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# STATEHOUSE REPORT

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## **Pay bill dies; Pay commission dies, too**

Disappointed. Frustrated. Those are just two of the many adjectives that describe folks due to the 130th General Assembly's lack of enacting elected officials' compensation, particularly during November and December.

The Ohio House passed legislation – [HB 661](#) which would have reduced county elected officials' pay classes and provided a cost of living adjustment from 2017 – 2023 as well as increased compensation for judges, township officials, boards of elections members, lawmakers, and statewide officeholders. However, the Ohio Senate did not consider the proposal.

On the other hand, the Ohio Senate passed [Senate Joint Resolution \(SJR\) 9](#), which proposed changes to the Ohio Constitution to establish a pay commission composed of citizens who would make recommendations on officials' salaries; subsequently, the legislature could reject the recommendation or allow it to become effective without action. In addition, the proposal would have removed the elected officials' prohibition from accepting in-term pay raises, which has been a point of contention for past boards of county commissioners whose membership takes office in different election cycles. [SJR 9](#) passed the Ohio Senate 32-0. The Ohio House Finance Committee scheduled hearings on the resolution and listed a "possible vote" on the proposal, but later cancelled the hearings when the Senate would not consider [HB 661](#).

In addition, Governor Kasich's spokesperson Scott Milburn said that the governor is staunchly against an across-the-board increase like the one approved 56-24 by the House in [HB 661](#), according to the *Columbus Dispatch*. Milburn said Kasich would rather give the judges an increase now, then have a panel study the issue and develop recommendations next year.

Senate President Keith Faber, R-Celina, also opposed the House version. But he is sympathetic to underpaid judges and would add county prosecutors and sheriffs -- who sometimes are paid less than the deputies who work for them.

Yet, House Speaker William G. Batchelder, R-Medina, did not like the Senate's plan because it removes the legislature's authority to decide public officials' pay increases.

In the end, the pay bill and the pay commission proposal are dead for this General Assembly, which wraps up its work next week.



*Rep. Stebelton*

CCAO particularly thanks [HB 661](#) sponsor Rep. Gerald Stebelton (R-Lancaster) who tirelessly advocated for the bill and fair compensation for elected officials. In addition, the Association also thanks the strong team effort by the Ohio Council of County Officials (OCCO), which stayed united and vocal during our effort to pass [HB 661](#). Moreover, CCAO thanks its members for their steadfast lobbying and support.

If you have questions, please contact CCAO Staffers Cheryl Subler or John Leutz on their cell phones at 614-746-8507 or 614-299-2800, respectively.

## **Sales tax holiday pilot passes, several amendments tacked on as lame duck session winds down**

The House Finance and Appropriations Committee reported on a 24-4 vote SB 243 that will establish a pilot sales tax holiday on certain goods during August 7 through 9 of 2015. The Ohio House passed the measure by a vote of 71 – 8 later in the week. The bill is sponsored by Senator Kevin Bacon (R-Minerva Park).



*Sen. Kevin Bacon*

Several amendments were added by the Finance Committee limiting the scope of the sales tax holiday. Limitations include:

- The sales tax holiday is a one year pilot to take place during the first Friday and weekend of August 2015. The Senate passed bill would have been in permanent law.
- The scope of goods subject to the sales tax holiday has been amended to exclude computers valued at up to \$1000 per device and computer software valued at up to \$750.
- Items of clothing subject to the holiday must have a value of \$75 or less per item. The Senate passed legislation had set the value of clothing at up to \$100 per item.
- The definitions of “school supplies” (up to \$20 per item) and “school instructional materials” (up to \$20) remain at \$20, but the definitions are harmonious with the Streamlined Sales Tax Agreement according to the Ohio Department of Taxation. Ohio is a full member of the Streamlined Sales Tax Agreement and does not wish to be non-compliant with the agreement.

A fiscal note on the bill as passed by the Ohio House indicates that the fiscal impact of the bill has been reduced by approximately two-thirds with the amendments described above. The expected loss to the state GFR is estimated at \$13.5 million, down from \$36 million in the Senate version, and the permissive sales and use tax loss to counties and transit authorities is projected to be \$3.2 million, as compared to \$9 million in the Senate version. The loss to both the LGF and PLF is anticipated to be \$ 500,000.

A number of other amendments were included within an omnibus amendment adopted by the House Finance Committee. Items of note include the following:

- A \$10 million appropriation in SFY 2015 from the state GRF to the Local Government Fund to supplement the revenues of townships. This amendment instructs county treasurers to divide \$5 million equally among all 1308 townships in Ohio and to divide the remaining \$5 million among townships based on road miles. The \$10 million appropriation is being drawn from the Local Government Innovation Fund which currently has a balance of \$26 million according to published reports.
- An amendment to the county credit card statute adding webinar expenses and the expenses of automatic or electronic data processing or record keeping equipment, software, or services to the list of eligible uses for a county authorized credit card. In addition, the county credit card acceptance policy law has been amended to allow a county law library to accept credit cards for the payment of fees for service and gifts to the county law library resources fund if a board of commissioners has adopted a resolution authorizing the acceptance of payments by financial transaction devices for county expenses.
- An amendment was adopted to permit a theater in central Ohio to qualify for a Federal Historic Preservation Tax Credit provided the property has been listed as tax exempt for one year, instead of ten years under prior law. Prior law had permitted qualifying property used for charitable, educational, or other public purposes to continue to be tax exempt even if conveyed to an entity that is not a charitable or educational institution, provided the property has been listed as tax exempt for ten years. According to the fiscal note, this provision may affect other properties outside central Ohio and may reduce revenue to local governments.
- Appropriates an additional \$3 million in SFY 2015 within the Department of Job and Family Services' budget, of which \$1.5 million is earmarked for the Putnam County YMCA in the City of Ottawa and \$300,000 to the Jewish Federation of Cincinnati. The remaining \$1.2 million is appropriated to Family and Children Services and is earmarked for the Child Placement Level of Care Tool Pilot Program.

The \$10 million repurposed appropriation to the LGF for townships generated discussion on the Finance Committee. While members were generally supportive of the additional funding for townships, committee members asked why villages and other local governments who have been impacted by LGF cuts, estate tax elimination, TPP reimbursement phase-out and other revenue losses were not being included for additional financial assistance. Representative Ron Amstutz (R-Wooster), chairman of the House Finance Committee, told committee members that as far as bolstering funding for other local governments, there was a lot of work to do and further consideration would be given to other local governments during the next General Assembly.

Representative Dan Foley (D-Cleveland) offered an amendment in committee to hold local governments harmless from the sales tax holiday. The amendment was table along party lines. A similar amendment holding local governments harmless from revenue losses was offered by Representative Matt Lundy (D-Elyria) on the House floor, and this amendment was also tabled along party lines.

For additional information regarding SB 243, please contact Brad Cole of the CCAO staff at [bcole@ccao.org](mailto:bcole@ccao.org).

## **Sub House Bill 490 – sewer amendment and bill stalls in the Senate**

Last week we discussed the possibility that [Substitute HB 490](#) may not receive a vote in the Senate, and that is what happened. Senate [President Keith Faber](#) (R-Celina) issued a [statement](#) saying he decided the chamber would not take action on the bill before the chamber adjourns for the year. “After consulting with my colleagues, I've decided the Senate will not act on House Bill 490 during this legislative session. We simply need more time to consider the substantive issues contained in the 264-page document, and time is not our ally in a lame duck session,” said Faber.

What originally began as part of the Governor Kasich’s MBR proposal, transformed into a wide-ranging bill the House loaded up with contentious provisions on telecommunications regulation, the Great Lakes Compact, fracking chemicals, sewers and farming practices, officially died in the Senate.

The Senate Agriculture Committee heard dozens of witnesses speak last week, including Union County Commissioner Steve Stolte, who opposed a variety of provisions the House added. Those provisions include the following:

### **Telecommunication regulations:**

- An amendment that would start the process of allowing incumbent telephone companies to withdraw basic local service prompted a torrent of opposition, along with a veto threat from Gov. Kasich. Many witnesses voiced concern that the proposal would leave poor, elderly and rural Ohioans without a viable alternative.

### **Great Lake’s Compact:**

- Numerous environmental groups have warned that a proposed amendment to the state's Great Lakes Compact implementing law would significantly increase the amount of water permitted to be taken from the basin, including withdrawals from small, ecologically sensitive streams.

### **Oil and Gas issues:**

- Changes to the way oil and gas companies report information about chemicals stored onsite have also drawn opposition from environmentalists, who say the plan could slow the transmission of critical data to emergency responders in the event of another well pad fire. Witnesses have also criticized the House's move to ease Gov. Kasich's proposed penalties on environmental violations.

### **Sewer “Opt-out” provisions:**

- Local governments fought a proposal in the MBR to let homeowners opt out of hooking into privately constructed sewer lines, noting that they generally get turned over to a public entity after construction of a subdivision or commercial development.

## Lake Erie algal blooms:

- Other provisions designed to address toxic algal blooms in Lake Erie have gotten more positive reviews by witnesses, including some major agricultural groups, like the Ohio Farm Bureau. However, some farmers are quietly voicing concerns about the plan to restrict manure and fertilizer application on frozen ground in the western basin.



Sen. Peterson

While Substitute Bill 490 has stalled this General Assembly, we anticipate many of its components to surface early next year. It has suggested that the governor will put many water quality proposals in his biennium budget. [Senator Bob Peterson](#) has reached out to interested parties and local government groups, including CCAO, to continue work on his sewer connectivity proposal.

CCAO appreciates the support and advocacy of many counties on this legislative proposal. We would also like to thank Don Sherman and the County Sanitary Engineers Association for their knowledge and expertise who contributed on this issue. Lastly, we would like to thank Union County Commissioner Steve Stolte for testifying on HB 490. For additional information on Sub HB 490, please contact CCAO staffer Brian Mead at [bmead@ccao.org](mailto:bmead@ccao.org) or 614-220-7982.

## Acting officer option can fill temporary void resulting from suspension of county elected official

Under current law, when an elected public official of a political subdivision is charged with a felony, the official can be suspended from office. If the official is suspended, an interim replacement official is appointed to carry out the duties of the suspended public official.

Athens County recently experienced a concern with this process when their county sheriff was suspended from office. The law did not provide for an ability to appoint an individual to cover the period of time from the suspension to the selection of the interim replacement by the county central committee.

Under [HB 10](#), the board of county commissioners may appoint a person in the official's office as the acting officer to perform the suspended county official's duties between the date of the suspension of the county official and the time at which the appointed interim replacement official qualifies and takes the office. The bill requires the acting officer to give bond and take the oath of office.

The bill also revises who appoints the interim replacement official if the official suspended is an elected county official who was elected as an independent candidate. In all cases, except for a county commissioner, the board of county commissioners appoints the interim replacement official. But if the suspended public official is a county commissioner then the prosecuting attorney and the remaining county commissioners, by a majority vote, must appoint the interim replacement official.

The bill also requires that an acting officer or any interim replacement official must be certified to the county board of elections and the Secretary of State by the authorized appointing authority.

If a person is appointed as an acting or interim replacement to an office which has special qualifications they must also meet those qualifications. This applies to the offices of prosecuting attorney, sheriff, coroner, and engineer.

The primary purpose of HB 10 is designed to address concerns regarding local governments' fiscal officers. It establishes requirements for initial education programs and continuing education requirements for township and municipal corporation officers; procedures for removing local fiscal officers, county treasurers and county auditors from office; and, accountability requirements for counties, townships, municipal corporations, and public schools.

Major provisions of the bill (detailed in the [LSC analysis](#)):

- Establish procedures for removing "fiscal officers" from office for purposely, knowingly, or recklessly failing to perform a fiscal duty expressly imposed by law, or for purposely, knowingly, or recklessly committing any act expressly prohibited by law, with respect to the fiscal duties of the office.
- Authorize specific individuals, as the first step in the removal process, to submit to the Auditor of State a sworn affidavit alleging a violation, along with supporting evidence; a removal action cannot be filed directly with the court under the bill's removal procedures.
- Require the Auditor of State to review the allegations and weigh the evidence against the fiscal officer to determine whether clear and convincing evidence exists to support the allegations, and if the Auditor of State so finds, the determination is to be submitted to the Attorney General for the same review.
- Require the Attorney General to file a removal action against the fiscal officer if the Attorney General finds by clear and convincing evidence that an allegation is supported by the evidence.
- Afford the fiscal officer a hearing in the court of common pleas.
- Unless otherwise provided by law, prohibit any individual removed from office under the bill's procedures from holding another public office for four years, and from holding any public office until repayment or restitution required by the court is satisfied.
- Provide for an automatic stay of removal proceedings during the pendency of a criminal action related to the conduct in office of the person charged.
- Establish initial education programs, taken before assuming office or during the first year of a term, and continuing education requirements, taken after assuming office, for township fiscal officers, city auditors, city treasurers, village fiscal officers, village clerk-treasurers, village clerks, and similar fiscal officers designated by the charter of a chartered municipal corporation.
- Require the Auditor of State, instead of the County Auditors Association of Ohio, to issue a certificate of completion or notice of failure to complete to county auditors regarding their continuing education courses.
- Except as otherwise provided by law, bar a fiscal officer who is convicted of or pleads guilty to dereliction of duty from holding any public office, employment, or



position of trust in Ohio for four years, and from holding any public office until repayment or restitution by the court is satisfied.

- Require that whenever a county auditor or county treasurer fails to perform the duties of office for 30 consecutive days, instead of the current 90 days, the office must be deemed vacant, except in the case of sickness or injury confirmed by the filing of a physician's certificate.

## **Regional transportation improvement project bill passes Senate**

[HB 494](#), which would permit county officials from two or more counties to enter into cooperative agreements for the purpose of undertaking regional transportation improvement projects that would benefit the region in which the counties are located, passed the Senate this week after the Senate Ways and Means Committee adopted several non-related amendments. The bill now awaits the House's concurrence in Senate amendments which should take place next week.

The legislation, sponsored by Representative Kirk Schuring (R-Canton), is designed to provide an option for the eastern Ohio counties that are a part of the US Route 30 corridor to finance the expansion of that part of US Route 30 beyond its current two lane configuration. Many believe that the widening of this road to four lanes will greatly enhance the economic activity in this region.

CCAO supports the legislation, which establishes requirements for an agreement to undertake a regional transportation improvement project which would include:

- A description of the existing transportation system including deficiencies in that system
- A list of transportation projects to be completed including a general description of each improvement, schedules for completion of each improvement, and the cost of each improvement
- Policies regarding the operations and reporting requirements of the governing board
- The number of years that the agreement is to be in effect
- Any terms necessary to communicate the intentions of the cooperative agreement

The legislation permits county commissioners who are parties to the agreement to levy a motor vehicle license tax, subject to voter approval in each county participating in the agreement, in \$5 increments up to a maximum of \$25.

A transportation advisory council must be established to advise the governing board of the regional transportation improvement project regarding the levying of motor vehicle license taxes if such taxes are to be levied on the operation of trucks. The advisory council which would include trucking industry representation would have to approve any motor vehicle license tax that applied to trucks before the governing board of the regional transportation improvement project could recommend to commissioners the proposed levying of a motor vehicle tax that applied to the trucking industry.