Statehouse Update

May 29, 2020

Tuesday, May 26, 2020
Lawmakers Seek To Ensure Unemployment Payments For Vulnerable Workers; All-Mail Election Backup Plan Introduced

A pair of Democratic lawmakers want to ensure workers who are at increased risk of complications from the novel coronavirus don't lose unemployment benefits.

The proposal (HB 672), sponsored by Rep. David Leland (D-Columbus) and Rep. Lisa Sobecki (D-Toledo), details a set of situations in which workers who do not return to work despite being offered it would not lose eligibility for benefits. It is one of several pandemic-related measures introduced recently in the General Assembly.

"No one should have to choose between their life and their livelihood," Rep. Leland said in a conference call with reporters Tuesday.

The legislation will protect workers who are immunocompromised or over 65 or those who live with someone who meets those descriptions from losing unemployment benefits if they choose to quit or not return to work if it is offered to them.

The same right would extend to workers in environments where employers have failed to follow safety mandates issued by the Department of Health.

It would also protect the unemployment benefits of people who struggle to find child care or who are experiencing symptoms and are in the process of getting a diagnosis for COVID-19.

"There are a lot of concerns that workers have brought to my attention," Rep. Sobecki said. "There's concern about if I don't show back up to work if I don't have child care will I be able to provide for my family."

"These are workers that are very concerned because they have very small children," she added.

Rep. Leland said the bill stems in part from testimony he heard as a member of the House's 2020 Economic Recovery Task Force. That panel has heard principally from business owners.

"During that testimony and during those four weeks, we never hear from any employees about what their fears were about going back to work or how it would affect them," he said.

"As we open up this process, we need to make sure Ohioans can protect themselves and their loved ones," he added.

The sponsors were joined by Anthony Caldwell, director of public affairs for the SEIU 1199, which represents workers in a variety of industries in Ohio.

Mr. Caldwell said he has spoken to a woman from Lorain County who opted to retire because she has chronic health issues and her husband is recovering from surgery, but she was called back to work. That woman feared she could catch COVID-19 herself or bring it home to her husband by going to work.

"For folks who legitimately feel like returning to work could be a life or death decision for them, they should have the option until we have proper testing and tracing and a vaccine in place to stay at home and be safe at home," he said.
**Statehouse Update**

**Other Bills:** Other coronavirus-related measures introduced Tuesday included a proposal (HB 680) to create a backup plan for an all-mail election in the event of an emergency.

It would create a process by which the governor and health director can recommend to the General Assembly for the implementation of the failsafe plan at least 60 days before an election, and the legislature would have three days to adopt a joint resolution approving it, sponsor Rep. Cindy Abrams (R-Harrison) said in a news release.

The failsafe plan would dictate that the election would be conducted by mail, with all polling places closed. The Secretary of State would mail a postcard to registered voters notifying them of the procedures to apply for and return absentee ballots.

Absentee ballot applications would have to be received by county boards of elections 10 days before the election. It would also spell out the secretary of state's use of federal CARES Act dollars.

"It is vital that decisions about how Ohio conducts elections be made thoughtfully and deliberately, not in the heat of the moment in the midst of a crisis," Rep. Abrams said in a statement.

Also introduced in the House was a proposal to limit certain public health orders (HB 671), a bill addressing the operation of certain businesses and professions related to the crisis (HB 673) and one to modify telehealth services requirements (HB 679).

**USDA Assistance Offered**

**Federal Assistance:** The USDA announced Ohio agricultural producers can now apply for the agency's Coronavirus Food Assistance Program. The effort, which will provide up to $16 billion in assistance, offers direct payments to offset negative impacts of the pandemic.

An application can be filed online on the agency's website where those interested may also find a payment calculator. A call center has been established to assist prospective customers of the program, the agency said.

"We know Ohio producers are facing a tough time now, and we are making every effort to provide much needed support as quickly as possible," said Leonard Hubert, state executive director for FSA in Ohio. "FSA is available over the phone and virtually to walk you through the application process, whether it's the first time you've worked with FSA, or if you know us quite well."

Applications are due by Aug. 28. Those eligible are producers who have seen at least a 5% price decline due to the virus and have undertaken greater marketing costs due to market conditions.

**Wednesday, May 27, 2020**

**Court Jurisdiction, Plastic Bag Ban Measures Clear Senate**

A plan to update Ohio's "long-arm statute" picked up several COVID-19-related amendments before passing a divided Senate Wednesday.

The measure (HB 272) was one of a handful of items that cleared the chamber, including a measure (HB 242) temporarily prohibiting local government bans on plastic bags and other containers.

At its core, the court bill extends a court's exercise of personal jurisdiction to include personal jurisdiction over any person on any basis consistent with the Ohio or United States constitutions – a move Sen. John Eklund (R-Chardon) said brings Ohio law "into the 21st century."

The chamber added two amendments on the floor – both inspired in part by Gov. Mike DeWine's handling of the novel coronavirus pandemic.

The first, from Sen. Dave Burke (R-Marysville), blocks any public official from causing an election to be conducted other than in the time, place and manner described in law. A March 16 health order issued at Gov. DeWine's direction blocked polls from opening during the March 17 primary election in order to slow the spread of COVID-19.

The change was accepted 22-10 over the objections of Democrats and Sen. Peggy Lehner (R-Kettering) and Sen. Stephanie Kunze (R-Hilliard).
The second amendment came from Sen. Terry Johnson (R-McDermott), who secured support for language preventing a public official from closing places of worship. Sen. Johnson praised Gov. DeWine for not taking that step, but said the language is needed in case a future governor is inclined to act differently.

The amendment was adopted without objection, with Sen. Cecil Thomas (D-Cincinnati) noting the constitutional right to worship. But he and Rep. Lehner expressed concerns about the process.

"I was all ready to vote yes, but then all of the sudden there was these two amendments," Sen. Thomas said. He said of the Burke amendment: "That's something that needs to be in committee, to be discussed, to hear all of the yeas and nays."

Sen. Lehner said she was troubled about the timing of the amendments and stressed the need for flexibility in responding to crises in real time.

"While I completely support the right of this body to determine election results, election days, et cetera….I think at the same time we do need to understand sometimes emergencies arise and a true leader has to make a decision and they don't have time to come to the legislature and have us debate and vote and take position on something," she said. "Sometimes they just have to act."

Senate President Larry Obhof (R-Medina) said the chamber felt strongly an in-person election should take place this fall.

Asked about the process, he replied: "It was pretty simple. It was only one or two sentences. It's not something that's complex or difficult to understand or that will likely have any other external consequences."

The auxiliary container bill also stirred debate before passing 23-9. Republicans framed the legislation as a way to combat COVID-19 while Democrats flagged home rule concerns.

The legislation prohibits the imposition of a tax or fee on those containers, which include single use bags, cans, bottles or other containers designed to transport food, beverages or merchandise. The bill now heads back to the House for concurrence after picking up a committee amendment to sunset its provisions in 12 months.

Sen. Michael Rulli (R-Salem) told colleagues it is a "public safety issue" and that reusable canvas bags that are never washed are more likely to spread COVID-19 compared to single-use plastic bags.


Democrats were skeptical, with Sen. Tina Maharath (D-Canal Winchester) saying lawmakers should be wary of encroaching on local governments’ turf.

"I hope that even during the COVID-19 pandemic our communities will…continue to have their home rule protected instead of the state legislature taking what's theirs," she said.

Sen. Thomas said plastic bags never fully degrade and contain chemicals harmful to people and the environment. And Sen. Nickie Antonio (D-Lakewood) called home rule a "foundational tenet of our beliefs."

Sen. Matt Dolan (R-Chagrin Falls) said he was prepared to vote against the measure until the pandemic hit.

"There is not clarity as to what is the safest and healthiest way for an individual to go shopping," Sen. Dolan said. "(The bill) is simply saying let's hold off…until we understand how we're going to navigate and survive this pandemic."

Another COVID-related bill was a plan (SB 309) from Sen. Theresa Gavarone (R-Bowling Green) to permit certified swimming classes in private residential pools without a public swimming pool license. The chamber voted unanimously to maintain an emergency clause and to send the bill to the House.
Among other legislation, a plan (SB 126) from Rep. Nathan Manning (R-N. Ridgeville) to authorize mental health professionals to provide crisis assessment without parental consent to minors who are suicidal or pose a risk of harm to others cleared the chamber 31-1.

In voting against the legislation, Sen. Kristina Roegner (R-Hudson) said she was concerned about a Fiscal Year 2021 appropriation of up to $3.64 million for educational service center grants.

"At this time, I think we just need to be vigilant in terms of not spending any additional dollars," she said.

Also earning unanimous passage was a bill (SB 284) from Sen. Jay Hottinger (R-Newark) and Sen. Bob Peterson (R-Sabina) to amend reinsurance laws.

Sen. Hottinger said the plan would ensure state law cannot be preempted by the federal government and that similar language has been enacted or is being considered by 26 states.

Added Sen. Peterson: "It simply updates and strengthens our insurance regulations and allows Ohioans to continue to have a system that's safe, low cost and effective and allows ins companies to continue to grow in Ohio."

**Reappropriations Bills Start Committee Path**

Committees in the House and Senate got their first looks Wednesday at competing capital reappropriations proposals.

The two measures (SB 316; HB 670) reappropriate money from previous capital bills to allow ongoing projects to continue. The Senate plan totals $1.28 billion, while the House version is closer to $697.6 million. Among the biggest items left out of the House's measure is about $325 million for higher education projects.

In the House Finance Committee, sponsor Rep. Derek Merrin (R-Monclova) said the House bill allows many capital projects to continue without delay.

That version continues funding for several agencies – the Ohio Adjutant General, departments of Developmental Disabilities, Mental Health and Addiction Services, Transportation, Public Safety, Rehabilitation and Corrections, Job and Family Services and Youth Services; K-12 school building construction, Public Works Commission, Schools for the Blind and Deaf as well as the Secretary of State.

"It does not include colleges and universities, the Department of Natural Resources and Facilities Construction Commission cultural and sports facilities," he said.

"Many have asked why some projects have not been included," he said. "In my mind, the answer is simple. Ohioans are going through unprecedented times."

The state's economy has collapsed in the span of two months, he said.

"It is not a question of whether projects not included are worthy," he said. "It is a question of priorities. As times change, so should our priorities. We do not know what the future holds. We do not have a full understanding of the revised revenue projections for FY21, nor do we know what further state spending cuts will be needed. We do not know what future steps will be necessary taken to combat the Coronavirus. The purpose of House Bill 670 is to keep projects moving that directly impact the health, safety and jobs of Ohioans."

The measure is not intended to "pick on" or disparage projects that were not included, but to get the conversation started on the legislature's priorities for capital projects.

Rep. Haraz Ghanbari (R-Perrysburg) said some projects at higher education institutions could support job growth.

Each one should be re-examined and every dollar should be justified, Rep. Merrin said.

"As a legislator, I think it's important for the projects that have not been completed for those who are in charge of the project to explain why it has not been completed," he said.
Many legislators submitted projects for the capital bill that were not funded, while other projects have been funded but have not been completed, he said.

Rep. Bride Rose Sweeney (D-Cleveland) said many higher ed projects in the capital budget included non-construction projects, such as supporting internet access for areas that don't have it.

"Would you consider projects of those kinds that are under the higher ed category something that could be included in this?" she asked.

The sponsor said he is open-minded about what projects could be included.

Chairman Rep. Scott Oelslager (R-Canton) said the panel is just starting to identify projects for the bill.

Later Wednesday, the Senate Finance Committee heard testimony from State Budget Director Kimberly Murnieks on the version introduced in the upper chamber.

The director said the Senate version includes an estimated $1.28 billion in reappropriations, about the same as the $1.26 billion included in the previous capital budget (HB529, 132nd General Assembly).

"This reappropriations process is not intended as a vehicle for new capital appropriations nor is it intended to raise new issues," she said. "Rather, it is designed to keep previously approved capital projects on schedule. Since most of the capital projects presented in the bill are already underway, the reappropriation of unexpended balances ensures those projects can continue without interruption or delay."

The proposal also includes a small number of items for which the circumstances of the project have changed and money has been redirected to other projects, she said. It also includes an emergency clause because it needs to be effective by July 1.

It includes about $325 million for projects at institutions of higher education, the director told Sen. Stephanie Kunze (R-Hilliard).

"Would you say there's really not any cost savings in cutting any of these projects, it's really just a continuation of those dollars?" Sen. Kunze said.

The director agreed, and said the debt service for the projects has already been accounted for in the operating budget, the director said.

Asked by Sen. John Eklund (R-Chardon) about the debt service costs on the projects, the director said it would be around $100 million per year if the state were to sell all $1.2 billion in bonds at once, but the state sells just the amount needed in the near-term so it does not pay interest on money before it is necessary. For next year, the debt service will be closer to about $40 million.

Bond interest rates are currently very low, and the state's latest bond sale in February included total interest of about 1.7%, she said.

Director Murnieks told Chairman Sen. Matt Dolan (R-Chagrin Falls) there have been times when the General Assembly has not done new capital budgets, but the need for repair and renovation continues. In those cases, the state would have to defer maintenance or spend operating dollars on maintenance.

After the Senate's session, Senate President Larry Obhof (R-Medina) called his chamber's plan "the right one for the state of Ohio."

"I believe that all of the provisions in our bill were previously agreed to and I think there is some concern in both chambers about taking long term debt and about spending money given the fiscal situation we face right now," he said.
He reiterated Sen. Dolan's previous argument—that the state could see a loss of economic activity greater than the potential savings in debt service costs by not appropriating those dollars.

"That’s something we'll have a discussion with our friends in the other chamber about over the next few weeks and hopefully we'll be able to work things out," he said. "I don't know either chamber necessarily is frozen in place or wedded to a specific position as opposed to using these as starting points for discussion."

**Bills On Lawsuit Immunity For Businesses Gain Momentum**

A controversial House measure that provides civil immunity related to the COVID-19 pandemic picked up more changes before it cleared committee Wednesday.

Meanwhile, the sponsor of similar legislation introduced in the Senate previewed even more upcoming adjustments planned for his version of a bill that shields the business and medical communities amid the health crisis.

Before fielding testimony, the Senate Judiciary Committee had a preview of yet another substitute version that will eventually be offered by sponsoring Sen. Matt Huffman (R-Lima).

The coming substitute version makes clear that the bill applies only to a coronavirus and sets an expiration date for April 1, 2021.

Sen. Huffman said that end date the bill will encompass a resurgence of COVID-19 or a public health crisis caused by another strain.

"They limit the bill in an extraordinary way," he said of the provisions.

The yet-to-be accepted substitute version will also make clear that non-profit organizations, institutions of higher education and religious institutions will also be covered.

It will also clarify that recommendations or guidelines do not create a duty of care.

Tim Smith, a personal trainer, told the Senate Judiciary Committee he is concerned the legislation (SB 308) will allow a company to avoid liability after his personal information was exposed through the state's unemployment system.

"I still haven't seen a single dollar in unemployment and have no idea when I will. Deloitte failed to protect my identity and to provide for me while they forbid me to work," he said. "They need to be held responsible for the incompetence shown with handling this system. I fear that SB308 will let Deloitte off the hook on this matter and will leave me with no remedy for their negligence that has caused me real harm."

Kenneth Chisholm said his mother died of COVID-19 on Easter Day. He spoke out against protections for long-term care facilities, like the one where his mother resided.

"Once individuals and/or corporations make the decision to go into the business of caring for the elderly and our most vulnerable, it should go absolutely without saying that they, of all people, have no excuse for not being prepared for mass injury or illness breakouts, even more than acute care hospitals need to be prepared," he said. "Unlike hospitals where they care for multiple illnesses and conditions/injuries and are a basically in-and-out service operation, it is the long-term care industry's sole purpose for being in business."

Julie Griffith said her elderly mother has experienced issues in the same facility in which Mr. Chisholm's mother lived.

"To pass a bill that protects them from litigation during an emergency is the worst thing that can happen right now," she said. "We understand the need for protections for businesses opening up during this time but there is a balance of accountability and responsibility that this nursing home and many others have failed to exhibit. They are not responsible when there is oversight, what would you expect with no oversight? Giving them a pass right now when 70% of the deaths from the virus in Ohio are in nursing homes is the exact opposite of what should happen."
Frederick Gittes, testifying on behalf of the Ohio Employment Lawyers Association and Protecting Ohio Employees, raised a host of concerns, saying the bill it will prevent incompetent, irresponsible and reckless medical providers from being held accountable.

He also said the proposal protects the "worst of the worst" and workers will become victims.

"Collectively, the immunities put working Ohioans in grave danger, with no way to protect themselves and their families," he wrote. "Employees who work for companies that ignore the disaster and emergency directives of the state and refuse to take common sense steps to make sure their workers are protected from exposure (in the case of contagious diseases, for example) are barred from suing their employers. Even if they go to a lawyer, their counsel will have to warn them that the Ohio Senate has determined they cannot use evidence that their employer ignored Health Department directives and guidelines."

But others continued to push for passage, including Bruce Johnson, president of the Inter-University Council of Ohio.

"A significant challenge for colleges and universities as they plan to reopen is the unknown. While universities will undertake significant safety measures to reopen for in-person classes, it is impossible to know whether those safety measures will be sufficient to prevent, or limit on-campus infections," he wrote. "Therefore, the liability risk for universities is that if COVID-19 were to occur on campus, despite all good-faith efforts by a university to prevent an outbreak, a university could face civil claims for damages arising from circumstances largely beyond its control."

Scott Williams, CEO of Ohio REALTORS, said the bill will help protect the state's nearly $100 billion real estate industry.

"There is much unknown about this virus and how it uniquely impacts each person," he wrote. "Despite our members' best efforts at following Centers for Disease Control and Ohio Department of Health guidelines to protect and sanitize, there may be unknown transmission of COVID-19."

House Version: A similar bill (HB 606) in the House picked up a substitute version and three amendments Wednesday. It is slated for a floor vote Thursday.

The substitute version was offered by Rep. Bill Seitz (R-Cincinnati), who explained that, among other changes, it puts a firm end date of Dec. 31, 2020 on the bill.

"Then we are back to the drawing board with respect to any further changes," he said.

The substitute bill also lowers the standard to reckless for health care providers and continues to allow professional discipline in cases of gross negligence.

An amendment offered by Rep. Robert Cupp (R-Lima) was accepted to make a technical change to the bill.

Rep. Richard Brown (D-Canal Winchester) offered five amendments, two of which were accepted. One inserts the language clarifying that the bill's end date is Dec. 31 in another section. The other change conforms to the language in the substitute bill on the standard of care.

"This might be your luck day, representative," Rep. Seitz said after declining to object to the latter change. "I guess I'll go along with that."

The House Civil Justice Committee heard much of the same testimony as the Senate panel, with a handful of exceptions.

Several local government associations - including those representing the state's county commissions, prosecutors, cities, mayors and townships – provided written proponent testimony.

"Lawsuits are already being filed seeking to capitalize on the pandemic. Local governments should not have to use limited resources on attorney fees to defend the immunities we have from unique attacks," they wrote. "Additionally, the revenue provided to our local governments by the federal and state government should be used to help address the needs caused by the pandemic, not defending against lawsuits."
Parties Voice Support For Broadband Measure

A wide variety of stakeholders weighed in Wednesday on the latest version of a House effort to expand broadband service across the state.

The measure (HB 13) underwent a significant expansion last week before the House Finance Committee, and parties came before the panel this week to discuss the changes.

Local government and rural development groups wrote in support of the amended measure.

"Although local governments are no longer managing the application process, they are still recipients of the end benefit – getting much needed broadband access to their residents with support from the state. The Ohio Municipal League and the Ohio Township Association continue to support Sub. HB 13 and urge the House Finance Committee to favorably report the bill to the full House for a vote," the OML and OTA wrote.

The Ohio Rural Development Alliance, in written testimony, said the measure creates "another mechanism to help rural communities receive access to broadband."

"The current pandemic has intensified the lack of equal service across the state and will only harm certain communities more in the future as current changes due to the pandemic remain as the new normal," the group wrote.

Charles Moses, president of the Ohio Telecom Association, praised the new version for creating a mechanism to direct state support toward projects to expand access to broadband.

"High-speed broadband facilities support education, health care, and Ohio's commercial industries and local governments," he wrote. "However, some communities remain underserved and unserved because the cost to serve them is high in areas where expected revenue is too low to justify the investment. Government support will allow for the extension of access to higher speeds of broadband service. Some of that support will come through federal grants, emergency programs in response to the recent medical emergency, and universal service funding. Funding gaps, however, will remain unless new sources of funding are identified."

Tony Long, director of tax and economic policy for the Ohio Chamber of Commerce, said the proposal would help address the current gap in broadband access for 300,000 Ohio households.

"As this COVID-19 pandemic has demonstrated, our lives are becoming more dependent on technology," he said. "Whether for education, business, healthcare or shopping for goods and services, our need for reliable high-speed internet access is very important in our daily life. With increases in access to high-speed internet connectivity, Ohioans will enjoy new economic and educational opportunities."

Other groups urged potential changes. The Ohio Railroad Association submitted interested party testimony, saying it supports the effort to extend broadband coverage but that a provision regarding property access is unacceptable to the industry.

"We view this type of property access framework as a tremendous public safety issue, with numerous examples across the country illustrating disastrous results both for railroad operations as well as the general public," the group wrote.

The ORA said it has been working with the sponsor, Rep. Rick Carfagna (R-Genoa Twp.), on addressing concerns with that language.

In another suggested change, Raja Sundarajan, president and CEO of AEP Ohio, urged an amendment to allow electric utilities to provide middle-mile broadband infrastructure when it installs other lines.

"To help meet the need for broadband, electric utilities are willing and able to deploy fiber infrastructure to support broadband expansion," he said. "Electric utilities are already modernizing the grid by adding fiber to existing utility assets. This fiber can serve as middle mile broadband infrastructure to facilitate cost-effective broadband expansion to underserved and unserved communities."
Electric utilities would not be able to serve as an internet service provider, he said.

Rep. Bob Cupp (R-Lima) asked how AEP would determine where the middle-mile infrastructure would be deployed.

The company is currently working to deploy smart meters at homes in rural Ohio, and those require either a cellular signal or fiber, Mr. Sundarajan said. The cost of adding fiber to an electrical cable deployment would be minimal compared to the cost of an internet provider installing just fiber.

He told Rep. Bill Roemer (R-Richfield) that the middle-mile installation would be included in the regulated rate base of the electric utility.

Rep. Jay Edwards (R-Nelsonville) asked if AEP would charge ISPs for access to the fiber.

The cost of installing it would be covered by AEP’s customer base, and revenues the company receives from ISPs would be returned to ratepayers, Mr. Sundarajan said.

That proposal drew objections in written testimony from the Ohio Cable Telecommunications Association, which voiced support for the bill as written.

"The OCTA adamantly opposes this scheme, as it would allow a monopoly to operate in the competitive broadband marketplace, provide the electric utility a zero-risk scenario guaranteeing a return on investment for its middle-mile fiber construction, and it completely fails to address the real challenges to rural broadband expansion: the risk and cost associated with constructing the last-mile infrastructure needed to deliver service," Executive Director Steve Buehrer wrote.

Bethany Dentler, administrator of the Medina County Port Authority, raised concerns with a provision preventing government entities from submitting proposals.

"If the bill is approved with this language, it severely restricts our ability to extend broadband to customers who would benefit from lower prices and consumer choices," she wrote. "We know first-hand that having a government entity involved in the telecommunications industry helps to keep them honest and ensures that they are offering the most competitive prices available."

She also urged that the minimum speeds in the bill be increased.

Rep. Carfagna said any project that would overbuild an existing network would not be a priority of the program.

House Committee Hearings - State & Local Government

HB 450 FISCAL OFFICERS (Stephens, J.) To require fiscal officers of certain political subdivisions to provide certificates of transition to their successors when leaving office and to modify language regarding the duty of a treasurer of a board of education to deliver to the treasurer's successor all papers related to the affairs of the district. REPORTED (3rd Hearing-All testimony-Possible vote)

Barbara Shaner, advocacy specialist at the Ohio Association of School Business Officials, in written interested party testimony expressed appreciation for several aspects of the bill, but also said it is not necessary for school treasurers.

"School treasurers are most often either retiring or leaving to take another position in another school district. The propensity for an exiting treasurer to leave without cooperating to provide relevant information to his/her successor, or, to be unwilling to be available for consultations even after moving on to another position, etc., is low," she wrote. "School treasurers are not elected to office, so the same tensions that might be present with a transition to a new elected fiscal officer are not an issue."

She also raised concern that the legislation creates a new liability for treasurers.

"Mistakes happen, yet this could result in negative public attention for the school district, and unnecessarily cause problems for the treasurer who left to move on to another district," Ms. Shaner wrote. "If the treasurer has retired or left the profession, it is unclear what purpose this provision serves."
Tony Seegers, director of state policy for the Ohio Farm Bureau Federation, said one of the most important issues facing his members is eminent domain.

"Seldom an issue causes our members more consternation than the use of eminent domain. While we understand that eminent domain is a necessary tool, we believe it should be used as a last resort," he wrote, adding they oppose its use for recreational purposes.

Jon Honeck, senior policy analyst at the County Commissioners Association of Ohio, said current law allows a property owner to appeal a park district's eminent domain actions to the probate court judge, which is the appointing authority.

"Under the bill, a property owner may also appeal the decision to the board of township trustees or the legislative authority of the municipality in which the property is located," he wrote. "These political subdivisions are responsible for land use planning and transportation, and are in a good position to balance the needs of the community with the fundamental rights of individual property owners."

The legislation was spurred by an eminent domain action from a park district that would have resulted in the taking of land from the Beaver Creek Sportsman's Club for a bike trail.

President Allison Kekel said in written proponent testimony that such a move would be detrimental to her organization.

"Due to the nature of our club as a shooting, fishing, archery and hunting facility, we will be required to install and maintain a fence with gate along the proposed bike trail. We can't absorb any liability issues should they arise from trespassers. The cost alone to install the fence and gate is not the only negative factor," she wrote.

"The proposed fence will make our club look more like a prison, than a club which is inviting people to attend our events and become involved in the outdoors, and less with electronics and social media. In the past we have done youth days teaching them the art of enjoying the outdoors in a variety of ways. It may be through archery, shooting, fishing or hiking. We would love to continue with this tradition but are concerned the fence will become an intimidating obstacle to attracting single mothers with kids to our events designed for their enjoyment, recreation and education."

The panel also received written proponent testimony from ten property owners near the proposed trail.

**Thursday, May 28, 2020**

**House Passes Coronavirus Immunity, Tracing Restriction Measures**

Bills granting civil immunity to businesses and others who transmit the coronavirus and requiring written permission for contract tracing efforts cleared the House on Thursday.

The two measures passed during a busy session in which the chamber also approved bills to legalize sports wagering and create a database of people who have purchased sexual services, among other measures. (See separate stories)

The immunity bill (HB 606) bars civil action related to deaths, injuries or losses tied to transmission of COVID-19 in cases without reckless or intentional conduct. Other provisions in the emergency legislation, which passed 83-9, attempt to shield the state and local governments from coronavirus-related suits.

Before approving the measure, the chamber accepted a floor amendment from Rep. Brigid Kelly (D-Cincinnati) classifying COVID-19 as an occupational disease that qualifies first responders, food workers and corrections officers for workers' compensation benefits.

The legislation, which is set to expire at the end of the year, also provides qualified immunity to a wide range of health care workers who provide services during a declared disaster or emergency.

Speaker Larry Householder (R-Glenford) said he views the measure as key to getting the state's economy back on track.
"It's just for a brief period of time to assure that businesses and individuals are comfortable going out and transacting business in the state of Ohio," he said.

Sponsor Rep. Diane Grendell (R-Chesterland) said the bill is a needed step to protect medical professionals and emergency workers.

"Instead of being overrun with COVID patients, our hospitals are facing financial ruin. Businesses are afraid to reopen. Churches are afraid to reopen," she said. "Why? Because the fear (that) the next negative wave to be spawned by COVID will be a wave of lawsuits."

Rep. Michael Skindell (D-Lakewood), one of nine Democrats who opposed the measure, questioned whether the legislation is necessary since no such spike in lawsuits has been filed in the state.

"Liability protections like the ones in House Bill 606 come at a cost because it takes away the incentive for businesses to implement safety measures," he said. "They make our community less safe."

Rep. Skindell (D-Lakewood), one of nine Democrats who opposed the measure, questioned whether the legislation is necessary since no such spike in lawsuits has been filed in the state.

"Liability protections like the ones in House Bill 606 come at a cost because it takes away the incentive for businesses to implement safety measures," he said. "They make our community less safe."

Rep. Bill Seitz (R-Green Twp.) said businesses need protections in place even if coronavirus-related litigation has been relatively rare thus far during the pandemic.

"The fact that there hasn't yet been a flood of these lawsuits or that it would be difficult to prove these lawsuits, even under normal circumstances, does not mean they won't be brought," he said.

The contract tracing measure (SB 31), which cleared the House in a 59-34 party line vote, initially was focused on exempting certain personal information about emergency dispatchers from public records law.

The legislation was amended in the House Civil Justice Committee on Wednesday to require health officials to advise people that participation in disease contract tracing is voluntary and receive informed written consent to move ahead with the process – changes that drew pushback from Democrats.

Rep. Seitz said the amendment does not mean the majority caucus is against contact tracing.

"All we're trying to do with this amendment is to put some guardrails around it to assuage some public apprehension about just how this is going to be done," he said.

Rep. Gil Blair (D-Weathersfield) said the changes could slow down health officials responding to outbreaks and put Ohioans at risk.

"By requiring this written consent in this bill, we are impeding the fight against the virus," he said.

Rep. Householder said the contact tracing language attempts to balance privacy and public health concerns. He said he does not believe the change would result in significant delays for contact tracers.

"It really came down to a situation where people's personal lives are being protected, but we're open to listening to the debate," he said.

**Township Police Want Expanded Interstate Enforcement**

Law enforcement officials on Thursday urged a House panel to move legislation expanding the ability of townships to police certain interstate highways.

Current law allows only townships with populations of 50,000 or greater to enforce specified traffic offense on interstates.

The legislation (HB 539) considered by the House Criminal Justice Committee would extend that authority to townships with populations of 5,000 or greater if authorized by the board of trustees.

Perrysburg Township Police Department Lt. Matthew Gazarek told the panel that the measure is a fair compromise.
"It's important to note that certified law enforcement officers throughout Ohio must adhere to the same training and education no matter the agency or size of the community in which they serve; township officers are no exception," he said.

Montville Township Police Department Lt. Matthew Neil said he has worked for two township police departments, both of which have five miles of Interstate 71 running through them.

Mr. Neil also said that currently just six townships meet the population threshold to police interstates.

"I truly believe that this bill evens out the necessary Interstate jurisdiction issues of township police departments. This bill is about having arrest authority on roads that are already within our geographical boundaries and the proposed population threshold of 5,000 is much more reasonable," he said.

"By supporting this bill, you are supporting us, and giving us the tools necessary to enforce, apprehend and combat our ever-growing OVI and drug issues that take lives of Ohioans every day. By supporting this bill, you are unleashing the current restrictions that prevent us from saving lives and doing our job."

In response to a question from Rep. Robert Cupp (R-Lima) about township departments using the authority as a revenue generating mechanism, Mr. Neil said the requirement for approval from the township trustees will provide some local oversight.

He also said his township gets just $5 from each traffic ticket it writes.

"It is not our intention to put an officer up on the interstate," he added.

Mike Weinman, director of government affairs for the Fraternal Order of Police of Ohio, said 70% of all serious crimes in America involve a motor vehicle.

He said one of the laws the bill will allow township departments to enforce is operating a vehicle on the wrong side of a divided highway.

"Can you imagine witnessing a car hurtling up the interstate highway on the wrong side, and the closest police officer who is in their jurisdiction is prohibited from taking enforcement action?" he asked.

The panel also received written proponent testimony from representatives of the Ohio Township Association and the Wood County Board of Commissioners.

Friday, May 29, 2020
DeWine Urges Peaceful Protests After Statehouse, Downtown Buildings Damaged

Damage estimates are still being tallied after protesters damaged the Statehouse and other Capitol Square buildings Thursday night in a demonstration against police brutality.

In a televised press conference Friday, Gov. Mike DeWine called anger over the death of George Floyd, an African-American man killed by a white Minneapolis Police officer May 25, understandable.

But he urged protesters in the days ahead to act peaceably while pledging to work with legislative leaders to enhance police training and address racial disparities.

"My commitment today to the citizens of Ohio is that we will do more," Gov. DeWine said. "That I will work with the leaders of the General Assembly, that I will work with the Attorney General Dave Yost and we will continue down this path and do more in this area."

Gov. DeWine said that he regretted not addressing Mr. Floyd's death a day earlier during his press briefing on the coronavirus.

Mr. Floyd was pronounced dead after pleading for air as an officer – who was charged with third-degree murder and manslaughter Friday – knelt on his neck. Video of the incident then went viral.
The Capitol Square Review & Advisory Board and the Ohio State Highway Patrol were still assessing the Statehouse damage Friday but an initial list compiled by CSRAB identified damage to: 28 windows and frames along the building’s south and west sides, the doors off State Street and the West Rotunda, five pole lamps in the West Plaza and granite and a bench on the South Plaza.

Fire damage, additionally, was reported in the East Plaza to several flags and a flower bed. Many of the trash cans on the property were dumped or thrown, CSRAB reported, with some dented and missing lids.

Gov. DeWine, who said Department of Public Safety Director Tom Stickrath kept him apprised throughout the evening, said he can't fully understand what an African-American family is feeling given the current situation. He said he views his role as a listener and acknowledged the frustration.

"I want to make sure as governor of this state to say to every African American…you are valued, you're an essential part of this community and no one will forget that," he said. "Through your pain, your anger, your grief you are valued."

The Ohio Legislative Black Caucus Friday announced plans to introduce a resolution declaring racism a public health crisis, with president Rep. Stephanie Howse (D-Cleveland) saying the companion legislation in both chambers would set Ohio up as "a model for the nation."

"The real question is where does Gov. DeWine, Lt. Gov. Husted, President Obhof, Speaker Householder, members of the Ohio General Assembly and other white people in positions of power stand?" Rep. Howse said in a statement. "When will they be forced to atone for the sins of this country and the State of Ohio against black and brown people?"

Gov. DeWine said he would review the resolution's language once it becomes available.


Senate Minority Leader Kenny Yuko (D-Richmond Hts.) and Sen. Hearcel Craig (D-Columbus), also issued a joint statement on the protests, saying "the demonstrations are a reflection of the frustrations shared by many Americans with the long-term systemic problem of racism. We not only have the right to speak against these horrific injustices, we have an obligation in fact to do so."

Thursday's demonstration reportedly began peacefully before protesters started throwing water bottles at officers, who responded with pepper spray. Shortly before midnight, Columbus Police officers attempted to move citizens from the intersection of Broad and High streets where the protest had begun. At that point, some moved to the Statehouse grounds, said State Highway Patrol Lt. Craig Cvetan.

"Of those on the grounds, a few began to commit acts of vandalism, damaging some windows, light fixtures and doors," Lt. Cvetan said. "Officers from the Columbus Division of Police were eventually able to disperse protestors from the grounds."

"The patrol will conduct an investigation to document the property damage," Lt. Cvetan added. "All windows and doors damaged in the incident have since been secured."

Gov. DeWine declined to speak about any steps being taken in case protests in the coming nights take a similar turn.

Among other reaction, Ohio Republican Party Chair Jane Timken said: "Racism and bigotry should have no place in our country."

"I empathize with the protesters and understand that we need to have a real conversation on race relations," she said. "The dialogue that peaceful protestors were hoping to initiate last night, however, soon turned into chaotic riots. I am a firm believer that violence is never the answer. I believe in the First Amendment and am hopeful that any future protests will
allow for a conversation to take place through conflict-free means. No one deserves to have their life cut short, and we need to use this time to heal and move forward as a country.”

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