



Legislative Bulletin

June 9, 2017

Next week is a significant week in the state budget process as the Senate leadership has announced the unveiling of the changes the Senate will include in their substitute version of sub. HB49, the two-year state operating budget bill. State tax revenue collections continue to under perform leaving the task of presenting a constitutionally-required balanced budget to the Governor by June 30th, that much more challenging. Statehouse "conventional wisdom" has it that the final budget hole at the end of the fiscal year, June 30th, will exceed \$1 billion dollars while Medicaid costs continue to climb. The legislature has real issues to address in charting the course for Ohio's future.

The legislative schedule was slightly lighter on municipal issues than in previous weeks but there was a high concentration of municipal activity on the Senate side of the Statehouse as the Senate Finance Committee heard testimony Tuesday on municipal issues included in the proposed budget bill and testimony by League staff on the BWC budget bill. Those two issues are addressed in greater detail to follow. We greatly appreciate the municipal officials from around the state who took time out of their busy schedules to provide testimony to the Senate Finance Committee and specifically addressing the municipal tax issues being considered that would impact municipal revenues and the ability to continue to exercise local control. Your testimony was impactful and greatly appreciated!

As a review, the Senate is expected to release their substitute version of the budget bill Monday. We have yet to receive a hearing schedule for Senate Finance next week. We will have an updated committee schedule posted to our website Monday but we do anticipate hearings will be held to present the new Senate language. After the substitute language is released, there will be an omnibus amendment offered possibly at the end of next week to complete the budget package supported by the leadership of the Ohio Senate before the final Senate plan is presented to the full Senate membership on the floor June 21st. It will be then sent to the House, where they will more than likely not concur on the changes made to the bill. A conference committee will convene to identify and resolve the differences in the three plans; the budget requests of the Administration, House and Senate. This part of the budget process lends itself the least to transparency on how issues and decisions are being reached related to the two-year spending plan and is the most challenging for legislative advocates.

SENATE FINANCE COMMITTEE RECEIVES TESTIMONY FROM MUNICIPAL OFFICIALS

On Tuesday, the Senate Finance Committee held a fifth public hearing on Sub. HB 49, the proposed state operating budget bill. In addition to OML Executive Director Kent Scarrett providing testimony on a wide range of issues included in the current version of the budget impactful to Ohio cities and villages, we are grateful that municipal officials from across the state were able to attend the hearing and provide excellent testimony specifically concerning the municipal tax components in the version before the Senate Finance Committee.

We are also grateful for the attendance and attentiveness of the committee members as they received this critical information from our members, as Senators make decisions so impactful to municipalities and the almost 9 million Ohio taxpayers who call an Ohio city or village home.

Robert Wright, Income Tax Commissioner for Bowling Green and President of the Northwest Ohio Tax Commissioners Association, kicked off the testimony on the municipal side with rebuttal points to ODT's claim

that their alternative centralized collection proposal will relieve any administrative burden for either municipalities or businesses. "A business will still be required to collect the same information as it currently does," he said. "The time consuming, hard work is collecting and compiling the data, not calculating the percentage. What will Taxation actually be doing to justify the 1% fee?" Robert's testimony can be found [HERE](#).

Athens City Auditor, Kathleen Hecht spoke next to the revenue loss the city would experience if "throwback" were eliminated. "Before you implement another round of revenue reduction upon cities, you should first consider the impact this will have on the residents throughout the state," she asked. "Listen to the impact numbers from each municipality and turn those numbers into actual budget cuts for each city and village." Kathleen's testimony can be found [HERE](#).

OML Board of Trustees member and Mason City Councilperson Diana Nelson, CPA, testified in opposition to any form of centralized collection, on the grounds that state control does not make it easier for businesses to file their returns but instead adds another layer to the process and will compromise fairness, quality of service, and simplicity. She concluded, "Businesses will be helped more by the State simplifying their own tax rules than misguided efforts to exert control over local taxes." Diana also serves as a CFO for a business in southwestern Ohio and as a taxpayer advocate to a federal advisory board for the IRS, lending a unique perspective for committee members. Diana's testimony can be found [HERE](#).

Mindy Frank, Income Tax Administrator for Columbus followed councilperson Nelson, explaining among other things how current municipal income tax law provides uniformity and clarity for businesses and how any form of state centralized collection - particularly ODT's proposed mandated five-year lock in filing period for businesses filing through OBG - would be "bureaucratically burdensome and definitely not business friendly." Mindy's testimony is [HERE](#).

Kent Scarrett, OML's Executive Director, not only addressed the municipal income tax issues in the budget, but also covered other amendments in the bill affecting municipalities including: supporting the House language on the rebuild of OBG, supporting language being proposed to address brownfield remediation efforts, and supporting the removal of the capacity based measurements in the alternative LGF distribution formula. His testimony opposed the lead preemption amendment, the predatory annexation amendment, the municipal unitization amendment, and the removal of \$24 million from the municipalities' LGF apportionment for redistribution to townships and smaller villages. Scarrett closed his comments to committee members with an update on the ruling last Friday from the Franklin County Common Pleas Court Judge Frye, determining that the language preempting local right of way management practices as they relate to the installation of small cell wireless infrastructure, amended into SB 331 during the Lame Duck session last General Assembly, violates Ohio's "single subject" rule in the Ohio constitution and is unenforceable. Scarrett impressed upon the committee that any new language on the subject should not be included in the state operating budget and should be introduced as stand-alone legislation so that the issue can be transparently vetted and the legislative process be respected. A copy of Kent's testimony can be found [HERE](#) although much of the remarks presented were extemporaneous due to a limited amount of time to present the concerns of the League.

To wrap-up the municipal testimony, Richard Donnelly, Tax Administrator for Grove City, detailed in real numbers and actual examples the impact the elimination of "throwback" would have on business attraction, local infrastructure, and jobs. "A road that does not get built does not generate angry calls from businesses or residents about its potholes," he said. "But a road that does not get built does not spark development, and that missed opportunity for development means Ohio misses out on the private sector jobs that development would have brought." Mr. Donnelly also discussed the significant financial impact the essential repeal of the throwback language would have on his community. The testimony can be found [HERE](#).

Once again, we want to thank those who spent their day with us at Ohio's Statehouse. We are grateful for your commitment to your communities. We are also very grateful to all of our members who continue to contact their

Senators and members of the House to impress upon them the importance of local control of local revenues and challenges that mount when less revenue is available locally to reinvest in Ohio's future.

SMALL CELL WIRELESS LEGISLATION STRUCK DOWN

Last Friday, Franklin County Common Pleas Court Judge Richard Frye issued an opinion that the small-cell wireless provisions in last year's Senate Bill 331 were unconstitutional, because they violated the Ohio single-subject rule. The single-subject rule arises from the Ohio Constitution, initiated basically to protect the citizenry from the legislature stacking multiple, unrelated subjects into one piece of legislation, thus challenging the virtues of transparency and denying a proper opportunity for a thorough review of future laws. SB 331 was originally drafted as a bill to address the business practices of Petland pet stores and the concerns several municipalities had with how they sourced their puppies for sale. However, late in the bill's legislative process, provisions were added that preempted the ability of only municipalities to regulate the installation of small cell wireless equipment in municipal right of ways, outlawed the practice of bestiality, and preempted any political subdivision from having a different minimum wage than the state. Judge Frye found that the small cell wireless and the minimum wage preemptions were unconstitutionally included in the enacted legislation. A copy of the ruling and judgement can be found [HERE](#) & [HERE](#).

The Judge stated in his opinion, "SB331 passed the Senate initially to protect puppies. Nothing in the record before the court suggests that the broad telecommunications provisions now in focus were given formal hearings in either chamber. Instead, in the rush to conclude the lame duck session, SB331 passed out of the House Finance Committee, and was approved on the floor of both the House and Senate all on the same day. Hasty consideration of such a diverse assortment of subjects directly undermines the policy underlying the one-subject rule, which is to encourage a more orderly and fair legislative process."

Dan Tierney, spokesperson for Attorney General Mike DeWine's office, told Hannah News the state is still reviewing the decision to determine if it will appeal. The case is *The City of Bexley, Ohio, et atl., vs. The State of Ohio*, Case No.: 17 CV 2672 in the Court of Common Pleas in Franklin County, Ohio.

OML TESTIFIES ON THE WORKERS COMPENSATION BUDGET

On Tuesday, OML Director of Communications Josh Brown testified to the Senate Insurance and Financial Institutions Committee in support of the House-passed version of House Bill 27, which is the worker's compensation budget. The bill was introduced by Representative Tom Brinkman (R-Mt. Lookout). Brown testified specifically about a change to occupational disease laws that we have reported on extensively in recent bulletins.

The changes Brown testified to are part of an agreement between the League and the Ohio Association of Professional Firefighters. The Committee members asked for clarification of the sections and some perspective in terms of how these changes would affect small municipalities in particular. Overall, there did not appear to be any objections. In fact, some members expressed satisfaction that management and the unions were able to work together on these changes after a vigorous debate over the issues involved.

MARYLAND COURT ISSUES PUBLIC RECORDS OPINION

In a welcomed trend that may be developing across the country, the Maryland Court of Appeals (Maryland's highest court) has decided to allow a requirement that those requesting public records provide reasonable search fees when the search process involves an exhaustive review of thousands of emails and documents. The reasoning partially involved the extraordinary costs involved in the request. Also, part of the reasoning lied in the nature of the request: public offices often receive requests for "any and all" documents. In this fact pattern in particular, the plaintiff sought "any and all" documents related to a police officer that had written the plaintiff a traffic ticket, including personnel and disciplinary files. Such requests can require extraordinary time and resources. Public offices in Ohio have taken note of the case and the trend, although the Maryland Court's decision is not authoritative in Ohio. The League has long advocated for public records policies that recognize the practical issues that cities and villages face. We hope that it is the development of policies and precedents that will help curb frivolous yet costly document requests. The case is: *Glass v. Anne Arundel County*, No. 20 (Md. Ct. App. May 26, 2017) and a copy of an overview of the issue and decision can be found [HERE](#).

MAYORS CONFERENCE WELCOMES CHIEF JUSTICE

This coming Wednesday June 14th to Friday June 16th, the Mayors Association of Ohio will hold its annual conference. In addition to the group welcoming the Supreme Court of Ohio's Chief Justice Maureen O'Connor as its key-note speaker on the first day of the conference, the three-day meeting will include many important sessions on local control, economic development strategies administrative and best practices being used in municipalities across the state for mayors to consider when working with issues in their communities.

Last year's event was a huge success and we look forward to a great conference this year.

For a full agenda for the Mayor's Conference, click [HERE](#).

OML INCOME TAX CONFERENCE REGISTRATION OPEN

The League would like to remind our members that registration is open and rooms are filling up for our 2017 Municipal Income Tax Conference. Click [HERE](#) to visit our new website for registration, and check out our schedule and speaker line-up online as well.

This year we will be addressing topics pressing for local tax authorities, discussing the changes the passage of the state operating budget will bring to local tax efforts, and hearing from a panel of legislators on the future of municipal income tax.

COMMITTEE SCHEDULE FOR NEXT WEEK

Although right now it is not much, below is the current committee schedule for next week. The Senate Finance Committee has yet to release their agenda. Please check the League website for all updates to the hearing announcements.

Tuesday, June 13, 2017

SENATE INSURANCE AND FINANCIAL INSTITUTIONS

Tue., Jun. 13, 2017, 9:30 AM, Senate Finance Hearing Room

Sen. Hottinger: 614-466-5838

WORKERS' COMPENSATION BUDGET (BRINKMAN T) To make changes to the Workers' Compensation Law, to make appropriations for the Bureau of Workers' Compensation for the biennium beginning July 1, 2017, and ending June 30, 2019, and to provide authorization and conditions for the operation of the Bureau's programs.

Third Hearing, Opponent/Interested Party Testimony

HOUSE FINANCIAL INSTITUTIONS, HOUSING AND URBAN DEVELOPMENT

Tue., Jun. 13, 2017, 12:45 PM, Hearing Room 116

Rep. Dever: 614-466-8120

BOND AND OBLIGATION MATURATION (GREENSPAN D) To increase from five to ten years the maturity period of other political subdivision's bonds and obligations eligible for investment of a subdivision's interim moneys.

First Hearing, Sponsor Testimony

Wednesday, June 14, 2017

SENATE WAYS AND MEANS

Wed., Jun. 14, 2017, 9:00 AM, South Hearing Room

Sen. Eklund: 614-644-7718

PROPERTY TAX COMPLAINT PROCESS (COLEY W) To limit the right to initiate most types of property tax complaints to the property owner and the county recorder of the county in which the property is located.

Second Hearing, Proponent Testimony

**PLEASE CHECK OUR WEBSITE MONDAY FOR ANY UPDATES TO THE
COMMITTEE SCHEDULE**