Statehouse Update

Monday, July 6, 2020

Senate Plan Aims To Make Up For Taxes Lost From ODNR Land Purchases

A senator is seeking to make local governments and school districts whole in light of the administration's recent purchase of broad swaths of private land in southeastern Ohio.

Legislation (SB 333) introduced last week by Sen. Tim Schaffer (R-Lancaster) would require the Department of Natural Resources to provide payments in lieu of taxes for recent major land acquisitions.

The proposal ties back to the purchase of 41,259 acres of AEP-owned ReCreation Land in recent years – purchases that so far have been tax exempt.

Sen. Schaffer said in an interview he wholeheartedly supports the purchase of the land, which he calls a "game changer" for outdoor recreation in Ohio.

"That said, we can't let the local taxpayers be on the hook for this large, huge piece of property coming off the property tax rolls," Sen. Schaffer said. "That's essentially what happens when properties become state park properties."

Gov. Mike DeWine and ODNR officials in October announced their intent to purchase 31,000 acres of the land stretching across Morgan, Muskingum, Noble and Guernsey counties for $47 million over six installments beginning in March.

The deal also gives the state the option to purchase the remaining 18,000 acres of the property by June 2023 for about $27 million – a topic rife for discussion for the state's next budget especially in light of the economic toll of COVID-19. The Kasich Administration in 2018 had already orchestrated the purchase of 10,000 acres of the land.

But to lose out on property taxes for such large pieces of land "would be absolutely devastating for these townships," Sen. Schaffer said.

His legislation would require the ODNR director to compensate applicable taxing units for the acquisition of tax-exempt land of more than 5,000 acres. That would apply to any land purchases after Jan. 1, 2019.

The annual payment would come from the State Park Fund and equal the amount of taxes that would have been payable on that land were it not exempted from taxation. The agency would also use money from fines issued by the Division of Parks and Watercraft to make those payments.

Sen. Schaffer said talks with the department on in the early stages and agency spokeswoman Sarah Wickham said the agency will remain engaged as the proposal moves through the legislative process.

"The acquisition of AEP property ensures that all Ohioans, today and in the future, will be able to enjoy this beautiful area and its resources," Ms. Wickham said. "We look forward to continued discussion with Sen. Schaffer throughout the legislative process."

The sponsor said his office is still working to gauge the overall fiscal impact, but he said estimates from Morgan and Muskingum county auditors show projected annual losses of $318,000 and $163,000 respectively.
"We're talking about a significant chunk of Morgan County that you can see from space," Sen. Schaffer said. "That is an awful lot of land to take off the tax rolls that AEP had been paying property taxes on and say to schools you don't get the benefit of taxes anymore. We can't do that."

Sen. Schaffer said he fears services for children, emergency response and other areas will have to be cut should those payments abruptly cease.

He said he is unsure the total fiscal impact for local governments and schools given the complexity of the formula. He said that's part of the reason the measure, which he began working on shortly after his May 2018 appointment to the Senate, took so long to introduce.

"Especially with budget cuts coming down from the state and the lack of economic activity due to COVID-19, any dollar taken away from our schools is a dollar too much," Sen. Schaffer said.

He said talks with ODNR are ongoing, but that he remains "confident we can get something done here."

Calling it the "cost of doing business," the sponsor said officials should be able to provide for both local governments and the state's outdoor needs.

"We can do both and have a massive, outstanding outdoor park," he said.

**Economic Conditions Trigger Extended Unemployment Benefits**

Ohioans can receive up to 20 additional weeks of unemployment compensation after exhausting their initial benefits.

The Department of Job and Family Services on Monday announced extended benefits will be available to claimants who exceed the 26 weeks of traditional unemployment compensation and 13 additional weeks provided via the federal Pandemic Emergency Unemployment Compensation program.

"We will soon begin notifying individuals who may qualify for this additional assistance to instruct them how to apply," ODJFS Director Kimberly Hall said in a statement. "Although high unemployment rates are never welcome news, we are happy that we can offer this extra support for Ohioans who are unemployed through no fault of their own and who are having difficulty finding work."

The department said the extended benefits became available when the state's insured unemployment rate surpassed a minimum threshold.

ODJFS spokesman Bret Crow said in an email there are two ways to trigger extended benefits.

The first occurs when the insured unemployment rate – total continued claims divided by total covered employment – for a 13-week period meets or exceeds 5% and also meets or exceeds 120% of the average IUR for the same 13-week period for both of the past two calendar years.

The second occurs when the average total unemployment rate for the most recent three months is greater than 6.5% and equal to or greater than 110% of the average TUR for the same period in either of the prior two calendar years.

When the TUR meets hits 8% or above and meets the 110% lookback threshold, an additional seven weeks of benefits can be added to the initial 13.

The state's unemployment rate dropped from a recorded high of 17.6% in April to 13.7% in May. Ohio had an unemployment rate of 4.1% in May 2019.

The conditions that spurred the extended benefits period are fully described in a section of Revised Code.

More details on the state's unemployment compensation system and enhanced federal benefits are available on ODJFS' website.
DeWine Orders Mask Wearing In Virus Hot-Spot Counties
Gov. Mike DeWine on Tuesday again reversed course on mandating masks in public.

The governor announced during his press briefing on the novel coronavirus that he will again require Ohioans to cover their faces while in public places, but only in counties in which the virus is rapidly spreading.

The mandate, which goes into effect 6 p.m. Wednesday, covers seven counties: Butler, Cuyahoga, Franklin, Hamilton, Huron, Montgomery, and Trumbull.

"Primarily this will be when they are in a public place inside," Gov. DeWine said.

The order from the Ohio Department of Health follows discussions with local health agencies in those counties.

Children under the age of 10 and those who cannot medically wear a face covering will be exempted, according to the governor. "These orders really go hand-in-hand with what experts have been telling us."

The counties covered are Ohio's "red alert" counties as designated by a new tool for informing citizens about the severity of coronavirus outbreaks across the state.

Lt. Gov. Jon Husted said businesses will not be expected to enforce the mask mandate. That task will fall to state and local officials.

The penalty for failing to comply with the order will be a misdemeanor, Gov. DeWine said, adding that he does not expect enforcement to be heavy-handed.

"The law can help just determine the norms of society," he said.

Under current Ohio law, violating a state health order is a second-degree misdemeanor that carries a fine of up to $750 and a jail sentence of up to 90 days.

Lawmakers have approved legislation (SB 55) to prohibit criminal penalties for violating orders of ODH or local health departments related to a pandemic, instead instituting a fine not to exceed $100 for a local order or $150 for a state order.

The governor again indicated a veto would greet the measure, calling it "a tragic mistake."

"I'm not going to let it happen," he said, before adding: "We have to treat it like the crisis it is and having the ability, the tools, to very carefully do things that need to be done is an essential part of that."

Rep. George Lang (R- West Chester Twp.) questioned the numbers that were used to determine Butler County as a hot-spot for the virus.

"I don't think there's going too much enforcement of that mandate in Butler County," he said in an interview.

But Rep. Beth Liston (D- Dublin) praised the move.

"Masks are important so people can leave the house free from fear and so that schools and businesses can be open safely. They are a critical tool to fight this deadly pandemic," she said in a statement.

As of Monday, the municipalities in Ohio that had implemented mask mandates included Bexley, Cincinnati, Cleveland, Columbus, Dayton, Dublin, Grandview Heights, Springfield, Westerville, Whitehall and Yellow Springs, according to the Ohio Municipal League.

It was the second time Gov. DeWine changed course on mandating facial coverings. In April, the governor announced he would require them in all retail businesses in the state, but he quickly reversed course, saying feedback showed the mandate "is offensive to some of our fellow Ohioans."
He has continued, however, to strongly recommend the use of face coverings in public.

The issue of masks has been a flashpoint in the General Assembly, where Democrats uniformly wear them while Republican members remain divided on the issue.

Legislation (HB 682) has been introduced by Rep. Nino Vitale (R-Urbana) to provide the General Assembly with the sole authority to require a mask or face covering.

Lt. Gov. Husted also detailed another order allowing for contact and non-contact competition to resume in all sports.

Tournaments, games and scrimmages can take place as long as teams involved agree to a list of guidelines, including testing all involved before traveling to the competition.

The order is set to expire on July 15 and Lt. Gov. Husted said that the information garnered from the short period will be used to inform future decisions on returning to play.

The announcement on sports was accompanied by a campaign, "I Want A Season," to encourage people to take steps to slow the spread of the virus so that sports can fully resume.

The masking announcement came as the state reported 58,904 confirmed and probable cases of COVID-19 in Ohio, leading to 2,970 total deaths.

Gov. DeWine said the average age of those being diagnosed with the disease is declining and expressed concern that younger people with COVID-19 will pass it on to those more at-risk.

In related developments, the governor said the state's depleted revenues as a result of the virus impact on the economy could lead to the exhausting of the nearly $2.7 billion Budget Stabilization Fund.

"By the time we get completely through this, I'm sure we'll use all of the rainy day fund," he said.

Sen. Cecil Thomas (D-Cincinnati) on Tuesday announced that he sent a letter to the governor urging him to use the emergency broadcasting system to alert Ohioans in counties with a high level of spread of the virus.

"This is precisely the time for government officials to use their powers to protect the public," he wrote. "Ohioans need to be warned and advised to take the necessary steps to protect themselves, their loved ones, and their community if they live or work in a red or purple county."

**State Tax Intake Rebounds More Than Expected Last Month**

Ohio's tax collections continued to recover in June, coming much closer to meeting budget analysts' expectations but still falling short.

Overall state tax receipts totaled $2.23 billion and were just $50.5 million, or 2.2%, below estimates for the month of June, according to the Office of Budget and Management's preliminary revenue tables.

Still, the coronavirus impacts were felt more severely in prior months as overall tax receipts for the fiscal year were below estimate by about $1.1 billion, or 4.6%, according to OBM.

The state closed out Fiscal Year 2020 without dipping into the Budget Stabilization Fund despite the lost revenue.

State Budget Director Kimberly Murnieks said the overall figure for Fiscal Year 2020 was a little better than anticipated when the coronavirus pandemic first hit.

"It is slightly better than we expected," she said in an interview. "When we were first entering the pandemic in March and April, we did not foresee the rebound that we saw, for example, in the auto sales tax in June. We had projected June to begin to pick up but maybe not pick up as dramatically as it did on both of the sales tax categories."
The relatively positive June numbers – missing by $50 million is better than missing by hundreds of millions of dollars – are a positive sign, she said.

"We're approaching Fiscal Year 21 very cautiously, but having a slightly better than anticipated June does enable us to start FY 21 in a slightly better financial position than we otherwise would have been," she said.

Overall sales and use tax revenue was almost exactly in line with budget estimates, coming in just $1.4 million, or 0.1%, below. That was driven by a significant positive variance in the auto sales and use tax nearly offsetting the negative variance in the non-auto sales and use tax.

The non-auto sales and use tax missed estimates by almost $35.6 million, or 4.2%. The positive variance in the auto sales and use tax was $34.1 million, or 24.1%.

Overall sales and use tax came in below estimate for the whole fiscal year by just over $328 million, or 3%, OBM said. The non-auto tax was below by $282.8 million, or 3%, and the auto tax was down by $45.3 million, or 2.9%.

While the non-auto sales and use tax missed the previous budget estimates, both sales tax categories outperformed what analysts were expecting for this month in light of the pandemic, Director Murnieks said.

Both likely showed pent-up demand, meaning the improvement might not last long-term, she said.

"That was better than we anticipated June to look but again that kind of lines up with what we are seeing in some of the national consumer spending data for late May and into June as the economies reopened and consumer demand increased," she said of the non-auto tax. "We are starting to see some leveling off.

OBM had expected the auto sales tax to still come in below previous budget estimates.

"Frankly we had anticipated auto sales to still be down in the month, so that was a pretty dramatic turnaround," the director said. "We're not expecting that to continue. We're expecting to see that level off and we are expecting July to look a little more suppressed."

The personal income tax continued to miss state estimates. It was below the projection by $78 million, or 9.6%, for June.

The PIT accounted for the bulk of the budget hole for the fiscal year overall, coming in below estimates by $845.1 million, or 9.7%.

Part of that could be due to changes in tax filing behavior because of the deadline being moved back until July, Director Murnieks said. The June numbers show that impact might not be as dramatic as expected.

"We had anticipated the PIT being down even more than it was due to that shift in the filing deadlines," she said. "It looks like we didn't see as large of a shift."

The overall budget picture did help a little bit with the expected fiscal situation in Fiscal Year 2021, the director said. The biennial budget (HB 166) had assumed about $600 million in carryover from FY 2020 to FY 2021, and the administration expected it would have to spend that down. The June revenue coming in better than expected meant they were instead able to carry over even a little bit more than expected.

"That puts us on improved footing to start FY 21 but we are still very cautious of the situation," she said.
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The six-member committee is statutorily tasked with reviewing all the state's $9 billion-plus in tax credits and exemptions over an eight-year period. The group must issue a report on July 1 of each odd-numbered year.

But the committee has held no meetings during the 133rd General Assembly, prompting further criticism from stakeholder groups who were already dissatisfied with the level of detail put into the review process during the panel's first cycle last General Assembly.

Chair Rep. Bill Roemer (R-Richfield) had initially planned to convene the panel this spring before that plan was scuttled by the novel coronavirus pandemic which put a pause on most legislative activity.

Rep. Roemer said Wednesday in an interview he is now "relying on the speaker's office for direction" as to whether there will be any meetings this year.

A statement from Taylor Jach, spokeswoman for Speaker Larry Householder (R-Glenford), made the possibility the panel will convene this session at all appear unlikely.

"The House reviewed all tax expenditures as part of the budget process last year and intends to do the same in the upcoming budget," Ms. Jach replied when asked if and whether the committee will convene this year.

The committee continues to draw criticism for its inaction from Policy Matters Ohio, which this week outlined a proposal to cut $1 billion in tax "loopholes" in order to insulate schools and hospitals from funding cuts.

The group argued there is no better time to review tax breaks given the adverse fiscal climate the state now finds itself in thanks to COVID-19's impact on tax revenue.

Although legislative work did slow during the height of the pandemic, the group faulted the committee for failing to meet even as sessions and committee meetings resumed in early May.

Other working groups, such as the House 2020 Economic Recovery Task Force, convened virtual meetings to carry out business this spring. And another ad hoc legislative panel – the Sunset Review Committee – met several times in person in an effort to wrap up its business, Policy Matters' report notes.

"The committee needs to conduct its review and recommend the reduction or elimination of tax breaks that no longer make economic sense for Ohio," said Zach Schiller, Policy Matters' research director and co-author of the report. Among specific proposals from the group: reducing the so-called LLC loophole, eliminating tax breaks for debt collection and lobbying, increasing the oil and gas severance tax and eliminating the motion picture tax credit.

It's not the first time the review committee has missed its deadline. The panel in 2018 adopted its report for the 132nd General Assembly in November after failing to meet the summer deadline. That report recommended the state maintain all $5.5 billion worth of tax breaks reviewed and saw members of the committee expressing a desire for a more substantive review during the 133rd General Assembly.

Thursday, July 9, 2020

Education Institutions Among Recipients Of Next Round Of Aid Dollars

The DeWine Administration is looking to allocate a few hundred million more dollars in federal aid to schools and state agencies as they continue to respond to the novel coronavirus pandemic.

The agenda for next week's Controlling Board includes money for K-12 schools and institutions of higher education, principally coming from the federal CARES Act.

Gov. Mike DeWine on Thursday said he is asking the board to authorize $300 million in federal funding for educational institutions to adopt COVID-19 best practices.
The announcement came as he unveiled a series of recommendations aimed at allowing colleges and universities to resume on-campus learning this fall.

"We know that this costs money," Gov. DeWine said. "We know that COVID-19 prevention efforts, safety precautions, educating students this school year…will certainly be more expensive than it has in years past and it is a significant burden."

The $300 million – $200 million for higher ed and $100 million for K-12 – comes from federal funding through the CARES Act and is in addition to $440 million in K-12 support and $190 million in higher ed funding already authorized by Congress, Gov. DeWine said.

"The bottom line is we intend this funding to be used to protect students from the spread of COVID-19," Gov. DeWine said. "We want our kids back in school we want them safe and this money will help achieve that."

The funding will be available to all public and private two- and four-year institutions, along with adult career tech providers, and all public and private K-12 schools, Gov. DeWine said.

On Monday's Controlling Board agenda, the Office of Budget and Management is also looking to shift some appropriations – $5.1 million for the Department of Administrative Services, $3.4 million for the Department of Health and $4.8 million for the Department of Public Safety – from Fiscal Year 2020 to FY 2021.

Another CARES Act-related request from OBM would allocate new federal dollars for a handful of different departments.

The Department of Health would get $38.5 million to fund testing for nursing home residents and staff and other activities. Another $36.8 million for ODH would go to local health departments to expand the epidemiological workforce.

"This initiative will allow the state to capitalize on its existing public health infrastructure and local efforts, while assuring a statewide ready workforce pool that has been trained and can be deployed at a moment's notice," OBM wrote. "All of the funding in this request will be distributed to Ohio's 113 local health departments to increase epidemiological support capacity at the local level through December 30."

A $15.7 million proposed allocation for the Department of Public Safety would be used to fund state and local match requirements for federal assistance.

Those requests aren't the only ones in which state agencies are looking to put federal aid dollars to work.

The Development Services Agency is looking to use $10 million to create a revolving loan fund to provide financing to minority business enterprises affected by the COVID-19 crisis.

The Ohio Arts Council is asking to appropriate $517,000 in CARES Act dollars to support the response to the coronavirus in the arts and cultural nonprofit sector.

"Pursuant to the CARES Act, grantees may use funds 'to prevent, prepare for, and respond to coronavirus" and that "notwithstanding any other provision of law, such funds may also be used by the recipients of such grants for purposes of the general operations of such recipients,'" the council wrote.

The cancellation of this year's Ohio State Fair is leading to the Expositions Commission requesting the use of $1 million from the State Fair Reserve Fund to cover operating expenses, including payroll and utilities, at the Expo Center. The use of the fund is permitted if revenues from the State Fair are unexpectedly low, the commission wrote.

"The cancellation of the 2020 Ohio State Fair has resulted in a significant loss of revenue for the Ohio Expositions Commission necessitating the request for a transfer of cash," it said.

Other events, including the All-American Quarter Horse Congress, are still scheduled for later in the year.
House Returns To Work-From-Home Mode After Staffer Tests Positive
Speaker Larry Householder has instructed all House members and staff to resume working from home after a Republican staffer tested positive for the novel coronavirus.

The Glenford Republican announced the status change Thursday afternoon – after sharing through Twitter posts his disagreements with Democratic members who criticized his leadership and said they first learned of the staffer's diagnosis through news reports.

In a memo to all members and staff, the speaker wrote that work-from-home status will begin Friday and last until further notice.

"We will be continually monitoring the situation," he wrote. "The health and well-being of House staff is our top priority. This decision is being made out of an abundance of caution."

A spokeswoman for the speaker said staffers who have tested positive or come in close contact with one who has have been given the option of taking paid leave and that "deep cleaning" protocols are being implemented.

House Minority Leader Emilia Sykes (D-Akron) said a lack of transparency regarding the situation is "appalling."

"For months, House Republicans have waged war against Dr. Amy Acton, public health officials, science, and commonsense all while hiding behind their keyboards from the safety of their own home," she said. "As Ohioans are impacted exponentially, Speaker Householder is in hiding, attacking public servants on Twitter, advising his staff in the Riffe to withhold vital information, and spreading lies about what is actually transpiring in the organization that he is responsible for leading while passing blame to anyone but himself."

"The Speaker of the House has an obligation during this pandemic to provide accurate information to members and staff," she added. "People deserve to know what risks are associated with reporting to work each day and contact tracing should never be a partisan process. Our constituents need us to be healthy in order to work for them."


The Democrats accused majority party leaders of neglecting to inform minority members of the positive diagnosis, with Rep. Miranda (D-Forest Park) saying she only learned about it after one of her staffers was mistakenly sent home. She said the staffer was later invited back when it became clear the employee had not actually been in close contact with the worker who tested positive.

"The lack of leadership from the majority party is appalling," Rep. Miranda tweeted.

Added Rep. Allison Russo (D-Upper Arlington): "The fact that I only know about this because of a news story and office gossip is completely outrageous. No notice from House Admin or the speaker to our Dem staff. No worker in any setting should ever be treated with this much disregard for safety."

"This shows such disrespect for all staff at every level and a complete lack of leadership," she added.

That and other tweets from minority members put Republican leaders on the defensive, with the speaker and Rep. Bill Seitz (R-Cincinnati) arguing that the blame lies with minority party staff and not the chamber's leadership.

"WRONG !!!" Speaker Householder tweeted in response to Rep. Russo. "The Minority Party Chief of Staff was fully informed and notified by phone, that can be confirmed. Apparently there was a decision made to not pass it along to all minority party members."

After Rep. Crossman (D-Parma) accused the speaker of "passing the buck," Speaker Householder in response said the chamber's protocol calls for the chiefs of staffs of the respective caucuses to handle notification duties within their caucuses.
"I realize we are in an election year and truths can be inconvenient when trying to gain political points," the speaker said.

"The protocol was from the HR director to the two chiefs of staffs. Each caucus could then decide how best to communicate to members."

The positive tests come shortly after Rep. Stephanie Howse (D-Cleveland) became the first lawmaker to announce having tested positive for COVID-19. Gov. Mike DeWine said Thursday a member of his own staff recently was confirmed to have contracted the virus.

A Senate staff member previously tested positive, prompting Sen. Teresa Fedor (D-Toledo) to question that chamber's protocols as well as some GOP members' refusal to wear face coverings. Many more House Republicans continue to refuse to don masks and have been outspoken about the issue on social media.

Friday, July 10, 2020
Plans For Immunity Bill Unclear But Business Groups Want Action
Business groups are pushing the House to concur soon with Senate amendments on a bill to provide widespread legal immunity during the COVID-19 pandemic.

The House, however, is not currently slated to return to Columbus for session until at least Sept. 15, when an "as-needed" date has been set.

The bill (HB 606) cleared the upper chamber last week in a party-line vote after picking up several last-minute amendments, including one that moved the Ohio Chamber of Commerce from an interested party to a proponent.

That amendment removes language Democrats were able to successfully insert on the House floor to create a rebuttable presumption that certain employees that contract COVID-19 did so in the workplace for Bureau of Workers' Compensation purposes.

"House Bill 606 without the workers' compensation occupation disease presumption is a much stronger bill," Kevin Shimp, director of labor and legal affairs for the Chamber, said in an interview. "The presumption would have granted benefits before asking question that may show a COVID-19 diagnosis was not work related, like if the employee has recently traveled abroad or to a state with more coronavirus cases than Ohio."

Other amendments include language that changes the phrase "intentional conduct" to "intentional misconduct," and specifies that for non-immunized activity a class action lawsuit cannot be brought. Another change removed language that would have granted the state immunity in any civil case involving a governmental function. The bill also picked up a severability clause.

The Chamber is hoping for a quick concurrence and to avoid yet another conference committee between the two legislative bodies.

"The Ohio Chamber believes the House should concur with Senate amendments," Mr. Shimp said. "Ohio's small businesses need the protections contained in House Bill 606 in order to open with confidence and without severe operational limits that deflate revenues and keep them from rehiring their former employees."

The National Federation of Independent Business Ohio is of the same mind.

"We would certainly like to see the House come back and address this sooner rather than later," Chris Ferruso, the group's legislative director, said in an interview. "We did a survey of our members here in Ohio and 70% of them are worried about the specter of a lawsuit."

Both Mr. Ferruso and Mr. Shimp said they have gotten no indication whether the House will concur or when it might come back to do so.

Senate President Larry Obhof (R-Medina) said he expects a concurrence vote, adding the difference between the House-passed version and the Senate-passed version are not substantial.
Sponsoring Rep. Diane Grendell (R-Chesterland) said she hopes to quickly get the measure enacted into law to provide certainty for businesses across the state. However, she is unsure of what the plan is moving forward.

Rep. Bill Seitz (R-Cincinnati), the No. 3 in the House Republican Caucus, said he is also unsure of how the House will proceed, but he hopes to move quickly.

"I think we should concur if we can do it promptly," he said in an interview.

Rep. Seitz said he believes any remaining differences between the two chambers can be addressed in separate legislation.

Rep. Jay Edwards (R-Nelsonville), the House Majority Whip, said in an interview he is also in the dark about the House's plan.

"I think there is some other language out there when it comes to the election bill, when it comes to SB55, we're kind of waiting to see what happens," he said. "I don't know if we're going to end up coming back or not. I think that's up to the speaker, and I haven't heard."

Dan Tierney, spokesman for Gov. Mike DeWine, said the state's chief executive is supportive of the idea behind the bill.

"Gov. DeWine does support addressing liability during the pandemic, and our legislative team is engaged in the issues that are being discussed," he said. "We're continuing to monitor and review House Bill 606."

Power To Mandate Masks Not Available To All Local Governments

A wave of local governments mandates requiring residents to wear masks in public ebbed this week after Gov. Mike DeWine shouldered the authority by issuing orders affecting areas with rising cases and hospitalizations.

While locals have deferred in many cases to the state's authority, some municipalities in counties not rated "red" on the state's heat map of coronavirus outbreaks have also required the wearing of protective face coverings.

The move toward geography-based mandates from the state follows months of public health authorities asking residents to wear masks but not requiring them. Without state orders, most local governments outside of cities and villages likely would be unable to require face coverings, according to statewide associations representing Ohio's counties and townships.

Heidi Fought, executive director of the Ohio Township Association, said limited home rule townships likely could adopt and enforce mask requirements through civil fine process, but that isn't the case for those that haven't adopted limited home rule.

"Statutory townships do not have the authority to require people to wear face masks in public because such a provision does not exist in the Ohio Revised Code," she said in an email.

The situation is similar for counties. Statutory counties – meaning all 88 except for Cuyahoga and Summit counties – also lack the authority to do so in law, said Rachel Massoud, policy analyst for the County Commissioners Association of Ohio.

"The boards of commissioners in those 86 counties cannot implement an ordinance like those cities have done," she said in an interview.

While county commissioners lack the legal authority to mandate masks, local health officers and boards of health might be able to, said Beth Bickford, executive director of the Association of Ohio Health Commissioners.

"There is certainly some general authority in the event of an epidemic or threatened epidemic in current statute," she said in an interview. "But what we're seeing, of course, is that the state orders from the director of health announced by the governor are being deferred to, especially where those health districts, primarily city health districts, have a little more autonomy due to their city charters. They are deferring to those state orders right now, and that's generally what we're seeing across the state."

Some places in areas without state mandates have implemented ordinances of their own — the Village of Yellow Springs was one of the first municipalities to do so and sits in Greene County, which is yellow on the state's warning system.
As of Thursday, 12 counties were red and required masking under the state health director's order: Butler, Clermont, Cuyahoga, Fairfield, Franklin, Hamilton, Lorain, Montgomery, Pickaway, Summit, Trumbull and Wood. Huron County was initially on the list but was removed Thursday.

In the state's other 76 counties, masking continues to be strongly suggested by health authorities. A collection of medical groups this week launched their own campaign, called MaskPlus6, to promote social distancing.

The effort, including the Ohio State Medical Association, Ohio Osteopathic Association, Ohio Academy of Family Physicians, Ohio Chapter of the American College of Emergency Physicians, Ohio Psychiatric Physicians and Ohio Association of Community Health Centers, encourages people to wear masks and practice social distancing.

"If we are going to get our state healthy and economically vibrant again we need everyone wearing a mask and appropriately social distancing when they are in public," said OSMA President Dr. Anthony Armstrong.

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