

GENERAL ASSEMBLY BREAKS FOR SUMMER RECESS AFTER BUSY FIRST HALF OF YEAR

JULY 11, 2017



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The Ohio legislature has wrapped up the first six months of the 132nd General Assembly and is now headed off for a long summer recess before returning in the fall. While the bulk of the last six months has been occupied by deliberations on the state's operating budget, there have been significant issues discussed in and around the statehouse. However, less than 20 bills were enacted and sent to the governor for his consideration. Of these, three were budget bills containing many policy issues.

Energy

Energy, how it's made, how much it costs, and who pays for it, continues to be a hot topic at the statehouse.

For almost a decade, the debate on renewable energy and energy efficiency has occupied many committee hearings. Two years ago, the legislature enacted a freeze on mandates of where energy comes from and how efficient energy users needed to be. That freeze ended at the beginning of the year, despite an attempt late last year by legislators to continue it, and legislators swiftly introduced legislation to get rid of the mandates all together. House Bill 114 would effectively do away with the energy efficiency mandates and instead make them goals as well as lowering the benchmark for the new goals. Additionally, the legislation allows large mercantile customers to opt out of needing to meet the new goals. Energy supplied from renewable sources would no longer be required but would still be allowed as long as the cost to supply that energy did not break a 3% cost cap. Further, beginning in 2019, it allows the Public Utilities Commission of Ohio (PUCO) to allow all customers to opt out of paying for

renewable energy that is supplied by their electricity supplier.

H.B. 114 has passed the Ohio House and is in the Ohio Senate for consideration; however, it did not see final action before the legislature went on recess. It remains to be seen what the Senate will do when it reconvenes in the fall.

The General Assembly did add small hydroelectric generating facilities to the qualifying renewable sources in the state operating budget, thus making their generation eligible for purchase as renewable energy credits.

Another item that garnered lots of attention was legislation to subsidize nuclear power plants. Sold as a zero emissions resource program, legislation to help Ohio continue to meet federal clean air requirements, House Bill 178 and Senate Bill 128 would mandate the purchasing of credits by electric distribution utilities. This mandate would essentially ensure that the two nuclear power plants in Ohio would remain solvent. The cost of purchasing the credits would most likely then be passed back to the customers of the electric distribution utility in which the plants are located.

While many hearings were held on the two companion bills, it appears that the legislature does not currently have an appetite to pass either bill. The question becomes, will work continue behind the scenes over the summer recess and will activity pick up in the fall.

On the theme of providing subsidies to electric companies, there is also companion legislation, House Bill 239 and Senate Bill 155, aimed at providing relief to Ohio Valley Electric Company (OEV). The legislation, being touted as a national security issue, would allow the utility to recover funds for the cost of operating their plants from rate-payers. Like the nuclear issue, both bills have received several hearings, but no votes before the recess began.

Environment

Currently awaiting the Governor's signature for enactment is Senate Bill 2 which makes broad changes to environmental laws. A main focus of the bill is aimed at protecting Lake Erie for both recreational and drinking water uses. The bill will help the Ohio Lake Erie Commission, in collaboration with many state agencies and local governments, with its goal of lowering the phosphorus in the lake by forty percent.

The bill will also help protect drinking water in communities across Ohio by requiring financial assurance for new or modified community water systems, as well as requiring public water systems to demonstrate technical, financial and managerial capabilities. Additionally, Ohio EPA will be able to seek a receivership through a court to help resolve problems at public water systems which pose a threat to public safety.

It is expected that Governor Kasich will sign the bill.

Budget

As with every odd-numbered year, the first six months of this year have mostly been focused on the state operating budget which enacts appropriation, funding and program changes for the next two fiscal years as well as an array of permanent law policy changes. For a complete overview on all the tax items found in House Bill 49 please review our [SALT Buzz](#).

The budget is also home this year to several high profile items, first and most controversial, the legislature included a freeze on Medicaid expansion in the finalized bill sent to the Governor. Starting in July 2018, no new enrollees would be permitted. Those currently covered by Medicaid would continue to be covered unless they find better employment and drop off the Medicaid rolls; those that leave Medicaid would not be able to return to the rolls even if they lose their job. According to the Governor's office, more than 500,000 Ohioans could lose their coverage.

As expected, Governor Kasich, who went around the General Assembly without its vote to initially expand Medicaid eligibility to align with federal policy changes, vetoed this language. The House and Senate have both talked publicly about overriding the Governor's veto. However, the House has already voted on several overrides and did not take this matter up. The General Assembly has until the end of 2018 to override this veto.

Another focus of both the House and the Senate has been to provide funds to fight the growing, tragic opioid crisis here in Ohio, which now leads the country in overdose deaths. Both chambers agreed to invest roughly \$175 million on top of what is currently being spent, to help fight the epidemic. Part of that money will go to funding child protective services and programs that help support children in drug affected families. Additionally, funds will deal with increased work load expanding treatment and recovery housing and help counties establish drug abuse response teams.

On the education front, the legislature included operating funding increases of about one percent on the average for districts for K-12 education. Some school districts will gain funding, some will lose funding and some will be funded at the same level as last year. State universities will also stay at current funding levels, however they can raise their tuition up to six percent after the governor vetoed a provision that would have allowed as much as eight percent increases, but only if they agreed to participate in a tuition guarantee program.

As far as overall state agency funding goes, all state agencies will see a cut in funds in order to help fill the nearly \$1 billion projected shortfall of revenue funds. The General Assembly attempted to create a separate process for legislative review of each

executive agency every two years prior to the budget process, with the goal of limiting duplicative state programs and providing responsible allocation of funds. However, the Governor vetoed this item.

Line Item Vetoes

Along with the Medicaid expansion freeze language and other mentions above, other notable vetoes that Governor Kasich made include (full list of all 47 vetoes can be found [here](#)):

- Potential reimbursement to counties for voting machine upgrades. The language would have reimbursed counties up to fifty percent of the acquisition costs.
- The ability for school districts to administer assessment tests both online and on paper.
- A financial penalty procedure solely for the City of Columbus if the city's water and sewer rates are different in 2022 between residential and nonresidential customers.
- Transfer of inspection rights from the Department of Agriculture to the Department of Health.
- Ability for community colleges to increase tuition rates.
- A provision that would have given the Joint Education Oversight Committee veto authority over the Department of Education audit standards.
- A provision that would have prohibited credit card sales of lottery games.
- The delay, until July 1, 2018, of behavioral health services in to managed care under the Ohio Department of Medicaid.
- Imposing a methodology limitation on county auditors in determining the value of sales and leases for tax purposes on sub-surface minerals prior to their production.
- Abandonment of the local landline telephone program Lifeline which ensures telephone access for at risk populations.
- The Rural and High Growth Industry Jobs Program which sought to provide a tax credit for insurance and financial institutions that invest in rural areas.
- A program to create a separate website for veteran job placement.

Veto Overrides

The House did reconvene in early July, which is very unusual, to pass two bills but also to override a large handful of the Governor's vetoes. As previously mentioned, it is still unclear whether they will be back to do more or not. Because the budget bill originated in the House, the House must act first on overrides and the Senate cannot take up any veto the House hasn't acted on. The House overrides will only go into effect if the Senate also votes to override the same vetoes. At of the time of publication, the

Senate has not met to work on veto overrides and is still having internal deliberations.

The eleven overrides that the House acted upon are provisions that would do the following:

- Limit the power to the Controlling Board to determine amounts by which appropriations are adjusted and to create new funds. (Veto Item #3)
- Prohibit the Ohio Department of Medicaid (ODM) from covering new groups unless permitted by statute. (Veto Item #23)
- Grants the Joint Medicaid Oversight Committee and the General Assembly power to prohibit rate increases. (Veto Item #25)
- Require ODM to set neonatal and newborn services rates at 75 percent of Medicare. (Veto Item #26)
- Change the formula used to determine Medicaid payment rates for nursing facility services. (Veto Item #27)
- Prohibit long-term services from being added to Medicaid managed care unless the General Assembly authorizes it. (Veto Item #30)
- Require ODM to delay implementation of the behavioral health redesign into managed care until July 1, 2018. (Veto Item #31)
- Require the administration to seek CMS approval for an additional waiver to generate replacement revenues for counties and local governments from a per-member fee that would be assessed on Health Insuring Corporations in the same manner that was enacted for the state to replace a repealed sales tax provision on Managed Care Organization premiums. (Veto Item #33)
- Restrict the Controlling Board from releasing funds if Congress amends federal law regarding medical assistance that reduces the percentage. (Veto Item #34)
- Require ODM to request a waiver from CMS to implement the Healthy Ohio program. (Veto Item #36)
- Transfer appointment authority for members of the Ohio Oil and Gas Leasing Commission from the governor to the General Assembly. (Veto Item #37)

Now that the budget work has been wrapped up, legislators head back to their districts for summer parades and fairs. It is expected that they will resume work here in Columbus in the fall, most likely in mid-September. Stayed tuned to hear what they may tackle in the fall!

If you have any questions or concerns about any legislative matter, feel free to contact one of our professionals.

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