



Ohio Association of Public Treasurers Annual Conference October 6, 2017

Kent Scarrett
Executive Director
Ohio Municipal League

Legislative Update



General observations about Ohio municipalities

- Ohio's population is 78% urban and 22% rural.
- Out of the roughly 11.6 million people residing in the state of Ohio, almost 9 million of these souls live in a city or village.
- Of those, 6.1 million or 53% live in Ohio's biggest 10 urban counties (Cuyahoga, Franklin, Hamilton, Summit, Montgomery, Lucas, Stark, Butler, Lorain, Mahoning).
- The 11 largest municipalities in Ohio (Columbus, Cleveland, Cincinnati, Toledo, Akron, Dayton, Parma, Canton, Youngstown, Lorain, Hamilton) generate 90% of the state's Gross Domestic Product(GDP).
- The same cities are where 85% of all new jobs originate from.
- Personal incomes run \$8,000 higher in metropolitan areas (\$45,146 vs. \$37,395 elsewhere)

The Biennial State Operating Budget



Sub. HB49

- 3,384 pages; \$65.5 billion in GRF and \$132.8 billion in all funds
- \$54 billion of the \$65.5 billion of GRF dollars are directed to the three things the state provides in services: medicate, educate and incarcerate.
 - \$29.2 billion on Medicaid, almost half of the total budget
 - \$16.1 billion on K-12 education; \$5.2 billion for High Ed.
 - \$3.5 billion for Rehabilitation and Corrections

Sub. HB49



- The Governor vetoed 47 items in the final bill with the most controversial being the override of the legislature's "freeze" on Medicaid expansion.
- The House returned the week after the bill signing to override 11 of the Governor's vetoes, which were then sent to the Ohio senate for their consideration. Roughly a month later, the senate agreed with 6 of the House overrides, all dealing with the issue of Medicaid and who has control of future expenditures.
- The "freeze" was lifted but assistance to counties and public transit remain in jeopardy as a result of the federal restriction on applying the sales tax to Medicaid services.
- **3.1 million Ohioans are on Medicaid which is 1of 4 residents of the state.**
- The "freeze" would have denied coverage to 500,000 from re-insuring and by the administration's figures would have denied Ohio \$300 million in additional federal aid to fight the opioid crisis.
- 2013 expansion of Medicaid was estimated to bring 360,000 into the program but resulted in 725,000



HB 49 Municipal Tax changes Centralized Collection/OBG & Throwback

• Governor's proposal

- Remove the Municipal Net Profit (718.02) from the municipal code and create a new state code 5718.
- Businesses filers would be mandated to file through OBG, "saving businesses \$800 million a year."
- Quarterly distributions of revenue due with no consideration for interest accrued owed municipalities.
- 2.5% service fee applied to municipalities
 - The municipal net profit component represents about 14% of the total municipal tax. This small portion of the tax takes far less than 2.5% to administer
 - Self collectors estimate the it takes .02% of their revenue to administer the business component
 - 13% of municipal net profit filers have 3 or more municipal taxing jurisdictions that they are responsible for filing in



Municipal Net Profit Tax Reform / The Plan



- **Support: more than 30 statewide business assns. (OH Chamber, CPAs, Mfg., Contractors, NFIB, Restaurants, Retail Merchants, etc.).**
- **Advantages:**
 - Consistency / uniformity
 - Reduced costs for businesses and municipalities
 - More efficiencies / more data analysis

5



HB 49 Municipal Tax changes Centralized Collection

• Ohio House proposal

- Return the muni net profit back to ORC 718
- Rebuild the OBG with a \$24 million dollar appropriation to address the current software shortcomings including the inability to attach and transmit all necessary forms and schedules & interface with preparer's software
- Preserve local control by continuing to allow municipalities the ability to receive and review filings; preserving audit and enforcement capabilities currently available to cities and villages
- Bi monthly distribution of revenues including interest
- 1% service fee applied to business filers who are benefiting from the revamped central portal.



HB 49 Municipal Tax changes Centralized Collection

• Ohio Senate proposal

- State Tax Commissioner will have the authority to make all rules, prescribe forms, audit, issue bills, assessments and refunds, handle appeals, certify debts, and conduct all other necessary administrative duties.
- Serious Home Rule implications
- Creates two separate sets of rules and procedures for the same class of TP completely counter to uniformity efforts
- Municipalities **can request** that ODT review a business filing. Nothing forces the Tax Commissioner to act on the muni request for enforcement.
- Businesses that opt-in will be locked in for 5 years to file through the Gateway and the Dept. of Taxation. The senate changed it to an annual option to file through the state but TP must receive permission from the state to leave the system. AKA: "Hotel California" rule.
- 1% service fee will be applied to municipalities to receive their revenue.
- Revenue will be distributed monthly to municipalities with interest.

HB49 Conference Committee lowered the 1% service fee to .5%. This is not where munis have the greatest potential for lost revenue.



HB 49 Municipal Tax changes Centralized Collection

- Alternative Options to “Opt-In” proposal
 - Option#1 Allows TP to opt-in with the Tax Commissioner as currently proposed but ensures that all business NP filers, municipal tax administrators and Tax Commissioner are operating under the same set of tax laws and rules.
 - Option #2 Allows the taxpayer to opt-in with the Tax Commissioner as currently provided in proposed R.C. 718.80 but keeps the municipality responsible for all enforcement, auditing and collection. At such time that the taxpayer has failed to file a return with the Tax Commissioner, fails to pay to the Tax Commissioner the municipal income tax due and owing or at the time that the municipal corporation requests an audit of the taxpayer, those enforcement, collection and auditing functions will be carried out by the municipal tax administrator.
 - Option #3 This option would limit the taxpayer election to opt-in with the Tax Commissioner to only those taxpayers that have a filing obligation in 4 or more municipalities. Those taxpayers would be subject to proposed R.C. 718.80 to 718.95. This option addresses the 13% of municipal net profit taxpayers that file and distribute in more than 3 Ohio municipalities.



HB 49 Municipal Tax changes Throwback

- Throwback Rule is applied to the sale of Tangible Personal Property that originates from a warehouse or distribution center.
- No state revenue involved, only municipal
- Was part of HB5 but was removed by the Senate because it is uniformly applied and would result in significant revenue loss for those municipalities impacted.
- Columbus, Cleveland, Cincinnati revenue loss in multi millions; Akron \$1.5-\$1.8 million; Grove City \$630,000; Aurora \$539,000; Solon \$551,000; Reynoldsburg 475,000; Mentor \$710,000; Tallmadge \$251,000; Twinsburg \$282,000; Hilliard \$200,000
- Final language creates a “nexus to nowhere”
- No sunset or extended end date for repeal to become effective. Asked for a 5 year cliff



HB 49 Local Government Fund

- Administrations proposal
 - The LGF will remains at 1.66% of GRF
 - A phase in of a means-testing methodology to determine distribution amounts of the LGF. Starting in 2017, the administration will develop a "capacity-based" mechanism for distributing part of LGF money. A local government's capacity to raise revenue locally will be assessed. If the state determines that the political subdivision has a higher capacity, they will receive less LGF money. If they have a low capacity, they will receive more LGF money. In 2017, 95% of the LGF will be disbursed through the traditional method and only 5% (plus any growth) through this new capacity index. That ratio will grow to 90/10 in 2020. The administration hopes to set it at an 80/20 ratio from there, which would lead into the next administration.
 - Also, the administrations plan included language that eliminated the additional LGF "municipal distribution" received by those cities and villages that currently have an income tax in place. This agreement was made in the earlier 1970's when then the state of Ohio instituted the first statewide income tax, in direct competition with Ohio cities and villages which had the municipal income tax in place thirty years prior.



HB 49

Additional Municipal Budget Issues

- Storage of firearm in privately owned motor vehicle. Creates a civil cause of action against a business entity, property owner, or employer who prohibits a valid concealed handgun licensee from transporting or storing a firearm or ammunition in the person's privately-owned motor vehicle
- Decreases the percentage of required signatures for petitions to dissolve a village from 40% to 30% of eligible voters.
- Signatures for non-charter village disbursements. Requires two signatures for noncharter village fund disbursements
- Nonresident members of municipal planning commissions. Specifies that the public members need not be residents of the municipal corporation and requires nonresident public members, however, to be residents of the county in which the municipal corporation is located or a township that is adjacent to that county.



HB 49

Additional Municipal Budget Issues

- Urban Renewal Project Law. Adds environmental remediation as a purpose for which a municipal corporation can undertake an urban renewal project to prevent the spread of blight.
- Municipal income tax electronic filing through MeF program. Requires the Department of Taxation to study the feasibility of accepting municipal income tax returns through the existing joint federal/state Modernized e-File (MeF) program.
- Municipal income withholding tax penalty. Authorizes municipal corporations to impose a penalty not exceeding 50% of the unpaid amount for employers withholdings. (Currently, state law mandates that then penalty equals 50% of the unpaid amount).
- Municipal income tax: estimated payments. Allows individual municipal income taxpayers to pay fourth-quarter estimated payments until the 15th day of the first month of the ensuing taxable year (January 15 for calendar year taxpayers), for taxable years beginning in 2018.



HB 49

Additional Municipal Budget Issues

- Personal delivery devices. Defines "personal delivery device" (PDD) as an electrically powered device that is intended primarily to transport property on sidewalks and crosswalks, weighs less than 90 pounds excluding any property being carried in the device, has a maximum speed of 10 miles per hour
- Reimbursement for OVI-related chemical tests. Authorizes a court to order an offender to reimburse a law enforcement agency for any costs incurred by the agency with respect to administering blood or urine chemical tests.
- Continuance of fiscal watch provisions. Allows Auditor of State's to declare a fiscal emergency for a municipal corporation, county, or township that is under a fiscal watch, thereby also continuing the current statute which also reduces from 120 to 90 days.
- Removal of local government fiscal officers. Increases the time, from ten business days, to 30 calendar days, during which the Auditor of State must review a sworn affidavit and evidence against a local fiscal officer and must determine whether clear and convincing evidence supports allegations of misconduct.



HB49 Budget Items Left of the Cutting Room Floor

- Sole and exclusive authority of ODH to regulate lead abatement. Generally, provides that the state, acting through ODH, has the sole and exclusive authority to compel, prohibit, license, or regulate lead abatement activities in Ohio, including the licensing of lead abatement professionals and excepting only those activities for which oversight has been delegated.
- Unit operation procedures under Oil and Gas Law. Would prohibit the ability of municipalities to locally manage royalties and the disposition of mineral assets within the boundaries of the city or village.
- Areawide waste treatment management planning.
 - Columbus specific language which included language regarding “predatory Annexations.”



HB49 Budget Items Left of the Cutting Room Floor

- DataOhio Initiative - Local Government Information Exchange Grant Program. Requires a public office that posts public records on its website or a state website to make its best efforts to post the records in an open format, to state in its public records policy which public records the public office posts online,
 - Requires the Auditor of State, by rule, to establish uniform accounting procedures and charts of accounts for use by all public offices, but specifies that their use is not required.
 - Requires the State Librarian to disburse a \$10,000 grant to each applicant that meets the grant eligibility criteria.
- Local Government Innovation. Requires Fund 5KN0 appropriation item 195640, Local Government Innovation, to be used to make loans and grants to political subdivisions under the Local Government Innovation Program.



Where Ohio ranks for taxes and other trends

- Ohio's growing tax burden has resulted in slower economic growth for the state over the past several years."~ Buckeye Institute
- Tax Foundation ranked Ohio's business tax climate 45th among the 50 states due to the "needless complexity."
 - Calls our municipal income tax system "a mess" and "one of the worst in the country."
- Ohio is one of 17 states that levy a local income tax.
 - Average rate is 1.4%; Parma Heights highest at 3%
 - 63% offer full credit for tax paid in muni where TP works.
 - Ohio has the second highest effective rate at .94%.
- Ohio ranks 19th (pretty much in the middle) for combined state & local taxes.
 - Ohio's combined rate is at 9.8% or \$3,924; Pennsylvania-10.2%; West Virginia- 9.8%; Kentucky & Indiana- 9.5%; Michigan- 9.4%
 - Ohioans pay nearly a dime in taxes for every \$1 earned
- Ohio is one of the cheapest states related of cost of living standards.
 - \$100 in Ohio is worth \$112 in spending power compared to other states. New York's \$100 is equal to \$86.43
- Incomes run nearly \$8,000 higher in Ohio's metro areas.
 - In 2014, per person income was \$45,146 in metro areas compared to \$37,395 throughout the rest of the state.



Where Ohio ranks for taxes and other trends, cont.

- Ohio is one of the cheapest states related of cost of living standards.
 - \$100 in Ohio is worth \$112 in spending power compared to other states. New York's \$100 is equal to \$86.43
- Incomes run nearly \$8,000 higher in Ohio's metro areas.
 - In 2014, per person income was \$45,146 in metro areas compared to \$37,395 throughout the rest of the state.
- Ohio is 9th highest for Property taxes.
 - Two highest counties: Cuyahoga- 2.13%, Franklin- 2.04%.
 - State average is 1.57%.
- Ohio's average Sales Tax rate is 7.14% making us 19th nationally.
 - Established in 1935, the rate remained at 3% for 32 years until raised to 4% in 1967 and then 5.75% in 2013.
 - County piggy back sales taxes increases total capacity. Cuyahoga has the highest combined sales tax rate at 8%.
 - 36% of state revenue comes from the Sales tax; 27% from Income tax; 29% from Property tax.
 - Alaska, Delaware, New Hampshire, Montana, and Oregon all have no sales tax
- Manufacturing is the largest sector of Ohio's economy. 3 highest Ohio employers:
 - Health care and social assistance employs is the greatest percentage of workers at 13 percent.
 - State and local government-12 percent of workforce
 - Manufacturing comprises 11 percent of the state employment.



SB 331 & Small Cell Wireless Infrastructure

- During the 2016 Lamé Duck session, Ohio House inserted language to SB 331, the “Petland” bill that would create a statewide plan for the deployment of small cell infrastructure technology (5G)
 - Opponents were given 48 hours to work out differences before language would be added and passed
- The language was proposed by AT&T and was meant to include only the 4 wireless cell providers in the state (AT&T, Verizon, Sprint, T Mobile)
- Major objections with final version include
 - Applies only to munis
 - inability of municipalities to deny permit for installation
 - Loss of local aesthetic planning initiatives
 - Inadequate fee structure
 - No limits on locating in residential areas or distance from homes
 - Violates Home Rule right of way management authorities as a police power and single subject rule



Small Cell Infrastructure

- Language was adopted and passed.
- Municipalities began the process to sue the state and challenge the enactment of the language.
 - 4 lawsuits (Cuyahoga, Franklin, Stark and Hamilton cos.,) were filed with roughly 80 municipalities participating
 - June 2, Franklin County Court of Common Pleas court judge ruled the language violated the single subject rule and placed an injunction on the enactment of the language in Franklin county only.
 - The state has appealed the ruling.
 - The Akron case was not successful and the court upheld the language; other two cases are pending



Small Cell Infrastructure

- September 19th, Ohio House Speaker Rosenberger convened an interested parties meeting to discuss a legislative solution
 - Reps. McColley and Smith lead the meeting
 - The telecommunications industry was represented by AT&T
 - Municipalities were represented by Greg Dunn and Chris Miller of IceMiller LLC, the League, the Mayor's Alliance, Dayton Area, NE and Central Ohio Mayors and Managers Assoc. representatives, Hamilton co. Municipal League, Toledo, Columbus and various lobbyists with municipal clients.
 - Goal is to have the munis and industry address the issues that remain unresolved, find common ground and produce legislation that ultimately will allow the lawsuits to be withdrawn.

CHAPTER 4939: USE OF MUNICIPAL PUBLIC WAY



- Municipalities understand the need for modern telecommunications infrastructure and many communities have been early adopters of fiber and wireless technologies.
- We want to partner with the State and providers to create a mutually agreeable, streamlined process for the use of the municipal public ways, to advocate for the adoption of such process to other communities in Ohio, and to collaborate on immediately necessary wireless deployments while O.R.C. § 4939 is being revised.
- Primary Issues that need addressed in future legislation:
 - Under the current language, any entity with a CLEC license from the Public Utilities Commission of Ohio can use local rights-of-way. This is overly broad and encourages what amounts to real estate speculation. The person that filed the request for consent should be the person providing the wireless service. No speculating
 - Municipalities need the authority to:
 - reserve space on municipal structures for future provider and/ or municipal uses;
 - adopt reasonable requirements for facility appearance and concealment;
 - encourage co-location based on capacity limits in local rights-of-way; and
 - resolve conflicting requests as the municipality deems appropriate.



CHAPTER 4939: USE OF MUNICIPAL PUBLIC WAY

- Need a process to reasonably deny micro wireless facilities/ support structures.
- Need to include control/ protections for sensitive districts/ areas in a community.
- Need to adjust the provisions regarding application processing, including timing.
- Need provisions to incent master telecommunications planning by providers and, in instances in which a municipality conducts telecommunications planning, require the providers to follow the municipality's telecommunications plan(s).
- Need the authority to require movement or relocation of deployed wireless infrastructure from time-to-time and clarity in O.R.C. § 4939 to ensure that providers bear the cost of such reasonably required movement or relocation.
- Municipalities need authority to adjust fees over time and the fee requirements delineated within Ohio Revised Code section 4939 need to be reasonable.
- Need wireless appeals/ challenges to go through the judicial system instead of the regulatory path (PUCO).
- Need an indemnification provision

Infrastructure



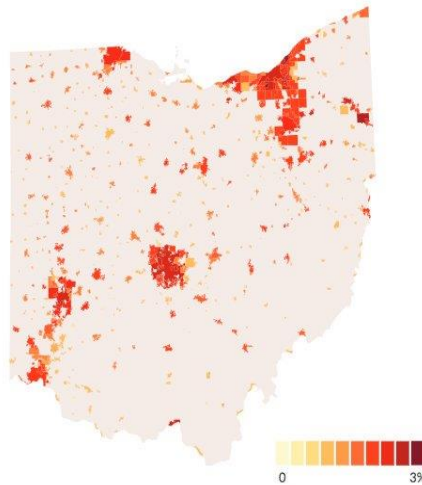
- Ohio has the 3rd largest number of urbanized areas in the country, behind Texas and California
- Ohio is the 5th largest amount of vehicle miles traveled in the country.
- Since 2013, 26 state have adjusted or raised their gas tax including all of the states surrounding Ohio
- Since 2017, 8 states have their has tax while others have approved one-time funding for transportation
 - 10 states approved new fees for electric or hybrid vehicles



Visual: Cities and Villages with a Income Tax

More than Two-Thirds of Ohio Municipalities Levy Local Income Taxes

Ohio Municipalities that Levy a Municipal Income Tax (2017)



Today, 614 of Ohio's 900-plus municipalities levy a local income tax. The average rate is 1.4 percent, but there is considerable variation. The city of Parma Heights levies the highest rate at 3 percent, while large cities like Cleveland and Columbus levy a 2.5 percent rate. Ohio taxpayers must pay local income taxes where they work and where they live. This map does not include the 190 school districts that also levy local income taxes, with rates ranging from 0.5 to 2 percent, although they are typically not imposed in the same jurisdiction as municipal income taxes.

Individuals are not the only ones paying municipal income taxes. Businesses must also pay the tax on their net profits, if located in a municipality for 20 days or more.

Source: Ohio Department of Taxation.



Senate Muni Tax Bills

- SB 176 (Jordan) Prohibit municipal taxation of nonresidents. No hearings
 - Prohibit municipalities from taxing nonresident income or profits
 - would require every employer to withhold where each employee resides; would eliminate the ability to apply tax to nonresidents working in your municipal corporation, would eliminate non residents with sole proprietorship income to pay tax in your municipal corporation
 - basically creates a residence-only tax for municipal purposes.
- SB 187 (Eklund) Expand time for recovering municipal income tax collection costs. No hearings
 - allow municipal corporations to charge delinquent taxpayers the costs of collecting municipal income taxes regardless of whether the costs are incurred before or after a judgment is entered against the taxpayer.



House Muni Tax Bills

- **HB 351 (Perales) Require municipalities to tax exempt pay of NOAA and PHS members**
 - require municipal corporations to exempt from taxation the military pay of members of the commissioned corps of the National Oceanic and Atmospheric Administration and Public Health Service
- **Bills coming from Rep Roegner**
 - **Change the penalties associated with estimated municipal income tax payments**
 - First, it reduces the interest rate on late estimated payments by two percentage points so that the rate equals the statutory rate charged for late state tax payments, which is 4% for 2017
 - Second, the draft changes the deadline for an individual's fourth and final estimated payment for taxable years beginning in 2017 from December 15, 2017, to January 15, 2018. Current law, as recently enacted by H.B. 49, changed the December deadline to January but delayed its application to taxable years beginning in 2018, meaning the December deadline would still apply in December 2017 unless it is changed by the draft.
 - Third, the penalties for late or deficient estimated tax payments will be computed for individuals on the basis of the total amount owed to all municipalities in cases when a taxpayer owes taxes to more than one municipality, rather than on the basis of the amount owed to each municipality.
 - **Allow a municipal income taxpayer to establish a presumption that the taxpayer is not domiciled in a municipal corporation by submitting an affidavit to that effect**



Bills of Municipal Interest

- **HB 267 (Ingram), Repeals Sovereign Immunity protections, 2nd hearing**
 - Repeals existing law's provisions specifying the qualified defenses to a political subdivision's liability for the negligent operation of a motor vehicle by a member of a municipal corporation's police or firefighting agency or member of a political subdivision's emergency medical service while responding to an emergency
- **HB 163 (Roegner) Prevailing Wage, 2nd hearing**
 - Exempts a political subdivision, special district, or state institution of higher education from the requirements of the Prevailing Wage Law, unless the political subdivision, special district, or state institution of higher education elects to be subject to those requirements.
- **HB 54 (Blessing) Creates a State Bond Bank and the State Bond Bank Trust Fund, passed House, 2nd hearing S.Finance**
 - Establishes procedures under which the Treasurer of State may make loans to qualifying public entities for the acquisition of permanent improvements by issuing revenue obligations of the state and using the debt proceeds to purchase obligations of those public entities.
- **HB 312 (Schuring, Greenspan) Regards credit and debit card use by political subdivisions**
 - Requires political subdivisions, except counties, to follow procedures for the use of credit cards including adopting a policy, conducting a quarterly review, and in some cases providing itemized receipts to the political subdivision's fiscal officer
 - Prohibits the use of debit cards by political subdivisions for any purpose other than law enforcement.



Bills of Municipal Interest

- HB 342 (Merrin) Regards timing and content of tax ballot issues; No hearings
 - 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.
- HB 69 (Cupp) Passed House; S. Finance committee; Reimburse medical service levy revenue forgone because of TIF
 - Requires reimbursement of township fire and emergency medical service levy revenue foregone because of the creation of a municipal tax increment financing (TIF) incentive district.
- HB 263 (Lanese) Allow dogs in restaurant outdoor dining areas; 1 hearing
 - Generally allows 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.
 - Allows a retail food establishment or food service operation to refuse to allow a dog in an outdoor dining area of the establishment or operation unless the dog is a service dog.
- HB 175 (Brinkman) Allow residence owners to keep small livestock on property; No hearings
 - Allows a property owner to keep, harbor, breed, or maintain goats, chickens and similar fowl, and rabbits and similar small animals ("small livestock") unless one of the following applies: --The small livestock creates a nuisance; --The small livestock is kept in a manner so as to cause noxious odors or unsanitary conditions that result in a public health concern; --The structure used to house the small livestock is not solidly constructed--The number of small livestock kept on the property exceeds the amount allowed under the bill.

Thank You!



Kent Scarrett
 Executive Director
 Ohio Municipal League
kscarrett@omlohio.org
 (614) 221-4349
 (614) 204-0287