



August 25, 2017

We hope all our members are enjoying these last few weeks of summer! While the legislature has not met since the House vote on veto overrides in the early weeks of July, the Senate was back in session to concur on some of the House's overrides this week. Both the House and Senate will come back from recess the week of September 13th. League staff are putting the final touches on the upcoming 66th Annual Conference program which will be held at the Renaissance Hotel downtown Columbus November 1st-3rd. The conference will provide league members with important information concerning issues confronting Ohio municipalities and will be a great opportunity for municipal officials from across the state to interact and network with other local leaders. We anticipate the conference agenda and registration information will be sent to league members the first week of September. This year, attendees will be able to also register online through our new website at www.omloho.org. For those interested in online registration, information will be provided in the upcoming conference mailing.

SENATE MEETS TO CONCUR ON SIX HOUSE VETO OVERRIDES

You may recall that early in July, the House of Representatives met to vote on overriding 11 items vetoed by Gov. John Kasich when he signed the State Operating Budget (HB 49) into law. This Tuesday, the Senate met to concur on six of those veto overrides. You can find a list of the total veto overrides [HERE](#).

The issues addressed yesterday largely dealt with Medicaid items. The Senate approved limiting the amount of the General Revenue Fund the Controlling Board could appropriate, as well as handing over control of Medicaid spending from the Controlling Board to the Legislature should the federal matching rate change. The overrides put control over Medicaid optional eligibility groups solely in the hands of the Legislature and delayed the state's behavioral health Medicaid redesign, while raising the Medicaid rates for skilled nursing facilities as well as rates for neonatal and newborn services.

Perhaps most notably for counties and transit authorities, and municipalities to a great degree, the Senate did not vote to concur on the House's override to increase their funding to account for the replacement of the Medicaid managed care sales tax. The Governor vetoed language in the budget that would have provided replacement revenue for Ohio's counties and the House overrode that executive action. It was shared by members of the Senate on the floor Tuesday that negotiations continue between the Senate and Governor's office on what the final policy should be on the subject. That particular issue will possibly be revisited by the Senate in the near future. The Senate has until the end of 2018 to take action on the remaining House overrides.

OML FILES AMICUS BRIEF SUPPORTING CLEVELAND'S WIN AGAINST BWC OVERCHARGES TO PUBLIC EMPLOYERS

The OML has filed an Amicus Brief seeking to have Cleveland's Common Pleas Court decision both affirmed and extended to all governmental non-group employers following the ruling made in *San Allen v. BWC*. A copy of the brief can be found [HERE](#).

In *San Allen v. BWC*, the Eighth Appellate District for Cuyahoga County held on May 15, 2014, that, "the BWC was responsible for developing and maintaining an unlawful rating system under which excessive premium

discounts were given to group-rated employers at the expense of non group-rated employers." According to the ruling, employers who were not part of a group and did not receive the significant discounts off base rates effectively paid "extra premiums".

The ruling went on to explain that, "for more than 15 years, the BWC allowed non group-rated employers to subsidize excessive, undeserved premium discounts to group-rated employers who were handpicked by group sponsors to participate in the BWC's group rating plan. The temerity of the group sponsors, un-tempered by any notions of equity from or of the BWC, exacted a heavy price for non group-rated employers - over \$859 million [. . .] The BWC first failed to follow a legislative mandate to establish a retrospective group rating plan, then set up a prospective group rating plan without sufficient controls to address the plan's susceptibility to manipulation by group sponsors and the potential for premium inequity as a result of the generous discounts provided to group-rated employers under the plan."

Because the *San Allen* case applied to private employers, and since the BWC refused to apply the decision to public employers, Cleveland filed suit and won a judgment of \$4,500,000.00 at the Common Pleas Court. This matter is now on appeal and the OML has filed an Amicus Brief supporting Cleveland.

In the view of the OML, the ultimate issue is one of both fundamental fairness and governmental integrity. For reasons that have never been disclosed, the BWC has refused to provide Ohio's governmental employers with the same premium refunds given to private employers, even after the unfairness of its group rating program were judicially recognized in *San Allen v. BWC*. The OML brief seeks to have Cleveland's Common Pleas Court decision affirmed and applied to all governmental non-group employers since the unanimous opinion in *San Allen* drew no distinctions between governmental and private employers.

We will provide updates for our members on the progress of the BWC appeal.

LEGISLATION INTRODUCED TO PREEMPT DOG RESTRICTIONS AT RESTAURANTS

Two bills have been introduced this summer in a duel effort to allow dog owners to bring their pets with them onto restaurant patios across the state of Ohio.

Earlier this year, the Columbus Department of Health announced a ruling that disallowed dogs onto restaurant patios. In response to the local enforcement effort, Rep. Lanese (R-Grove City) introduced HB 263, which would allow a restaurant to allow dogs on their patios if they so choose; restaurants are also allowed to ban dogs from their patios. This week, Sen. Coley (R-Liberty Twp.) introduced SB 182, the Senate companion bill to HB 263, which would permit restaurant owners to allow dogs onto patios insofar as the restaurant continues meeting all safety and sanitary requirements.

Both Rep. Lanese and Sen. Coley have cited their belief that restaurant management should have the right to make the decision regarding dogs on patios for themselves even when contrary to local health and sanitary enforcement efforts. Sen. Colley also shared that he is an owner of two large dogs and enjoys taking them to restaurants.

We will keep our members apprised of the progress of this legislation further expanding the size and scope of the influence of Ohio's state government.

CINCINNATI JOINS SUIT AGAINST OPIOID COMPANIES

Cincinnati has joined Ohio municipalities Dayton, Lorain and Parma in a federal lawsuit against three opioid companies: Amerisource Bergen Drug Corporation in Pennsylvania, McKesson Corp. in California, and Cardinal Health, which is based in Columbus.

A West Virginia law firm, which also represents 9 Ohio counties in their federal lawsuits, will be representing Cincinnati. The city filed a week after Ohio Attorney General Mike DeWine announced the state of Ohio is suing several opioid manufacturers. DeWine announced the suit would be filed in southwest Ohio, as he said Ohioans had been hit the hardest there by the state's opioid epidemic.

Ohio municipalities are at the front lines of the opioid epidemic that is plaguing not only our state, but much of the nation. Local emergency services and law enforcement are first responders to opioid overdoses and continue to expend tremendous amounts of revenue to combat the epidemic. Addiction has heavily impacted much of Ohio's eligible workforce and has been a significant obstacle for many communities to keep residents employed and revenues flowing to local budgets to support services. Local communities take the brunt of the impact, and as such need the support from the state to provide the requisite safety services our cities and villages need.

Municipalities like Cincinnati, Dayton, Lorain and Parma have seen what the opioid addiction has done to their local communities and are calling for accountability from the sources of those drugs. We will keep our members apprised of how the lawsuits proceed.

MEDICAL MARIJUANA UPDATE: CONTRACTS AWARDED FOR MARIJUANA TRACKING, LICENSING SYSTEMS

An important development has taken place in the creation of the state of Ohio's medical marijuana program. Earlier this week, the Department of Commerce announced it has selected two companies - Metrc and Persistent Systems Inc. - to develop two important computer systems for the program. Metrc will develop a seed-to-sale tracking system, while Persistent Systems was chosen to develop the eLicensing system.

The medical marijuana program, which is anticipated to be operational by September of 2018, is still seeking proposals from interested companies to run a computer system that would allow the state to monitor video surveillance systems at growers, processors, labs and dispensaries.

These awarded contracts have been hailed as "mile stones" for the program, whose rules will go into effect next month and will begin awarding cultivator licenses this November.

ODNR SEEKS MUNICIPAL CANDIDATES FOR CLEAN OHIO TRAILS FUND ADVISORY BOARD

The Ohio Department of Natural Resources (ODNR) Office of Real Estate and Land Management (REALM) has announced a vacancy on the Clean Ohio Trails Fund Advisory Board for the seat held by a city councilperson.

The Clean Ohio Trails Fund works to improve outdoor recreational opportunities for Ohioans by funding trails for outdoor pursuits of all kinds. Special emphasis are given to projects that:

- Are consistent with the statewide trail plan;
- Complete regional trail systems and links to the statewide trail plan;
- Link population centers with outdoor recreation area and facilities;
- Involve the purchase of rail lines linked to the statewide trail plan;
- Preserve natural corridors;
- Provide links in urban areas to support commuter access and provide economic benefit.

As a board member, the official will provide advice to the director of ODNR regarding the selection of applications that will be awarded matching grants under section 1519.05 of the Revised Code (<http://codes.ohio.gov/orc/1519.05>). The matching grant program is available to nonprofit organizations and local political subdivisions for the purposes of purchasing land or interests in land for recreational trails and for the construction of trails. More information about the Clean Ohio Trails Fund can be found at: <https://development.ohio.gov/cleanohio/RecreationalTrails/>.

Please email OML Director of Member Services Chrissy Blake at cblake@omloho.org if you are interested in this position. Please include your resume and any applicable qualifications you may have, along with complete contact information and recommendations. The appointments must be made by mid-September, so please contact us as soon as possible if you are interested.

OEPA TO HOLD FIRST SUSTAINABILITY CONFERENCE

The Ohio Environmental Protection Agency (OEPA) has announced its inaugural Sustainability Conference, which is set to take place in Columbus on October 3rd. The conference will share information on how to leverage sustainable practices and available resources to strengthen Ohio communities and businesses.

The event will be held at OSU's Fawcett Center and the registration fee is \$100. The general agenda for the day long conference covers a variety of sustainability-related topics including:

- Becoming a part of the Circular Economy
- Green Chemistry
- Promoting Recycling at Big Venues
- Integrating Sustainable Practices within your Community
- Innovative Approaches to Protecting or Restoring a Community's Water Bodies
- Jumpstarting Your Recycling Efforts
- Save Money by Saving Energy
- Funding Resources to Help You Install/Retrofit for Cleaner Air
- Funding Assistance for Ohio Businesses and Communities to Grow, Create Jobs and Protect the Environment ... and more

Both the full announcement and registration details for the conference can be found [HERE](#)