveland) echoed that sentiment. She said lawmakers should instead focus on issues such as problems with Ohioans obtaining unemployment benefits.

Sen. Theresa Gavarone (R-Bowling Green) lamented the way the amendment was "hastily" thrown into the bill, adding the measure lacks an emergency clause and a veto-proof majority in the House.

"For the people that think this amendment would open up Ohio now, that's simply not the case," she added.

Sen. Cecil Thomas (D-Cincinnati) urged his fellow lawmakers to get through the public health crisis before diving into the issue.

"This is not the time to say change this, change that," he said. "Do we need to have some discussion on it? Absolutely. But first and foremost, let us get past this."

Sen. Peggy Lehner (R-Kettering) said she did not intend to speak on the measure but felt compelled to after hearing what she says was her colleagues placing liberty over life.

"I don't get it," she said. "I can't support it. And I am going to continue to put life above all of those other issues that have been talked about today."

Following the session Senate President Larry Obhof (R-Medina) was critical of the lack of process that the amendment went through in the House. He also said there was some concern among his colleagues that the amendment would have allowed for unfettered legal challenges to public health orders, even those allowing businesses to reopen.

"When you're making changes to courts' jurisdiction over litigants you need to be very careful that you've thought of that from all angles because those are a doubled-edged sword," he said.

He also said the state is in a very different place than it was two weeks ago when the House passed the measure, noting that by the end of the month, 95% of the economy will be reopened.

Asked about the vote, House Speaker Larry Householder (R-Glenford) noted the Senate's unanimity and joked, "They really didn't like it."

"We're looking forward to them sending the message to us," he said. "I hope they do that in a fairly quick fashion because there are a lot of Ohioans out there right now that are very confused about the orders that have been granted. We have a lot of small businesses out there that are really being put under the gun."

"I'm always going to push for legislative oversight," he continued. "And if they disagree with 14 days, let's talk about it. We're reasonable people."

A group of protestors were in attendance during the Senate session supporting the provision inserted into SB1.

Prior to the gavel coming down, some upper chamber staffers explained social distancing rules to the group, leading to complaints from some.

**Bills Broadening Legal Immunity For Businesses Pick Up Changes; House Adds Governments To Shields**

A controversial measure to provide widespread immunity during the COVID-19 pandemic picked up a host of changes Wednesday.
The adjustments came in the form of a substitute bill offered by sponsoring Sen. Matt Huffman (R-Lima) that, among other things, removes the standard of clear and convincing evidence for lawsuits against health care providers and general businesses.

The same amendment was adopted as part of a substitute version of the House immunity bill accepted in committee Wednesday, however some differences remain.

Other changes to the Senate bill (SB 308) include removal of a serious physical injury requirement and immunity for health care services that the government prohibited during the early stage of the public health crisis.

Sen. Huffman explained the latter change by using the example of a colonoscopy that was put off and cancer was later discovered.

"Obviously if the health care provider is prohibited from law from providing the service, we think that there should be immunity for not providing those services," he added.

In addition, the substitute version adds several health care providers and facilities not included in the original bill, and it clarifies that the business immunity will not apply in cases in which reckless or willful or wanton misconduct apply.

"We've had some significant discussions about where this should land," Sen. Huffman said.

Business interests also continued their push for passage of the bill, with more than a dozen providing written proponent testimony.

Ohio Restaurant Association President and CEO John Barker said his industry has in the past been targeted by superfluous litigation and is concerned about the threat of litigation amid the pandemic.

"This legislation will help restaurants and all Ohio businesses more confidently take all of the necessary steps to reopen and operate safely," he wrote.

Tony Fiore, executive director of the Ohio Salon Association, also raised concern about frivolous lawsuits targeting his industry.

"The last thing a salon or barbershop owner needs right now is the possibility of a frivolous 'shotgun' lawsuit filed against them when they are following government laws and rules to keep people safe and just keep their business alive," he wrote.

Kristin Mullins, president and CEO of the Ohio Grocers Association, said that despite her industry's efforts to foster a safe environment, "litigation over exposure is inevitable for businesses who have remained open during the pandemic."

"We value the protections this legislation will provide to the retail community, and particularly our members, who put their own safety at risk in order to serve Ohio's families across the state," she added. "We are proud to have done so, and we believe these times merit assurances that we will not be penalized for providing these essential services to our customers."

A handful of opponents also provided written testimony. In doing echoing concerns expressed Tuesday over a similar bill under consideration in the House.

Sen. Huffman acknowledged the difference between the two bills.

"We're cognizant that there is another bill pending of a similar nature in the House," he said. "There have been conversations regarding that with different folks over there."

**House Measure:** The House's version of the business immunity measure (HB 606) was also revised substantially Wednesday in the Civil Justice Committee.
The panel adopted a substitute version that makes several changes, some of which deal with concerns raised in prior testimony.

Rep. Bill Seitz (R-Cincinnati) said highlights of the sub bill include revisions related to the legal guidelines, such as the elimination of the "clear and convincing evidence" required for lawsuits. The new House bill also includes lawsuit protections for state and local governments, establishes a firm end date of the immunity language on Dec. 31, 2020, specifies immunity does not apply in certain professional disciplinary actions, and spells out legislative intent.

As of his last reading of the Senate bill, Rep. Seitz said key differences between that and the House versions included issues related to product liability, class actions, an ending date, professional discipline and specific application of the measure to viral "transmission and contraction."

Kerstin Sjoberg, Executive Director of Disability Rights Ohio, said in written testimony the House bill would "disproportionately impact people with disabilities receiving care in hospitals, congregate care settings, and in home and community-based settings." Its language, she added, "puts individuals with disabilities living in congregate care settings and in home and community-based settings at risk of contracting the virus.

DRO also argued the bill would have a disparate impact on employees with disabilities.

"The bill prevents businesses from being responsible for the transmission of COVID-19 regardless if the employer has taken necessary safety precautions or not," she wrote. "As you know, people with disabilities are more likely to contract COVID-19 and as the economy begins to reopen it is critically important for businesses to take all precautions to protect their employees. Not following the recommended safety guidelines will put employees with disabilities at greater risk of contracting COVID-19."

Written proponent testimony was submitted by the Ohio Society for Human Resource Management State Council and the Ohio Salon Association, both represented by Tony Fiore.

"What this proposal does for companies and individuals is to give them fairness and predictability at no cost to the government," he wrote on behalf of Ohio SHRM. "Everyone has made significant sacrifices to help prevent as many people as possible from contracting the coronavirus. It will take years for some companies to fully recover from this pandemic and others may never reopen. The last thing companies should have to deal with are frivolous lawsuits alleging an individual or class of individuals contracted the coronavirus from a particular business."

The Ohio Salon Association, Mr. Fiore wrote, "is trying to provide as many benefits as possible to help salons, spas, and barbershops have access to personal protective equipment, telemedicine, business loans, and other services to help them and their families stay safe from the coronavirus and hopefully recover from its devastation on their business. The Ohio General Assembly and Governor DeWine have the opportunity to provide some level of protection on the legal front from frivolous lawsuits related to COVID-19 by enacting HB606."

**Capital Reappropriations Bill Introduced In House**

The House on Wednesday unveiled a measure to provide funding for certain ongoing capital projects.

The measure (HB 670), sponsored by Rep. Derek Merrin (R-Monclova) was described as a "fiscally responsible" capital reappropriations bill.

The House Republican Caucus said in a news release that the measure would allow funding for previously approved construction projects focused on health, safety and jobs to continue.

"We need to invest in our future, but do so in a fiscally responsible way," Rep. Merrin said in a statement. "That's our goal with this plan."

Speaker Larry Householder (R-Glenford) called it a prudent approach during the state's precarious financial situation.

"These are uncertain financial times for Ohio," Rep. Householder said in a statement. "The state is facing a multi-billion dollar budget shortfall. With all of the unknowns we face, I believe this is a responsible path forward."
The Senate is already planning a reappropriations measure, with Senate Finance Committee Chairman Sen. Matt Dolan (R-Chagrin Falls) saying the upper chamber expects to move on it before July 1.

Sen. Dolan said last week the proposal would total more than $1 billion in bonded funding.

Speaker Householder acknowledged the divide between the two chambers, describing the House plan as a slimmed-down option. It does not include reappropriations for several projects underway at state agencies or higher education institutions.

The House measure does include funding to continue projects under the Adjutant General's Department, Facilities Construction Commission, Public Works Commission, School for the Deaf, School for the Blind, and the departments of Developmental Disabilities, Mental Health & Addiction Services, Transportation, Rehabilitation and Correction and Job and Family Services.

"Our is narrowed down to healthcare items and education items and things like that," he said. "I think it's $600-some million is our skinnied down approach to it. I think the Senate's is more like $1.2 billion."

He said he believes the Senate's plan includes a number of projects from individual members – an approach he said the House tried to avoid.

"We'll see where it all goes," he said.

Support for a reappropriations measure has come from the Inter-University Council of Ohio, which has voiced concerns about the effects of budget cuts and belt-tightening on colleges and universities.

**First Responders Continue Push For PTSD Coverage**
Advocates of a bill that would ease restrictions on workers' compensation benefits for first responders with post-traumatic stress disorder argued Wednesday that current state policy is out of date.

That discussion occurred during the Senate General Government & Agency Review Committee's second hearing on a measure (HB 308) that would make police officers, firefighters and emergency medical workers diagnosed with PTSD eligible for benefits even if they do not have a corresponding physical injury.

Jennifer Cramer, a licensed professional counselor with the Safety Forces Support Center in Akron, said she has never diagnosed PTSD in a first responder tied to a physical injury.

She said often the disorder can be more harmful to an individual's long-term well-being.

"The sounds, smells, tastes, feelings, nightmares and flashbacks that come with PTSD are not as easy to recover from as a broken leg," she said.

Michael Weinman, director of government affairs for the Fraternal Order of Police of Ohio, said people who suffer from PTSD can continue to have productive careers with treatment.

"We are sure you have heard arguments that this change in law will open floodgates of claims bankrupting BWC," he said. "BWC is more than solvent; they have given billions in rebates over the last several years and have consistently implemented further rate cuts for public employers."

Sen. Frank Hoagland (R-Adena) asked Mr. Weinman what treatments advocates of the bill would like to see affected first responders receive if the measure becomes law.

Mr. Weinman said he would leave that decision up to mental health professionals.

The senator said lawmakers must weigh whether benefits will cover cutting-edge, neurological treatments as well as traditional talk therapy.
"I'm totally for all first responders. There's no ands, ifs or buts about it," he said. "I just want to make sure that we do this right."

Advocates of the bill argued evidence of the need for action by the legislature is clear, even if the specifics of the response are still being determined.

Matt Askea, a lieutenant firefighter with the City of Akron Fire Department, said a study conducted by the Houston Fire Department found firefighters are twice as likely to experience PTSD than the general public.

"Fortunately, most firefighters and first responders are quite resilient and can withstand a tremendous amount of stress and exposure to traumatic events and disturbing scenes," he said. "But despite this overall resiliency, some will develop PTSD due to acute and or chronic psychological exposures."

Asked by Sen. Vernon Sykes (D-Akron) if first responders receive training to prepare for trauma they face on the job, Mr. Askea said his department provides "resiliency training" to new members.

"We're constantly focusing on resiliency in order to prevent PTSD," he said.

Kathrine Murphy Hardin gave emotional testimony about the on-the-job traumas that preceded the death by suicide of her son, 28-year-old Orange Township firefighter Trever Murphy.

"Had my son had the opportunity to have workman's comp available to him … so he could be off work and receive needed treatment for PTSD and anxiety, I believe he would still be with us today," she said.

Auditor Pushes Bill Easing Fiscal Officer Transitions

Legislation requiring outgoing fiscal officers to obtain transition certificates would help ensure a smooth shift of power between outgoing and incoming government officials, State Auditor Keith Faber said Wednesday.

The auditor told the House State & Local Government Committee there have been several instances when transitions have been "less than cordial," leaving new officials without the information they need to immediately serve the public when they take office.

The measure (HB 450), he said, would minimize situations when outgoing officials have made it difficult for their successors to get off to a good start.

In some cases, offices have been found to be in disarray, and in other situations, there has been a "total abandonment of duty," he said.

While making sure new officers have the information they need, the process of obtaining a transition certificate will also help exiting officials who are sometimes unfairly scrutinized by new leadership, Mr. Faber said. Further, it assures outgoing officers that their work is complete and correct.

The auditor said the bill sets the stage for the establishment of different types of certificates depending on the level of government involved.

Outgoing officers who don't obtain certificates could be referred to county prosecutors for dereliction of duty charges, he said, adding that his office doesn't intend to check on every transition.

Responding to Rep. Brigid Kelly (D-Cincinnati), Mr. Faber said the proposal isn't really targeting transitions where honest mistakes can be made. He said the issue really seeks to address a "hostile takeover" when an outgoing official may be upset at an election loss. "It should be incumbent on everybody to play nice," he said.

Chair Rep. Scott Wiggam (R-Wooster) asked whether the requirements of the certificate could be put in Revised Code rather than Administrative Code.
Mr. Faber said that is an option for the legislature to decide, but he wouldn't recommend that step due to differences in types of governments and looming technological advancements.

Written proponent testimony was submitted by Kevin Futryk, representing the County Treasurers Association of Ohio, Cynthia Hunter of the Village of Adena, Thomas Knoedler of Goshen Township and Sharon Chenoweth.

**Thursday, May 21, 2020
Business Immunity, Broadband Access Among House Priorities**

An in-the-works compromise on shielding businesses from virus-related lawsuits and legislation reducing student testing and expanding broadband access top the House's near-term agenda, according to the chamber's leader.

Speaker Larry Householder (R-Glenford) said those proposals, along with a capital reappropriations plan (HB 670), will continue drawing much of the chamber's attention before heading for summer break, which he currently expects to begin in mid-June.

"A lot of it depends on what hits us," Rep. Householder told reporters. "We're prepared to go later if we have to."

The House and Senate continue to disagree over how best to immunize businesses against lawsuits prompted by the coronavirus pandemic. The speaker said House negotiators are pushing for a narrowly tailored plan (HB 606) that would deliver protection from claims centered around infectious diseases during the 2020 calendar year.

"We're working with the Senate to try to come up with language that's agreeable," Rep. Householder said. "Quite frankly, we're not there."

The Senate proposal (SB 308) would take a more expansive approach, the speaker opined, and doesn't include a similar one-year window – an idea he called "a bit of a reach." Both bills picked up an array of changes in committee earlier this week.

The testing reduction plan (HB 239) from Rep. Gayle Manning (R-N. Ridgeville) and Rep. Erica Crawley (D-Columbus) is also eyed for action before the summer recess, he said.

"We think it's important for teachers to be able to teach and students to be able to learn," the speaker said. "We're so busy worrying about what kids know, we don't give them the chance to learn."

The broadband expansion measure (HB 13) remains one of a few bipartisan priority bills that hasn't yet passed the chamber. Sponsors and the speaker agree the lack of broadband access has only become clearer during the COVID-19 emergency as education has shifted online. The bill was expanded in committee earlier in the week.

"I don't know if the bill's ready yet, but we're going to work hard to try to get something passed," Rep. Householder said. "The issue is always the last mile. There are plenty of people who want to take care of getting it to the last mile, but the issue is always the problem of someone wanting to step forward and take care of that last mile. We've got to figure out a solution on that."

A measure (HB 194) to legalize sports betting – a topic with dueling proposals between the two chambers – is also likely to draw continued debate. Sponsors have expressed hope the state's virus-related revenue shortfall sparks renewed momentum for the plan.

"I don't have a problem moving the bill if it's ready to go," Rep. Householder said.

Those priority bills don't include the recently introduced capital reappropriations bill – a subject over which the House and Senate also continue to butt heads.

And lawmakers must also continue working through any needed budget corrections in light of the virus's impact on tax collections – a process the speaker said he anticipates won't ramp up until heading into the lame duck session once the economic impact of the virus is clearer.
"I look forward to hearing from the governor what his thoughts are. I know we've got some ideas," he said. "We're going to have to measure exactly how big of a hole we're in and what we have to do and then make priorities to help Ohio move forward….I think it's going to take some time to see exactly what happens, how many businesses open up again."

A vocal critic at times of the DeWine Administration's handling of the economic shutdown to slow the spread of COVID-19, Rep. Householder said he's "encouraged" by the governor's recent moves to reopen businesses.

But he continued to voice frustration at the closure of small businesses while larger chains headquartered outside of Ohio have remained open.

"Small business owners in this state right now don't feel welcome and that's really a shame," he said.

Speaker Householder said he anticipates the chamber's 2020 Economic Recovery Task Force will continue meeting despite the state's reopening in an effort to identify potential regulatory or legislative changes that could better support businesses.

"That task force was not necessarily to try to get Ohio to open up sooner," he said. "When we opened the door, though, we got stormed by folks who wanted to talk about when to open the state up. We're going to keep that going for a while."

Friday, May 22, 2020
Chambers Appear Far Apart On Money For Ongoing Capital Work
A key senator has concerns with a House plan to continue bricks-and-mortar funding for state agencies due to its lack of support for projects at higher education institutions and elsewhere.

The House sponsor of the measure, meanwhile, said his chamber wants to ensure each project is justified.

In the middle are state agencies and local officials, many which saw potential funding for capital needs left out of the House plan.

Sen. Matt Dolan (R-Chagrin Falls) said in an interview the introduction of a capital reappropriations bill (HB 670) in the House on Wednesday came as "a surprise" to members of the Senate. (See Gongwer Ohio Report, May 20, 2020)

The chair of the Senate Finance Committee, who had previously discussed plans for that panel to consider more than $1 billion in reappropriations, said the chambers had "very little" communication about the idea before the House proposal dropped.

The plan previously set for the committee's consideration included $475 million for the Public Works Commission, $325 million for higher education projects, $185 million for the Facilities Construction Commission, $66 million for parks and nature projects and a smaller amount for community projects that have already had funds appropriated but not released.

Speaker Larry Householder (R-Glenford) has said the $600-plus million House plan has been narrowed to focus on areas such as K-12 education and health care, which he called "a responsible path forward" for a state facing financial challenges related to the coronavirus pandemic.

Rep. Derek Merrin (R-Monclova) said the chamber is open to including more projects but wants to ensure they are evaluated and re-evaluated on their merits.

"We're getting the conversation started," he said in an interview. "There's a lot of money at stake and we want to make sure every single dollar is spent appropriately, especially given our current economic situation."

Part of that evaluation will center on why projects weren't finished in the current biennium, he said.

"We are starting the conversation and we want to hear why some of these projects have not moved forward," Rep. Merrin said. "Why haven't some of these projects been completed yet? If these projects are so important, why haven't they been completed? That's what the legislature needs to know."
Sen. Dolan disputed the idea that slimming down the reappropriations package would do much to address the state's current budget woes. He said "the real question" lawmakers need to answer is whether halting bond-funded projects is worth the corresponding loss of economic activity and tax revenue.

"We'll listen to what their rationale was, but if their rationale was simply, 'We saved $600 million dollars,' let's make sure everyone knows that's $600 million over 20 years, and the GRF spending (on debt service) per year is about $11 million, and the activity lost from not appropriating these dollars is probably much greater than $11 million a year," he said.

Rep. Merrin said capital projects can help stimulate the economy, but the state should also be judicious about where it is spending money.

"We have over 1 million people unemployed in this state and we don't have the luxury to be spending money on projects that are not absolutely necessary," he said. "We have to readjust given the financial situation."

While the departments of Administrative Services, Agriculture and Natural Resources, among others, stand to miss out on millions of dollars for projects under the House plan, Sen. Dolan said the biggest losers would be higher education facilities.

"The real concern, amongst others, is the lack of conversation or communication or understanding as to why they would zero out the Department of Higher Education to the tune of $325 million for needed capital improvements throughout our public universities," he said.

Sen. Dolan said he views getting funding to institutions of higher education for work on projects that can be completed while students are off campus due to the pandemic as especially important.

Bruce Johnson, president of the Inter-University Council of Ohio, said he is optimistic the final result of negotiations between the chambers will not hang the university system out to dry. He said the group has allies in the House and Senate who want to see projects to enhance classrooms, laboratories and other university infrastructure move forward.

"We're hoping that they can find their way to support some good projects that are already under development," he said. "The state should allow us to take advantage of lower prices, lower interest rates. The bonds have already been sold. It doesn't really add much to overall state expenditures."

Mr. Johnson said lawmakers should consider the economic development implications of a scaled-back reappropriations measure.

"Instead of giving more money to the unemployed, let's put them back to work," he said.

Mr. Johnson earlier this month urged lawmakers to act to allow "shovel ready" projects to move ahead in a letter to Speaker Householder and Senate President Larry Obhof (R-Medina).

Higher education projects that could be left in limbo without legislative action include work on a business incubator at Shawnee State University set to receive federal funding if the state appropriates matching dollars and the renovation of the University of Akron's Crouse Hall, the planned home of the school's geoscience and physics departments.

Along with the House's proposal's treatment of universities, Sen. Dolan also took issue with Speaker Householder's claim that the plan intended for consideration by the Senate Finance Committee included community projects from members of the upper chamber. He said senators and representatives from the districts in which such projects take place must agree to the expenditures.

"These were not Senate community projects," he said. "These were Senate, House member agreed-to projects that were already under way."

He said one example is $15 million in funding to support the construction of a new stadium for Major League Soccer's Columbus Crew, which he called "a huge economic development project."
Another entity not included in the House measure is the Capital Square Review and Advisory Board, which is undertaking a massive renovation of the Statehouse parking garage.

CSRAB spokesman Mike Rupert said in an email that the agency is confident appropriations will be available after this year to complete the project.

With a June 30th deadline for the reappropriations measure approaching, Sen. Dolan said the path to a compromise between the chambers remains cloudy.

"The House has dropped what they consider their reappropriation bill," he said. "We will talk to them. We will cross examine them. We will make changes that we feel are part of economic growth and activity."

"If it's their bill or nothing, we may have to think about dropping our own," he continued. "If it's their bill as, 'Here's our opening salvo. Let's talk,' I have no problem working with the House on this bill."

He said the House's proposed elimination of funding for DAS, ODA and ODHE projects is the biggest sticking point in the way of a compromise.

"Those three would really be in a bind if they didn't get their dollars," he said.

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