Bill Would Limit State Health Oversight Of Schools; K-12 Mask Mandate Clarified

Two lawmakers contend Gov. Mike DeWine's "one-size-fits-all" mask mandate for Ohio schools demands a legislative response.

Rep. Don Jones (R-Freeport) and Rep. Susan Manchester (R-Lakeview) on Monday introduced a bill (HB 748) that would bar the Department of Health from issuing orders supplanting local school decisions during an epidemic-related emergency.

The chair and vice chair of the House Primary & Secondary Education Committee Track argue the measure is necessary following ODH's order generally requiring all K-12 students and staff to wear face coverings.

"Each school district has different challenges, and this legislation abandons a one-size-fits-all approach," Rep. Jones said in a statement.

Rep. Manchester said the legislation would protect local control during the ongoing coronavirus pandemic.

"School districts are best suited to make decisions that will ensure our students are taught in a safe and conducive learning environment," she said.

While Gov. DeWine largely has given local school officials free rein in determining whether they will start the school year with in-person classes, online instruction or a mix of both, he has taken a firmer position on requiring masks for students who go back to school. He said he based that decision on a "broad, broad, broad consensus among experts in this country."

Initially only set to be required for school employees and recommended for students in grades 3-12, masks were later made mandatory by the administration for students in grades K-12 with few exceptions.

The governor also has not ruled out stepping in to close schools that reopen for in-person instruction if spread of the virus worsens.

"I was asked that question by some superintendents, who asked me, 'Will you guarantee that you won't ever go in and step in?"" he said. "I said, 'No, I can't do that.' That would be irresponsible, but what we want to do is to allow the local community to have their say on this, see how it works."

In a recent limitation to local control over reopening decisions, ODH announced schools could not meet the state's masking requirement by implementing schoolwide use of clear plastic face shields.

"The Centers for Disease Control and Prevention (CDC) recommends against using face shields as a substitute for facial coverings or masks," ODH said in a statement. "The use of masks or face coverings is intended to reduce the spray of respiratory droplets from the wearer into the environment, onto another person, or onto a surface. The mask or cloth face covering should cover the nose, mouth, and chin with little to no gap."

The Department cited CDC guidance stating that "there is currently not enough evidence to support the effectiveness of face shields for source control" to bolster its decision.

ODH said schools can consider having students who qualify for an exception to the masking rule wear face shields.
"According to the CDC, it is understood that some circumstances, such as the need for lip reading, require an alternative to masks," it said. "In those instances, a face shield should originate at the forehead with no gap, wrap around the sides of the face, and extend below the chin. When unable to use a mask, increased attention to other measures such as social distancing is imperative."

Tuesday, August 18, 2020

Postal Service Pauses Operational Changes Amid Congressional Pushback

The head of the U.S. Postal Service on Tuesday agreed to approve needed overtime for workers and keep postal facilities open and equipment in place ahead of November's election.

Postmaster General Louis DeJoy announced in a statement he would pause "longstanding operational initiatives" aimed at improving the service's financial situation.

"To avoid even the appearance of any impact on election mail, I am suspending these initiatives until after the election is concluded," he said.

As a result of the decision, Mr. DeJoy said hours at post offices will not change, overtime for workers will be approved, and mail processing equipment and collection boxes will remain in place.

The announcement came after federal lawmakers on both sides of the aisle expressed concerns that operational changes within the USPS could affect the delivery of mail-in ballots this fall.

The Ohio Democratic Party this week asked several county prosecutors to investigate whether any of those operational changes ran afoul of Ohio law.

Mr. DeJoy is scheduled to testify before the U.S. Senate on Friday and the U.S. House on Monday.

Many Democratic officials made political hay out of postal delays, arguing the Trump administration was orchestrating problems at USPS to benefit the president's electoral chances in November.

U.S. Rep. Joyce Beatty (D-Columbus), who held a press conference on the topic in Columbus shortly before the postmaster general's announcement, wrote in a social media post that suspension of the operational changes is not enough.

"The battle is not over. We must join together to tell @Whitehouse #DontMesswithUSPS & put back every sorting machine and mailbox already removed!" she wrote.

Before the postmaster general announced his decision, U.S. Sen. Rob Portman (R-Terrace Park) and nine of the state's 12 Republican U.S. House members authored a letter calling on the USPS to work with Secretary of State Frank LaRose to implement policies prioritizing ballot requests and other election-related mail.

The letter suggests completing "nightly all-clear inspections" to ensure election materials have been sent out, processing additional mail at facilities within the state and establishing intake and drop-off procedures with county election boards.

"These suggestions are based on the procedures that were implemented before the Ohio Primary Elections that were held this past spring," they wrote. "We appreciate your full and fair consideration of this request, consistent with applicable statutes and regulations, and look forward to working with you to ensure any issues with the delivery of mail this fall do not impede our constituents' right to vote."


"The House is seriously concerned that you are implementing policies that accelerate the crisis at the Postal Service, including directing Post Offices to no longer treat all election mail as First Class," they wrote. "If implemented now, as the
election approaches, this policy will cause further delays to election mail that will disenfranchise voters and put significant financial pressure on election jurisdictions."

The lawmakers called on USPS to end overtime reductions, restrictions on extra trips for letter carries and testing of new mail sorting and delivery policies, which they contend have "exacerbated a dramatic increase in delayed and undelivered mail."

The letter from the majority of Ohio's congressional Republicans contends that some reported delays have been caused by the closure of multiple mailing processing plants "over the past decade." Such moves have led to changes including mail from northwest Ohio being sent to Michigan for processing and sorting prior to delivery.

"Unfortunately, this process has created delays and added time to the delivery of each mail piece. In addition to delivery delays, there was an increase in complaints from constituents about lost or discarded mail, including absentee balloting materials," they wrote.

U.S. Sen. Sherrod Brown (D-Cleveland) joined fellow Senate Democrat in inking two recent letters to Mr. DeJoy.

In the first, the lawmakers ask the postmaster general what steps he will take to prevent operational changes already enacted from negatively affecting the election.

"The Postal Service is an essential public institution with an obligation to serve every community in the nation. As Postmaster General, you should not make changes that will slow down mail or compromise service for veterans, small businesses, rural communities, seniors, and millions of Americans who rely on the mail for medicines, essential goods, voting, correspondence, and for their livelihoods," they wrote.

The second letter's focus is on the effects of postal service operational changes on prescriptions mailed to military veterans.

"Veterans and the VA should be able to count on USPS for the timely delivery of essential prescription drugs," they wrote. "No veteran should have to wonder when their antidepressant or blood pressure medication may arrive – and the effects can be devastating if doses are missed."

**Judge Approves Energy Harbor Payments Over Objections Tied To HB6 Scandal**

A federal bankruptcy judge Tuesday allowed Energy Harbor to pay millions in fees over objections from Attorney General Dave Yost.

Ohio's AG had asked Judge Alan Koschik to postpone approval of the company's payments to legal counsel, lobbyists and communication firms in light of the company's ties to the criminal investigation into Rep. Larry Householder (R-Glenford).

Energy Harbor, formerly FirstEnergy Solutions, is the principal beneficiary of the nuclear subsidy law (HB 6) at the heart of the charges against the former House speaker, who stands accused along with four others of orchestrating a $60 million racketeering scheme.

Judge Koschik had initially been poised to approve outstanding fees due to professionals hired by Energy Harbor on July 21 – the morning Mr. Householder was arrested and indicted. He held off at that point, opting instead to schedule another hearing Tuesday.

At the telephone hearing, the judge approved most payments, but refrained from allowing $68 million in payments to law firm Akin Gump, which played a role in lobbying for HB6. A hearing on that matter is now set for November.

Mr. Yost on Monday argued the uncertainty tied to HB6 and possible future legal action warrants caution.

"This raises concerns that the debtor may not have entered into bankruptcy with clean hands," the attorney general's office wrote. "Until more is learned about the exact nature of the indictment, the parties involved, and the motivations for initiating the proceedings by the debtor in March 2018, the Ohio attorney general strongly and respectfully encourages this court to continue to hold in abeyance any further approvals of the debtors' professionals' pending compensation and fee requests."
No one at Energy Harbor or its former parent company, FirstEnergy, has been charged in the case. Energy Harbor, which is identified in the criminal affidavit as "Company A-1," has declined to comment other than saying it is cooperating fully with investigators.

Mr. Yost has signaled his office is considering potential legal action by sending letters to the House, FirstEnergy and likely other parties instructing them to not destroy any documents related to HB6. (See Gongwer Ohio Report, August 18, 2020)

"There are many more questions than answers right now," Mr. Yost's office wrote. "The impact of these allegations on the negotiated resolution of the claims of the state of Ohio is still being evaluated. As such the state has not ruled out the possibility of requesting this court to reconsider certain matters. The state of Ohio is currently evaluating this and other options for action related to this hijacking of the legislative process."

**Wednesday, August 19, 2020**

**Commissioners Join Fight To Preserve HB6 Policy**

Commissioners from Ottawa and Lake counties are signaling their support for the policy behind a far-reaching energy law despite its role in a scandal that dethroned former speaker Rep. Larry Householder.

The commissioners represent communities housing the two nuclear power plants that were the prime beneficiaries of the subsidy bill (HB 6). They lobbied hard for the bill's passage, emphasizing the jobs and tax revenues the two facilities provide to their communities.

In a joint statement earlier this week and a press conference Wednesday afternoon, the officials expressed dismay at criminal charges filed against Rep. Householder (R-Glenford) and four associates.

But they said even if tainted by alleged corruption, the policy at the core of the bill is sound. They added that lawmakers should not repeal the measure without an adequate replacement in mind.

"While we detest any alleged illegal or unethical activity before, during, or after the enactment of the legislation, we certainly believed the policy outcomes were of great benefit not only to our counties, but also to all Ohioans," the commissioners said in a joint statement.

"If the former House Speaker or 'dark money' contributors were coordinating illegal behind the scenes activities, they should be punished in accordance with Federal and State laws," they added.

Ottawa County Commissioner Mark Stahl said in his view, the law lowered energy bills, preserved carbon-free generation and saved thousands of direct and indirect jobs.

Lake County Commissioner Jerry Cirino, who is facing Democrat Betsy Rader for the 18th Senate District seat this fall, said if lawmakers move forward with repeal efforts, they should first devise a replacement bill.

"We don't believe for a minute that a repeal now with a promise to replace later will ever happen," Mr. Cirino said. "There is plenty of time to study the issues, review option and hear from all parties to figure out how to pass a bill that retains clean nuclear energy and incorporates other changes to HB6 that many will embrace."

Three bills have been introduced to repeal HB6, although none includes any plan to replace its subsidies. Opponents of HB6 have been quick to sign onto support those measures, and even some HB6 supporters, including Gov. Mike DeWine, have called for repeal and replacement of the law given the criminal allegations.

**Write In:** A third write-in candidate has emerged seeking to oust Rep. Householder from his 72nd House District seat.

Rep. Householder, although removed as speaker last month due to the HB6 scandal, remains a member of the chamber and is unopposed on the ballot in November.

Kaitlyn Clark, an Ashland University student, joins Jay Conrad and Robert Leist in mounting write-in campaigns to unseat the incumbent. Write-in candidates have until Aug. 24 to file.
"I plan to use my understanding of virtual platforms and technology, as well as my boldness, to lead through listening and understand the problems our district faces," Ms. Clark said in a statement announcing her campaign.

**Thursday, August 20, 2020**

**DeWine Previews More Reopenings, Testing Order For Nursing Homes**

Gov. Mike DeWine on Thursday announced he is giving adult daycare facilities and senior centers approval to reopen.

Those facilities have been closed since March 23.

The governor plans to issue an order allowing them to reopen on Sept. 21 at limited capacity if they are able to meet certain safety standards.

"We can do two things at once," he said at his regular news conference on the novel coronavirus pandemic. "We can be safe, we can be protective, but we can try to get back to normal."

He said those facilities should consider staffing levels, access to testing and the ability of participants to wear face coverings when deciding whether to reopen.

The centers will be required to screen all participants and staff for symptoms of COVID-19 and keep a daily log. He said they should also cohort participants when possible.

The governor additionally announced that he plans to issue an order requiring all assisted-living facilities to comply with a testing regimen for staff and residents.

The 765 assisted-living facilities across the state will begin using baseline saliva testing, which will provide results in approximately 48 hours, he said.

"We must have 100% participation of all assisted living facilities in Ohio," Gov. DeWine said.

The governor also announced that he is working with the Department of Administrative Services to ensure that county election boards have the personal protective equipment needed for in-person voting.

That will include providing 800,000 facemasks and other PPE items, which he hopes to deliver by early September.

Lt. Gov. Jon Husted provided an update on the administration's K-12 broadband connectivity grant. One day ahead of the deadline for applications, 592 schools have applied, he said.

Schools will be notified the week of Aug. 31 whether they will receive grant funding.

Those announcements came as the state reported a total of 110,881 COVID-19 cases in Ohio, resulting in 12,529 hospitalizations and 3,907 deaths.

Confirmed cases of COVID-19 again topped 1,000 Thursday after three straight days of falling below that threshold.

Thursday saw the lowest number of counties reaching Level 3, or "red alert," since the inception of the state's coronavirus Public Health Advisory System.

Four new counties were designated as red, with Clark, Lorain, Preble and Trumbull, joining Clermont, Erie, Franklin and Lucas counties, which were already on the list.

Seven counties were downgraded from Level 3 status – Brown, Cuyahoga, Fairfield, Licking, Marion, Montgomery and Muskingum.

While the spread of COVID-19 seems to be declining near major cities, Gov. DeWine warned that the opposite is happening in rural parts of the state.
"We've seen the urban areas that a bigger percentage of people are wearing a mask, and for a longer period of time, and we've seen those numbers come down. Unfortunately, we've seen the numbers go up in our rural areas," he said.

Wednesday evening, the state also officially released its order allowing competition to resume in contact sports. Mr. DeWine detailed the reasoning behind that decision the day before.

**BWC Poised To Issue Another $1.5B In Employer Dividend Payments This Fall**

Gov. Mike DeWine announced Thursday he has asked the Bureau of Workers' Compensation to expedite the next round of dividend payments to employers.

If approved by the BWC Board of Directors on Sept. 25, the move would result in about a $1.5 billion infusion into the state's economy, Mr. DeWine said during his latest news conference to update Ohioans on the COVID-19 pandemic.

In addition, the BWC board on Friday is expected to approve a 10% rate cut for public employers.

The dividends and rate cuts reflect continuing strength in the State Insurance Fund, which officials have attributed to improved worker safety and relatively strong investment returns in the face of a difficult economy. As of this spring, the bureau had returned some $10 billion to employers since 2011.

Rate cuts for private and public employers were issued last January and in August of 2019, respectively. A $1.6 billion dividend issuance in April was split, with $1.4 billion going to private employers and $200 million to public employers.

Gov. DeWine said the next series of dividend checks would start going out in October. The total roughly equates to 100% of the premiums paid in policy year 2019, he said.

Along with the financial relief, the governor announced he asked the BWC board to distribute a second round of face coverings to Ohio employers.

The bureau has already shipped 20.6 million masks to 197,000 employers and their workforce since May, he said.

**Governor Again Pushes For Stalled Gun Proposals In Wake Of Violence Flare-Ups**

After a weekend plagued by gun violence in Ohio cities, Gov. Mike DeWine renewed his call for lawmakers to act on his plans to tackle the issue.

During his regular news conference to address the ongoing COVID-19 pandemic, the governor highlighted a series of shootings in Cincinnati that left four people dead and separate shootings in Toledo and Akron that took the lives of two children.

"Enough is enough," he said.

Gov. DeWine highlighted how his gun proposal, dubbed "STRONG Ohio," could prevent gun violence by strengthening penalties for those illegally possessing and selling firearms.

"If we could remove them, and if we had removed them, maybe some of these children would be alive today," he said, later adding, "I think there's a general consensus in society that repeat violent offenders need to be removed from society."

The governor said law enforcement officials have repeatedly told him a relatively small number of individuals commit such acts of violence. Often that violence is carried out with a firearm that is illegally obtained and possessed, he added.

Legislation (SB 221) based on the governor's plan has received three hearings in the Senate Government Oversight & Reform Committee Track, with the last one coming in December.

The bill, which was proposed in the aftermath of the mass shooting in Dayton, was immediately met with skepticism by gun rights advocates and many Republicans.
Among the other provisions in the measure are safety protection orders, which would be granted by probate courts when evidence is presented to the court, with the individual present, that that person is suffering from an illness making their access to a firearm dangerous. It would also modify an already existing "pink slip" law that allows people to be committed for mental health treatment if they are found to be dangerous to themselves or others.

Sponsoring Sen. Matt Dolan (R-Chagrin Falls) said he anticipates the conversation on SB221 will resume this fall, and he intends to continue working to factcheck opponents to ensure his colleagues understand the measure and that the reality of the bill is not misrepresented.

Gov. DeWine said the legislation "will make a big difference."

"This is something that I don't think is controversial," he added.

Friday, August 21, 2020
BWC Board Approves Public Employer Rate Reduction
Public entities continuing to press for federal aid to cope with lost revenue due to the COVID-19 pandemic got some relief Friday.

The Bureau of Workers' Compensation's Board of Trustees approved an average cut to premiums of 10% for public employers, which will take effect on Jan. 1.

Different public employers will likely see their rate cuts vary depending on a variety of factors, the BWC said.

However, the approximately 3,700 school district, city and local government employers across the state will save a combined $14.8 million.

The board last year also approved a 10% rate cut for public employers.

Earlier this year, the board signed off on a 13% rate reduction for private employers, saving them $132 million in premiums.

The average rate levels for nearly 250,000 private and public employers in the state are at their lowest points in at least 40 years, according to BWC.

The board also approved sending another round of face coverings to employers across the state in an effort to reduce the spread of COVID-19.

As part of the BWC's campaign, "Protecting Ohio's Workforce — We've Got You Covered," the second round of disbursements will result in about 23 million free masks being sent to employers.

Since May, the BWC has provided 20.6 million masks to 197,000 Ohio employers.

Dividend Proposal: The board next month is set to take up Gov. Mike DeWine's request that it approve sending Ohio employers up to $1.5 billion in dividend payments in an effort to ease the impact of the pandemic and resulting economic sluggishness.

If approved on Sept. 25, it will mark the second dividend payment of 2020, and the third since Gov. DeWine took office.

"Once again, this is great news for Ohio's businesses because it will provide some immediate financial relief for employers amid this ongoing pandemic," the governor said in a statement.

The proposed dividend would cover 100% of the premium employers paid in policy year 2019.

"Our robust investment earnings indicated a dividend was feasible next year, but providing it now supports Governor DeWine's efforts to provide businesses relief during this pandemic," BWC Administrator/CEO Stephanie McCloud said in a statement. "This means, in all likelihood, we will not issue a dividend in 2021."
The April dividend of $1.54 billion resulted in $1.35 billion for private employers and $184 million for public employees.

**Agency Briefs: EPA Hearings Set On Water Chemical Monitoring, Storm Sewers; BMV; OSHP**

**Ohio EPA:** The agency has set two hearing dates to gather input on water chemical monitoring and storm sewer systems.

The agency is proposing changes to rules that address disinfection byproducts in public drinking water systems. A virtual public hearing on the amended rule will be held 10:30 a.m. Thursday, Sept. 3.

Registration is required for the hearing, during which the public may submit written comments on the record about the proposed amendments to the rule.

The goal of the proposed rule amendments, OEPA reported, is to "ensure improved collaboration between consecutive water systems and their water wholesalers to detect elevated levels of disinfection byproducts." Those byproducts include total trihalomethanes and haloacetic acids.

Ohio EPA will also accept public comments at a virtual public hearing about renewing the small municipal separate storm sewer system (MS4) general permit. Small MS4s are storm sewer systems serving fewer than 100,000 people in urbanized areas.

That hearing is set for 3 p.m. Tuesday, Sept. 1. Required registration is available on the agency's website.

A fact sheet and other information about the draft small MS4 general permit renewal are available online. Noteworthy changes to the proposed permit are described on pages 3-5.

**Ohio BMV:** The bureau announced this week it has implemented a print-on-demand temporary tag through OPLATES.com, allowing customers to print their temporary tag without going into a Deputy Registrar. Individuals who purchase vehicles through private sales, new residents who are in the process of obtaining an Ohio title, and/or customers that have purchased a vehicle from a dealership that does not sell temporary tags can take advantage of this new service, according to the bureau.

"This is another example of how our administration is changing the culture of state government to be more customer-service friendly," Lt. Gov. Jon Husted said. "You can run government more like a business and deliver convenience to your customers."

Customers can place their order for the temporary tag and complete the payment through OPLATES.com, and the temporary tag number can be immediately printed by the customer.

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