



STATEHOUSE REPORT

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Ohio 2020 Tax Policy Study Commission takes testimony on tobacco taxes, lodging taxes paid by hotel intermediaries and sales taxes proposed for lobbyists

The 2020 Tax Policy Study Commission on March 30th heard from interest groups representing the following industries:

- The smokeless tobacco industry, the Ohio Wholesale Marketers Association which represents the cigarette wholesalers and an OSU professor who represents the American Cancer Society
- Representatives of the Travel Technology Association which represents online travel companies and the Ohio Hotel and Lobbying Association which disagree over the collection of lodging taxes and state and local sales taxes
- The Ohio State Bar Association and the Ohio Lobbying Association which are opposed to paying sales taxes on lobbying services

The smokeless tobacco industry favors a weight based system for taxing smokeless tobacco products while the American Cancer Society claims that such a system would lose money for the state. The American Cancer Society favors substantial increases in cigarette and tobacco product taxes as the single most effective way to reduce smoking and tobacco use. Tobacco taxes generate approximately \$1 billion annually for Ohio and according to the American Cancer Society, Ohio spends \$1.7 billion per year treating smoking related diseases. Co-chair Bob Peterson (R-Sabina) questioned whether higher cigarette taxes would not drive Ohio consumers who live near Kentucky or Indiana over the border to take advantage of lower prices in neighboring states. The tobacco wholesalers will also argue that such tax increases result in more tax avoidance by retailers who buy smuggled product from illicit sellers.



Sen. Peterson

Online travel companies buy hotel rooms at wholesale prices, and charge state and local sales taxes and lodging taxes at the wholesale price rather than the full retail price. The Ohio Hotel and Lobbying Association supports requiring on line travel companies to pay sales and lodging taxes at the full price rather than the wholesale price. Companion bills have been introduced in the legislature ([HB 150](#) and [SB 160](#)).

The Ohio State Bar Association and the Ohio Lobbying Association both opposed the concept of applying sales taxes to lobbying services. Both groups claim that applying sales taxes to lobbying services would lead to litigation and disputes over exactly how to distinguish between other legal services and lobbying, or lobbying services and consulting services. Hearings of 2020 Tax Study Commission are expected to continue. For additional information regarding this issue, please contact Brad Cole of the CCAO staff at bcole@ccao.org.

EPA Mid-Biennium Review to focus on lead contamination at public water systems

The Ohio Environmental Protection Agency announced this week that that the Kasich Administration's next Mid-Biennium Review (MBR) legislation will strengthen prevention measures against unsafe levels of lead in drinking water.

This is timely legislation after the recent water crisis in Flint, Michigan and more locally from a controversy over lead contamination in the drinking water of some Sebring, Ohio homes, which resulted in the firing of two OEPA employees and the demotion of another.

The OEPA [fact sheet](#) includes several proposals, such as expediting public notice of lead contamination and providing new financial assistance to communities and schools to identify and prevent lead contamination.

Among the proposals is shortening the timeline for public notification of contamination. Currently, local public water systems must notify the public within 30 days, which Sebring managers failed to do. The MBR would shorten that timeline to just two days. Should a water system fail to meet the tighter notification timelines, Ohio EPA will intervene to notify homeowners itself and will have the authority to impose an administrative penalty on the noncompliant system.

The legislation would also call for the shortening of the timeframe for the required system-wide public education campaign for effected communities by cutting the current 60-day timeline to 30 days.

The proposal would also:

- Create funding sources for public and private schools to identify sources of lead in drinking water from outdated, lead-based fixtures;
- Fund long-term initiatives such as infrastructure improvements, water plant upgrades, or replacement of lead service lines that pose public risk;
- Reduce the use of lead in new construction by lowering the definition of "lead free" from 8% to 0.25%;

EPA Mid-Biennium Review

Public Water System Regulations

CCAO Position: Monitoring

Status: To be Introduced

Key Provisions:

- Expediting public notice of lead contamination
- Financial assistance to communities and schools to identify and prevent lead contamination.

- Tighten community water testing requirements;
- Require corrosion control studies whenever a community alters its water source, makes substantial renovations, repairs its water system or treatment plant, or experiences another comparable event, and;
- Extend wastewater loan terms from 20 to 30 years and provide 45-year extended-term loans to larger communities

[Rep. John Bocchieri](#) (D-Alliance) applauded the announcement. Rep. Bocchieri has tangled with the OEPA in recent months, accusing the agency of ignoring his attempts to obtain more information about how the Sebring situation unfolded.

He said the OEPA should do more to prevent the privatization of the water testing process. His bill ([HB 468](#)) would likewise shorten the notification timeline, but it would leave water testing up to local boards of health. "The process failed at the connection between the private state-certified vendor and the EPA," Rep. Bocchieri said of Sebring. "The state vendor submitted Sebring's water test results to the EPA on Aug. 21, 2015, but the EPA didn't exercise its legal and moral obligation to notify the public until six months later. That length of time is just too long for a public health crisis."

For additional information on water quality issues, please contact CCAO staffer Brian Mead at bmead@ccao.org or 614-220-7982.

Bill would limit court's ability to hold polls open beyond prescribed Election Day voting hours

SB 296

Court ordered extended Election Day voting day hours

CCAO Position: Monitoring

Status: To be Introduced

Key Provisions:

- Complaint to extend voting hours:
 - Filed with common pleas court
 - SOS & AG entitled to be heard
 - Petitioner has to prove by clear and convincing evidence that no prospect of a fair election exists in the absence of the order
- People voting after time for the closing of the polls pursuant to a court order vote a provisional ballot
- Provisional ballots are counted if final decision upholds court order extending pooling hours

[SB 296](#) would limit conditions under which a court could order polling places to be kept open late on election nights. Sen. Bill Seitz (R-Cincinnati), the bill's sponsor stated that, "It's very responsible to prescribe under state law stringent standards under which courts would be limited in their power to order polling places to remain open past the prescribed closing time of 7:30



Sen. Seitz

p.m." The proposal would require the Secretary of State and Attorney General be notified that an order was requested, require that the order be supported by competent evidence, whether that's sworn affidavits, sworn testimony or otherwise, and require that the order can't be given unless the court finds there's no prospect of a fair election without the polling places being kept open.

State appeals courts would put together a special panel ahead of the election to be able to hear appeals of the

orders immediately. The person seeking the order would also have to post a cash bond to compensate the board of elections and poll workers in the event the order is not upheld. If one person requests the extension and that person is indigent, the court would be able to waive the bond, but only that person would be allowed to vote. Seitz believes that those elements work together to send a very strong signal to both federal and state courts that the setting of voting hours is a legislative matter, not a judicial matter, except in the most egregious circumstances. Seitz believes that judicially created late voting does not go with Ohio's statutorily prescribed early voting.

Sen. Seitz said the impetus for the legislation came from recent judicial extensions of Election Day voting hours, first in Hamilton County on election night in November 2015, and then again on the March primary when polls in Hamilton, Butler, Clermont and Warren counties were kept open by a federal judge's order due to traffic issues. "Our fear is that having these two precedents set in Hamilton County will become a recipe for courts all over the state come November 2016, a much more consequential election, making up their own polling hours as they go along," Seitz said.

House Medicinal Marijuana Task Force holds final meeting

Supporters of legalizing medical marijuana told the House Medicinal Marijuana Task of the need to learn from the policies of other states and that any policy in Ohio should be based on what has and has not been successful in other states. Some said the state should not delineate a specific list of conditions that can be treated with marijuana, instead leaving it up to the discretion of the doctor who recommends it.

Proponents of marijuana also stressed safety and the different ways the drug can be administered. States have flexibility regarding how they deal with the regulation of cannabis extracts. The extracts can be consumed in a number of ways, from smoking to capsules, but they have to be made using the whole plant. Some states have tight limitations on how much of the psychoactive chemical tetrahydrocannabinol, or THC, can be in the products. That limitation can keep patients from getting a "bad high. Many states are limiting the amount of THC in different products. It was suggested that the most important thing for regulators to consider is testing of all products to make sure people who are using them medically are safe.



Rebecca Myers, the founder and CEO of medical cannabis startup FarmaceuticalRX, said the state has opportunities to put regulations in place to help the industry provide safe products. She indicated that the state should make an effort to ensure medical marijuana is marketed as medicine, and not use a "head shop" approach that many people associate with marijuana. The oversight of pharmacists could be one way not only to emphasize the medical use, but provide an outlet for patients to have consistent access to a medical professional.

However, Dr. Jason Jerry, an addiction specialist at The Cleveland Clinic, urged the panel not to support medical marijuana. He said the U.S. Food and Drug Administration's process for approving medications works, and it could be dangerous to use politics to bypass it. "We believe that the FDA approval process is the best way for vetting medications at this time," he said. Dr.

Jerry also argued that legalizing medical marijuana could lead to increased use among teens by causing them to believe the drug is safe, since it would be legal for some uses. "Marijuana legalization could increase the potential risk to youth, as studies have consistently shown an association between youth perception of risk and experimentation with drugs," he said.

Task Force Chair Rep. Kirk Schuring (R-Canton) said he planned to meet with Speaker Cliff Rosenberger (R-Clarksville) next week to discuss the House's next move. Lawmakers and many who testified before the panel have expressed an interest in having the General Assembly act on medical marijuana before voters approve a constitutional amendment. Legislative action would allow lawmakers more control over the policy and its implementation.

Statehouse, Etc.



Proponents to begin collecting signatures for another constitutional amendment on marijuana. The Ohio Ballot Board on Thursday approved another medical marijuana constitutional amendment proposal. In order to place the issue on the November ballot, the committee in support of the [Ohioans for Medical Marijuana Act](#) will have to submit 305,591 valid signatures by July 6. With the Ballot Board's approval of the issue, the group can begin circulating petitions. Board member Senator Bill Coley raised concerns that the amendment may include more than one issue because it possibly provides criminal immunity to individuals who illegally acquire marijuana for medicinal purposes and could allow individuals without an Ohio medical license to prescribe the drug. He also questioned whether the amendment includes a monopoly because it allows for only 15 cultivation permits. Secretary Husted said that if the Ballot Board were to consider whether the amendment contained a monopoly under the parameters of recently approved Issue 2, it would do so after signatures have been collected and accepted. If it was determined the issue does contain a monopoly, it would have to appear before voters in two consecutive elections.

Bills Introduced



- [SB 301](#)** ■ **PREGNANCY ACCOMMODATIONS** ([Jones, S.](#), [Cafaro, C.](#)) To enact the "Pregnancy Reasonable Accommodation Act" to generally require employers to make reasonable accommodations for employees who are pregnant or breastfeeding. Am. 4113.12
- [SB 302](#)** ■ **PROPERTY TAXES** ([Schiavoni, J.](#), [Gentile, L.](#)) To exempt from property taxation the primary residence of military veterans who are disabled. Am. 323.152, 323.153, 4503.065, and 4503.066
- [SB 303](#)** ■ **AGENCY RULEMAKING** ([Uecker, J.](#)) To reform agency rule-making and legislative review thereof. Am. 106.021, 106.03, 106.031, 107.52, 107.54, 111.15, 119.03,

121.71, 121.72, 121.73, 121.74, 121.75, 121.82, 127.18, 1707.20, and 3375.01; to enact sections 101.352, 101.353, 106.032, 117.115, 121.93, 121.931, 121.932, and 121.933; and to repeal section 121.76

HB 502 ■ **CAMPAIGN FINANCE** ([Becker, J.](#)) To modify the Campaign Finance Law. Am. 111.30, 145.053, 742.042, 3307.072, 3309.072, 3517.01, 3517.08, 3517.081, 3517.10, 3517.101, 3517.102, 3517.104, 3517.105, 3517.106, 3517.107, 3517.108, 3517.109, 3517.1011, 3517.1012, 3517.11, 3517.12, 3517.13, 3517.151, 3517.154, 3517.155, 3517.992, 3599.03, 3599.031, 4123.442, and 5505.044

HB 503 ■ **AGENCY RULEMAKING** ([Duffey, M.](#)) To reform agency rule-making and legislative review thereof. Am. 106.021, 106.03, 106.031, 107.52, 107.54, 111.15, 119.03, 121.71, 121.72, 121.73, 121.74, 121.75, 121.82, 127.18, 1707.20, and 3375.01; to enact sections 101.352, 101.353, 106.032, 117.115, 121.93, 121.931, 121.932, and 121.933; and to repeal section 121.76

Hearing Schedule



Monday, April 4

[Joint Committee on Agency Rule Review](#) ([Committee Record](#)), (Chr. [Uecker, J.](#), 466-4086), Senate Finance Hearing Rm., 1:30 pm

Tuesday, April 5

[Senate Insurance](#) ([Committee Record](#)), (Chr. [Hottinger, J.](#), 466-5838), South Hearing Rm., 10:30 am

SB 27 ■ **FIREFIGHTER CANCER** ([Patton, T.](#)) To provide that a firefighter who is disabled as a result of specified types of cancer is presumed for purposes of the laws governing workers' compensation and the Ohio Police and Fire Pension Fund to have incurred the cancer while performing official duties as a firefighter. --**5th Hearing-All testimony-Possible vote**

HB 207 ■ **WORKERS COMPENSATION** ([Henne, M.](#), [McColley, R.](#)) To allow a state fund employer to have a workers' compensation claim that is likely to be subrogated by a third party paid from the surplus fund account in the state insurance fund rather than charged to the employer's experience --**2nd Hearing-Proponent**

[Senate Ways & Means](#) ([Committee Record](#)), (Chr. [Peterson, B.](#), 466-8156), South Hearing Rm., 3:00 pm

SB 216 ■ **TAX EXEMPTION** ([Burke, D.](#), [Gardner, R.](#)) To exempt the first \$500 of prescription eyeglasses, contact lenses, and other optical aids sold by licensed dispensers from sales and use tax. --**1st Hearing-Sponsor**

SB 246 ■ **AGRICULTURAL LAND** ([Hite, C.](#)) To require that the computation of the capitalization rate for the purposes of determining CAUV of agricultural land be computed using a method that excludes appreciation and equity buildup and to stipulate that CAUV land used for a conservation practice or enrolled in a federal land retirement or conservation program for at least three years must be valued at the lowest of the values assigned on the basis of soil type. --**1st Hearing-Sponsor**

HB 166 ■ **TAX LAWS** ([Green, D.](#)) To extend the deadline for filing an application for the homestead exemption or 2 1/2% property tax rollback to the end of the tax year, to require that auditors certify Local Government Fund allocations to subdivisions by regular or electronic, rather than certified mail, to require that notices of appeal from a decision of the Board of Tax Appeals originating with a county board of revision be filed with that

board and the county auditor, to clarify the effect of certain certifications related to the repealed personal property tax, and to repeal laws requiring county auditors to issue permits for traveling shows, issue licenses for new merchandise public auctions, certify the annual state tax interest rate to local courts. --1st Hearing-Sponsor

SB 235 ■ **PROPERTY TAXES** ([Beagle, B.](#), [Coley, B.](#)) To exempt from property tax the increased value of property on which industrial or commercial development is planned until construction of new commercial or industrial facilities at the property commences. --3rd Hearing-All testimony-Possible amendments & vote

House Judiciary ([Committee Record](#)), (Chr. [Butler, J.](#), 644-6008), Rm. 116, 3:30 pm
Presentation by Judge Fred Pepple, Chair of the Ohio Criminal Justice Recodification Committee, for the purpose of providing an update regarding that committee's process and progress to date.

SB 139 ■ **POST-CONVICTION RELIEF** ([Seitz, B.](#), [Williams, S.](#)) To require the clerk of a common pleas court to retain a copy of the original trial file when a death penalty is imposed, to specify that there is no page limit on petitions for postconviction relief in death penalty cases or in appeals of denials of such relief, to modify the time for filing an amended postconviction relief petition in death penalty cases, to provide for depositions and subpoenas during discovery in postconviction relief proceedings in death penalty cases, and to require a judge hearing a postconviction relief proceeding in a death penalty case to state specifically in the findings of fact and conclusions of law why each claim was either denied or granted. --2nd Hearing-Proponent

HB 446 ■ **OVI OFFENSES** ([Manning, N.](#)) To specify that the prison term that may be imposed for a third degree felony operating a vehicle while intoxicated ("OVI") offense is a definite period of twelve, eighteen, twenty-four, thirty, thirty-six, forty-two, forty-eight, fifty-four, or sixty months, to add "harmful intoxicant" to the definition of "drug of abuse" for the purposes of commercial driver's licensing law, to allow a person to assert the existing affirmative defense of driving in an emergency with regard to a prosecution for driving under a suspended driver's license under specified laws, and to specify that certain enhanced penalties for speeding violations apply regardless of whether the offender previously has been convicted of or pleaded guilty to speeding. --2nd Hearing-Proponent & interested party

HB 436 ■ **DUI SENTENCES** ([Cupp, R.](#), [Rogers, J.](#)) To authorize a judge that grants limited driving privileges to a second-time OVI offender to order the termination of the mandatory immobilization order. --3rd Hearing-All testimony

Wednesday, April 6

House Energy & Natural Resources ([Committee Record](#)), (Chr. [Landis, A.](#), 466-8035), Solvay Advanced Polymers, 17005 St. Rt. 7, Marietta, 2:00 pm
Ohio Chemistry Council presentation
Tour of Solvay's facility

HB 214 ■ **PIPING MATERIALS** ([Thompson, A.](#)) To restrict when a public authority may preference a particular type of piping material for certain public improvements. --2nd Hearing-Proponent

House Session, Senate Session, (Chr. [Rosenberger, C.](#), 466-3357; Chr. [Faber, K.](#), 466-4900), Peoples Bank Theatre, 222 Putnam Street, Marietta, 7:00 pm
Joint session for the Governor's State of the State Address