



Legislative Bulletin

OML UPDATES: AT-A-GLANCE

We'd like to introduce a new feature to our legislative bulletin: OML Updates At-A-Glance. We will be starting our legislative bulletin with three main points we want our readers to know, whether it will be a fact from the past week or information on something in the future. We hope this quick, concise summary is helpful and informative for our readership.

Here are some issues the League staff think are important for our members to be aware of:

- Ohio's unemployment rate increased by 5,200 from July to August, though there was an increase in private sector jobs by more than 11,100. However, Government jobs decreased by 5,900, including a drop by 4,500 in trade, transportation and utilities jobs.
- According to the Ohio Department of Taxation's "Tax Expenditure Report for Fiscal Years 2016-2017", Ohio will forego nearly \$8.9 billion in revenue in Fiscal Year 2017. That statistic included in the just-released 2020 Tax Policy Study Commission report, which discuss in this bulletin.
- The Department of Justice (DOJ) has announced they will be awarding \$24 million in federal grants to 50 local government to create comprehensive alternatives to incarceration programs for those impacted by the opioid epidemic. Read more about these grants below.

October 6, 2017

NEW LEGISLATION SEEKS TO PREEMPT MUNICIPAL TAXATION/REGULATION OF "AUXILIARY CONTAINERS"

A new bill was introduced this week that preempts municipal authority to regulate and tax what are known as "auxiliary containers." SB 210, sponsored by Sen. Coley (R - Liberty Township) and Sen. Eklund (R - Munson Township), would authorize a person to use an auxiliary container for any purpose, to prohibit a municipal corporation from imposing a tax or fee on auxiliary containers, and to clarify that the existing anti-littering law applies to auxiliary containers.

"Auxiliary container" is defined in bill as a bag, can, cup, food service item, container, keg, bottle or other packaging wither single use or reusable that is designed for consuming, transporting or protecting merchandise, food, or beverages. The bill prohibits a municipality from imposing any taxes, fees, assessments or other charges on the sale, use or consumption on auxiliary containers.

The Ohio Municipal League maintains that under Home Rule authority, Ohio municipalities should retain the authority to regulate and tax auxiliary containers within their jurisdiction as deemed best by that local

government, and we stand opposed to any preemption on those Home Rule rights. We will be tracking this legislation carefully, and encourage our members to look for opportunities to testify on this bill as well as to call their legislator to inform them of municipal opposition to this bill.

BILL TO ELIMINATE SOVEREIGN IMMUNITY CONTINUES MOMENTUM

HB 267, which we have covered in previous legislative bulletins, has received two hearings in the House Civil Justice Committee over the past few weeks. The bill, sponsored by Rep. Ingram (D - Cincinnati) would essentially eliminate immunity for political subdivisions in the case of a motor vehicle accident except for the instance where someone wrecks as a result of being pursued by local law enforcement officers. The bill analysis can be found [HERE](#).

The bill was introduced because of an incident in Cincinnati when a car was struck by a Cincinnati Police Department vehicle.

In the event the bill receives another hearing, League staff is asking our members to provide verbal or written testimony opposing the bill to help the state legislature understand the devastating effect the total removal of sovereign immunity would have on our municipalities. There are unseen, unanticipated consequences that would happen if this legislation were to become law, from ambulances to playgrounds. We ask that you call your legislators and inform them of your opposition to this bill. Please contact Director of Communications Ashley Brewster at abrewster@omloho.org if you have questions about testifying or regarding how to get in touch with your legislator.

BILLS OF MUNICIPAL INTEREST

The House was in recess this and only a handful of Senate committees held hearings. Two bills with impact to municipalities had hearings, one of which was SB 195, which deals with vicious dogs and is addressed in greater detail next in this bulletin. The other was HB 96, sponsored by Rep. Cupp (R - Lima), which requires a municipality to reimburse a township for fire and EMS services if the township is the sole provider of fire and EMS services within a TIF district with the municipality. During its fourth hearing in the Senate Ways and Means Committee, the bill received no oral testimony. Written opposition testimony from the Building Industry Association of Central Ohio was provided to the committee.

Additional bills of municipal impact that were introduced this week include:

- SB 208, sponsored by Sen. Terhar (R - Cincinnati), would allow a law enforcement officer or investigator, whether on or off duty, to carry a weapon on certain premises open to the public.
- HB 371 Rep. Merrin (R - Monclova Township), would exempt from property taxation the increased value of land subdivided for residential development until construction commences or the land is sold.

We will be tracking these bills throughout the legislative process, and we will be informing our members of their progress and when opportunities for testimony arise.

NEW BILL GIVES LOCAL GOVERNMENTS MORE TOOLS IN DEALING WITH VICIOUS DOGS

SB 195, sponsored by Sen. Beagle (R - Tipp City) and Sen. Lehner (R - Kettering), revises provisions of the dog law governing nuisance, dangerous, and vicious dogs, revises the enforcement of that law, and establishes a notification process regarding complaints of certain violations of that law. SB 195 received sponsor testimony in the Senate Judiciary Committee. Sponsor Sen. Beagle said during testimony, "the legislation strives to give local authorities the tools they say they need to address problem dogs and their owners, without punishing those that are not a serious threat to the community."

The bill's provisions include a requirement that all calls to a dog warden to lead to an investigation or follow-up, clarifies that dog wardens have arrest authority, allows witnesses to provide a notarized affidavit in the event of a dog attack, requires dogs deemed to be dangerous to be registered and extends the amount of time violent felons cannot own dogs to five years.

This legislation helps local governments by giving them more tools to prosecute and even prevent vicious dog attacks. By granting dogs wardens arrest authority and providing clearer definitions, local authorities like judges, police and prosecutors will be provided more tools and guidelines to equip them as they handle vicious dog cases. The legislation has been derived from conversations the Senator has had with local governments. "All of these changes come from requests from local authorities and those in the field," said Sen. Beagle.

We will be tracking this bill as it moves through the legislative process and update our members on its progress, any changes, and whether there will be opportunities to offer testimony.

OHIO SUPREME COURT RULES SUPPLEMENTAL EXECUTIVE RETIREMENT PLANS (SERP) CAN BE EXCLUDED FROM MUNICIPAL TAXATION

This week, the Ohio Supreme Court has ruled in *MacDonald v. Cleveland Income Tax Board of Review* that Ohio municipalities that exclude "pensions" from city income tax cannot require taxation of supplemental executive retirement plans (SERP). This is despite the fact the Internal Revenue Service (IRS) treats SERPs as "non-qualified" deferred compensation, which are not entitled to the tax benefits of 401Ks or other qualified plans.

In 2006, William MacDonald, who had retired from the former National City Corp. in Cleveland, challenged Cleveland's assessment of a two percent municipal income tax on his SERP. When he challenged the assessment, it was upheld by the Cleveland Income Tax Board of Review. The city's assessment was then overturned by the Ohio Board of Tax Appeals, which led to the case being argued before the Ohio Supreme Court.

The city of Cleveland does not tax pensions, and the Court ruled unanimously that Cleveland had incorrectly assessed MacDonald's SERP based on its own laws. The Court said this is because MacDonald's SERP does not contain any deferred wages or set-aside pay.

This is a serious concern for our members because of the significant loss of revenue this will mean, especially for municipalities with a large number of high wage earners who receive compensation through

SERPS. Additionally, there will be an untold loss of revenue in the future as more earners send their compensation to SERPS to be shielded from municipal income tax. This will mean a substantial loss of revenue for many municipalities, and it is a significant threat to the services funded by those revenues.

2020 TAX POLICY STUDY COMMISSION RELEASES TAX REPORT

The 2020 Tax Policy Study Commission has released a 323 page-long report regarding whether or not Ohio should move towards a flat tax. The report offers no recommendation, deferring instead to the outcome of the Tax Expenditure Review Committee's study of Ohio's tax credits and tax expenditures, which was mandated in a bill passed last year. The report instead provides an overview of the Ohio personal income tax the income tax base, tax rates, the deductions and credits available against the tax, and the use of income tax revenue. The report also briefly includes information on the income taxes of other states.

The Commission, which was created in 2015 and tasked with studying Ohio's tax structure, has already released reviews of the state's severance tax and a study of the Ohio Historic Preservation Tax Credit.

During the writing of this report, the Commission held ten public hearings over one year's time, hearing from forty-three individuals from the executive branch of state government, the world of academia, and business owners and industry leaders. One of these individuals was OML's own Executive Director Kent Scarrett, whose contribution to the report can be found on page 299. Testifiers spoke to what has worked and what hasn't in Ohio's taxation policies, while proposing potential solutions and offering their theories about what's in store for Ohio's economic future.

To read the report in its entirety, please click [HERE](#).

NATIONAL LEAGUE OF CITIES ALERT: CALL TO PRESERVE THE STATE AND LOCAL TAX DEDUCTION (SALT)

The National League of Cities (NLC) is asking that we alert our members of the need to call the national House of Representatives to fully preserve the State and Local Tax Deduction (SALT.) As part of the conversation taking place in Congress regarding federal tax reform, "compromise proposals" are currently being floated by House Members that would violate the fundamental principles of double taxation and fiscal federalism that SALT protects, by either restricting, limiting or modifying SALT. This would open the door to continued erosion of the SALT deduction, and could potentially undermine homeowners and home values while causing intergovernmental battles over tax revenues. It would cause millions of taxpayers to pay higher taxes while undermining critical state and local public services.

We are asking that you call your Congressman and let them know it is important that SALT must be preserved and not limited, restricted or modified in any way. NLC has provided a fact sheet with more information and Congressional contact information [HERE](#).

DEPARTMENT OF JUSTICE ANNOUNCES \$24 MILLION IN GRANTS TO FIGHT OPIOID EPIDEMIC

The Department of Justice (DOJ) has announced they will be awarding \$24 million in federal grants to 50 cities, counties and public health departments to provide assistance to both state and local governments to combat the opioid epidemic. The money is to be used to create comprehensive alternatives to incarceration programs for those impacted by the opioid epidemic.

The DOJ also will be awarding over \$222 million to 53 jurisdictions to support the creation and enhancement of adult drug courts and Veterans Treatment Courts.

These monies are portions of a total of \$58.8 million that will be awarded by the DOJ to combat the opioid epidemic and fund drug courts nationwide. Grants will also be awarded to research projects, juvenile justice efforts and the Family Drug Court Statewide System Reform Implementation Program. For more information about these grants, please click [HERE](#).

2020 CENSUS LOCAL UPDATE OF CENSUS ADDRESSES (LUCA) OPERATION PARTICIPATION AVAILABLE

The Census Bureau has recently mailed forms for participation in the Local Update of Census Addresses (LUCA) for the 2020 Census. LUCA is the only opportunity offered to tribal, state, and local governments to review and comment on the U.S. Census Bureau's residential address list for their jurisdiction prior to the 2020 Census.

The Census Bureau relies on a complete and accurate address list to reach every living quarters and associated population for inclusion in the census. The address list is the backbone of the census because census forms are sent to housing units, not to people. Census 2020 won't be accurate if the Census Bureau doesn't know about all of the housing units in an area thus LUCA participation is critical to an accurate population count. LUCA underlies the distribution of the Census forms and fieldworker follow-up on non-responding households, it matters for all of the same reasons the Census matters.

Local governments who lack the resources to participate in LUCA can consider arranging for a higher level of government, such as county, or an organization such as a regional planning agency or council of governments, to conduct your review.

The stakes are especially high for communities with a fast-growing population, and large areas whether metropolitan or rural. The federal government allocates more than \$400 billion in federal funds to tribal, state and local governments annually based upon Census data. Participation in LUCA is important, and you can email geo.2020.luca@census.gov or call 1-844-344-0169 with any questions regarding your forms. Please ensure all documents are submitted to the Census Bureau by the December 15, 2017 registration deadline.

ARE YOU REGISTERED FOR OUR ANNUAL CONFERENCE?

League staff are finishing the final preparations for our upcoming Annual Conference. You only have a few more weeks to register if you haven't done so already, so please click [HERE](#) to make sure you don't miss out! We look forward to seeing you there.

COMMITTEE SCHEDULE FOR THE WEEK OF OCTOBER 9, 2017

Tuesday, October 10, 2017

HOUSE FINANCIAL INSTITUTIONS, HOUSING AND URBAN DEVELOPMENT

Tue., Oct. 10, 2017, 9:00 AM, Hearing Room 114

Rep. Dever: 614-466-8120

HB251** 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.

Fourth Hearing, All Testimony, POSSIBLE VOTE

Report(s): My Tracked Bills, OML Legislative Report

HOUSE ECONOMIC DEVELOPMENT, COMMERCE AND LABOR

Tue., Oct. 10, 2017, 1:30 PM, Hearing Room 113

Rep. Young: 614-644-6074

HB263** OUTDOOR DINING-DOGS (LANESE L) To generally allow an owner, keeper, or harbinger of a dog to take the dog in an outdoor dining area of a retail food establishment or food service operation.

Second Hearing, Proponent Testimony

Report(s): My Tracked Bills, OML Legislative Report

HB303** SERVICE ANIMAL USE (LIPPS S, KELLY B) To prohibit places of public accommodation from preventing the use of a service animal.

First Hearing, Sponsor Testimony

Report(s): My Tracked Bills, OML Legislative Report

Wednesday, October 11, 2017

HOUSE GOVERNMENT ACCOUNTABILITY AND OVERSIGHT

Wed., Oct. 11, 2017, 9:30 AM, Hearing Room 114

Rep. Blessing III: 614-466-9091

HB312** LOCAL GOVERNMENT CREDIT CARDS (SCHURING K, GREENSPAN D) Regarding use of credit cards and debit cards by political subdivisions.

Second Hearing, Proponent Testimony, SUBSTITUTE BILL

Report(s): My Tracked Bills, OML Legislative Report

HB342** LOCAL TAX ISSUES-ELECTION DATES (MERRIN D) To permit local tax-related proposals to appear only on general and primary election ballots and not on an August special election ballot and to modify the information conveyed in election notices and ballot language for property tax levies.

First Hearing, Sponsor Testimony

Report(s): My Tracked Bills, OML Legislative Report

HOUSE INSURANCE

Wed., Oct. 11, 2017, 10:00 AM, Hearing Room 116

Rep. Brinkman: 614-644-6886

HB269** WORKERS COMPENSATION OVERHAUL (HENNE M) To rename the entities who carry out workers' compensation functions in this state, to require the Administrator of Worker Safety and Rehabilitation to develop incentives for employers to participate in safety consultations and loss prevention programs, to require an employee who is receiving temporary total disability compensation to comply with a return to work plan, and to make changes with respect to compensation for permanent total disability and death benefits.

Second Hearing, Proponent Testimony

Report(s): My Tracked Bills, OML Legislative Report

HB268** WORKERS COMPENSATION-SELF-INSURERS (HENNE M) To make changes to the Workers' Compensation Law with respect to self-insuring employers.

Second Hearing, No Testimony, SUBSTITUTE BILL

Report(s): My Tracked Bills, OML Legislative Report

PLEASE CHECK OUR WEBSITE MONDAY FOR ANY COMMITTEE SCHEDULE CHANGES