STATEHOUSE REPORT

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General Assembly passes House Bill 45 as omnibus spending package, includes water and sewer infrastructure grants

House Bill 45 (Reps. Thomas West and Bill Roemer) was approved by both chambers earlier this week. Originally the bill pertained only to the establishment of a two-month tax "amnesty" with respect to delinquent state taxes and local sales and use taxes. In the Senate Finance Committee, the bill because a vehicle for numerous appropriations and law changes (see table below). The state ARPA funds appropriated in the bill amount to approximately $1.4 billion of the state's remaining $1.9 billion total.

Most notably for counties and other local governments, the legislation includes $250 million in ARPA funds for a second round of water and sewer infrastructure grants administered by the Ohio Department of Development. The Department of Job and Family Services (ODFJS) also received funding to address potential extra administrative costs due to the restart of Medicaid redeterminations by county DJFS staff when the federal public health emergency ends in the spring, as expected ($30 million GRF).

Other amendments of interest to counties include:

- Valuation of LIHTC property - Permission for the county auditor to determine the valuation of a qualified low-income housing tax credit (LIHTC) project through use of one or more of the market-data approach, the income approach, or the cost approach (RC 5713.03). This language is meant to address the 2009 Ohio Supreme Court ruling in *Woda Ivy Glen v. Fayette County Board of Revision* and its successors that prohibit the use of the cost valuation or market-based approach for LIHTC properties due to the use restrictions placed on the property because of participation in the federal LIHTC program. Achieving a reconsideration of the *Woda* case has been a long-standing goal for CCAO and is reflected in the Taxation and Finance Committee's legislative platform. The bill also prohibits a LIHTC property from participating in the Department of Development's historic rehabilitation tax credit program.

- Delinquent tax list - Permission for the county auditor to make the second publication of the delinquent tax list on a website maintained or approved by the county after the first publication in a newspaper (RC 5721.03). This language was taken from House Bill 255 (Rep. Scott Lipps), which passed the House earlier in the year and was pending in the Senate Ways and Means Committee. This change is also supported by CCAO.
- Publicly-funded Child Care - Establishes the following additional exceptions to the current law requirement that a licensed child care program be rated in the Step Up to Quality program in order to be eligible to provide publicly funded child care:
    - A program that provides publicly funded child care to less than 25% of the program's license capacity;
    - A program that is a type A family day-care home or licensed type B family day-care home.

The language also eliminates the requirement that ODJFS adopt rules to establish enhanced reimbursement rates for maintaining quality ratings under the Step Up to Quality program and requires the department to encourage the establishment of more family day-care homes.

State-Level ARPA Appropriations and Other County-Related Appropriations in House Bill 45 (in millions)		
Department	**Purpose**	**Appropriation**
State Fiscal Recovery Funds (ARPA)		
OBM	Nursing facility workforce support	$350.0
	Statewide hospital support	$100.0
	Assisted living workforce support	$40.0
	Hospice care workforce support	$30.0
	Ohio ambulance transportation	$20.0
	Home and community based services workforce support	$10.0
	Adult day care support	$8.0
	ALS support grants	$1.0
Department of Development	Water and sewer quality grant program	$250.0
	Lead prevention and mitigation	$150.0
	Water and sewer support for megaprojects	$75.0
	Arts and cultural enterprises grant program	$50.0
	Workforce housing development	$25.0
Expositions Commission	State fair support	$50.0
JFS	Medicaid redetermination support	$30.0
	Community food assistance	$25.0
	JFS operating funds	$13.0
	Food assistance	$5.0
	Legal services for Ukrainian refugees	$5.0
OMHAS	Crisis infrastructure expansion	$90.0
Facilities Construction Commission	School security grants	$112.0

State-Level ARPA Appropriations and Other County-Related Appropriations in House Bill 45 (in millions)		
Department	Purpose	Appropriation
Attorney General	Ohio Crime Victim Justice Center	$0.9
Total State Fiscal Recovery Funds (ARPA)		$1,439.9
State General Revenue Fund, Selected Appropriations		
Agriculture	County agricultural societies support	$4.5
Transportation	Support for the Regional Transportation Improvement Project in Carroll, Columbiana, and Stark counties	$0.2
Attorney General	Pike County capital case support	$0.5
	Law Enforcement Reimbursement Training Pilot Program	$5.0
Selected State General Revenue Fund Total		$10.2
Other Appropriations, Selected		
OBM	Ashtabula County grant for Geneva Lodge	$14.0
Department of Development	Rent and Utility Assistance	$161.0
Secretary of State	Replacement electronic pollbooks and associated technology	$7.5
Developmental Disabilities	County board waiver match	$45.0
Selected Other Appropriations Total		$227.5
Total State Fiscal Recovery Fund and Selected Other Appropriations		$1,677.6

Ohio's election law receives updates via two bills

This week the General Assembly passed two elections-related bills that the Association had been monitoring.

House Bill 458 (Rep. Thomas Hall) began as a straight-forward bill to eliminate August special elections with limited exceptions. In the Senate the bill acquired a number of other election law changes.

The bill eliminates local special elections held in August (special elections for the U.S. House of Representatives are still permitted) with one exception. If a political subdivision or school district is in a state of fiscal emergency, as determined by the Auditor of State, the subdivision or district may place an issue on the August ballot. In these circumstances, the entity placing an issue on the August ballot must pay for the entire cost of the election.

The elimination of August special elections has been a CCAO priority for several years. The elections have low turnout and can cost between $800 and $2,000 per precinct, depending on the precinct size. The general elimination of these elections, paired with requiring entities that qualify for the exemption to pay the full cost of the election, is a good-government reform.

The bill also amends the number of days to verify provisional ballots. The Senate originally included an amendment to reduce the number of days from eleven to five. This change would have increased the costs for boards of elections as elections officials would need additional staff and/or additional overtime to comply with the shorter deadline. After consultation between the Ohio Election Officials Association (OEOA) and the legislature, the number of days was increased to eight. While this is shorter than current law, OEOA does not believe it will significantly increase costs to boards.

Other provisions of note relate to ballot drop boxes. The bill allows county boards of elections to have no more than one secure drop box outside the board of elections' offices for the purpose of receiving absentee ballots. The drop box must be monitored by video surveillance at all times (the board's operating hours between the close of voter registration to the close of polls on election day). These recordings are a public record and must be made available, either upon request in accordance with the Public Records Act procedures or through hosting the video on a website and making them available for streaming or download within 24 hours of the end of the recording. If a county board elects to have a ballot drop box, each time the drop box is opened a bipartisan team of election officials must be present. Finally, during the early voting period, boards of elections must submit daily reports to the Secretary of State disclosing the number of absentee ballots received by delivery other than at a drop box and the number of ballots received via a drop box, if the county has one. The Legislative Service Commission (LSC) does not have an estimate of the cost that boards of elections may incur to comply with these provisions.

There are other provisions in the bill that are noteworthy but will have less of a direct effect on the financial costs incurred by counties to administer elections. Chief among them is the requirement that voters present a form of photographic identification in order to cast a vote. The bill also changes various deadlines for absentee ballot requests and arrival, early voting lengths, and changes to curbside voting.

Finally, House Bill 458 includes provisions identical to House Bill 487, also passed by the Senate this week. These provisions allow counties to receive bids for ballot printing from out-of-state vendors. Broadening the potential pool of vendors may result in cheaper ballot printing costs. For reference, the statewide cost of ballot printing for the 2020 election cycle was $5.4 million.

For more information regarding House Bill 458 please consult the LSC Bill Analysis and Fiscal Note.

General Assembly sends criminal justice omnibus bill, SB 288, to the governor

Senate Bill 288 (Sen. Nathan Manning) passed both chambers in the early hours of December 15th. The bill already contained several meaningful changes to the criminal code, but the House added over twenty amendments before the bill heads to the Governor's desk. The final version of the bill contained the following provisions:

- Increase credit eligibility from current 8% to 15% in reduction of prison term for active participation or completion of constructive programs, helping accelerate an eligible offenders success after release.
- Modify the current "Good Samaritan" law by expanding immunity from prosecution for minor drug possession offenses.

- Strengthen penalties for domestic violent offenders by increasing the penalties from strangulation or suffocation to a felony domestic violence conviction.
- Expands distracting driving penalties from House Bill 283 (Reps. Cindy Abrams and Brian Lampton).
- Reduces collateral sanctions by allowing a misdemeanor offender to seek expungement one year after final discharge and a minor-misdemeanor offender six months after final discharge.

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House Bill 501 gives local governments authority to zone small solar facilities

House Bill 501 (Rep. Thomas Hall) is a township omnibus bill that was reported by the Senate Local Government and Elections Committee and enacted this week. One of the provisions in the bill addresses the authority of local governments to zone small solar facilities that operate at an aggregate capacity of less than 50 megawatts. The ability of local governments to regulate these facilities under current law is unclear due to zoning exceptions for public utilities.

The bill allows a board of county commissioners, a board of township trustees, the legislative authority of a municipal corporation, or, where applicable, the board of zoning appeals for a county or township, to adopt zoning regulations for the location, erection, construction, reconstruction, change, alteration, maintenance, removal, use, or enlargement of any small solar facility, whether publicly or privately owned, or the use of land for that purpose. The county amendment is in RC 303.213.

House Bill 66 requires property tax abatement report, adds sales tax exemptions

House Bill 66 (Rep. Jim Hoops) was passed by the House earlier this year with a unanimous vote. The House version of the bill required the Tax Commissioner to include property tax abatements as part of the biennial report on tax expenditures that accompanies the governor's budget submission. The bill received a number of amendments in the Senate Ways and Means Committee on its way to approval by both chambers this week.

One of the amendments included the provisions of Senate Bill 235 (Sen. Kristina Roegner) which created sales and use tax exemptions for (1) documentary service charges imposed by motor vehicle and manufactured home dealers; and (2) electronic tax filing and payment services used in business to report or pay income tax, other than employee withholding, on behalf of an individual. The sales tax revenue loss to counties and transit authorities is estimated to be $2.1 million.

Another amendment contained the provisions of House Bill 314 (Reps. D.J. Swearingen and Gary Click) to exempt watercraft that are seasonally stored or repaired in Ohio from sales and use taxes. The revenue loss from this provision is undetermined.

The bill was also amended to make a number of changes to property taxes for alcohol, drug addiction, and mental health service (ADAMHS) boards. First, the bill generally requires that revenue raised by joint, multi-county ADAMHS boards must be utilized for the benefit of residents of the county where the funds were raised. Second, the bill generally requires that counties that remain a part of a joint ADAMHS district after the district reorganizes (such as when a fellow member leaves or when a new county joins) maintain the same levy as was previously approved by voters. Finally, the bill requires that, when a county withdraws from a joint district, the tax it was previously levying will continue until it is expired or renewed and that when the county places either a renewal or replacement levy the ballot language shall specify the tax as a renewal, a renewal and increase, a renewal and decrease, a replacement, a replacement and increase, or a replacement and decrease, whichever is applicable. These levies are currently required to be labeled as a new property tax levy.

County hospital trustee appointment authority clarified; treasurer permitted to deliver tax bills electronically under House Bill 405

House Bill 405 (Reps. Brian Stewart and Mark Johnson) was among the bills that the General Assembly passed this week. The bill started as a simple bill to clarify the appointing authority for boards of county hospital trustees. It retained those provisions and also acquired a few other county clarification and reform provisions through the Lame Duck period.

The bill clarifies that the appointing authority for county hospital trustees is the board of county commissioners, each member receiving an individual vote, the longest-serving probate judge, and the longest-serving judge of the court of common pleas. The bill specifies that these judges cannot be the same individual. There had been confusion over whether the board of commissioners constituted only one vote and if the judges could be the same individual. The bill largely codifies the Ohio Supreme Court Decision *State ex. Rel. Drouhard v. Morrow Cty. Bd. Of Comm'rs*, 161 Ohio St.3d 357 (2020).

The bill was amended in Senate Local Government and Elections with several other county-related provisions. One notable inclusion is the authority for county treasurers to deliver property tax and manufactured home tax bills to taxpayers electronically. The county treasurer must adopt a policy authorizing the electronic delivery and taxpayers must proactively opt-in to receiving their bills electronically. The bill forbids a county treasurer from charging a fee to those taxpayers who wish to continue receiving tax bills through the mail.

Another important provision in the bill modifiers the procedures for appointing an individual to a county elected office if the individual who left the office vacant was elected as an independent. Generally, the bill gives the board of county commissioners the same ability to name an acting official and the same ability to name a long-term replacement as the county political parties have when the individual who left an office vacant was elected as a member of a political party.

Other bills passed during the finale of Lame Duck

The following bills with provisions pertaining to county government passed out of the General Assembly this week.

Bill	Bill Summary / Notable Provisions
House Bill 150	Creates the Rural Practice Incentive Program (public defender loan repayment for practicing in rural areas) and creates a task force to study the indigent defense system. CCAO will appoint one member of the task force.
House Bill 567	Require the clerk of the court of common pleas to make the court's docket available on the clerk's website.
Senate Bill 16	• Authorizes county correctional officers to carry firearms while on duty provided certain circumstances are met. • Eliminates the requirement that county prosecutors must annually report all criminal case resolutions to the board of county commissioners and fire-related case resolutions to the State Fire Marshal. • Clarifies the authorities that a political subdivision with police powers may utilize while suppressing a riot or mob, or when there is a clear and present danger of a riot or mob forming.
Senate Bill 33	Modifies provisions regarding community reinvestment areas. These provisions are similar to House Bill 123.
Senate Bill 63	Allows a board of county commissioners to authorize a county department of probation to accept payments by financial transaction devices (typically credit or debit cards). Boards of county commissioners may already authorize other county officials to accept payments by credit or debit card.