

Publications

Ohio Statehouse Update: Ohio General Assembly Wraps Up Work for 2015

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Members of the Ohio House and Senate concluded their formal work schedule for 2015 last week with a flurry of activity aimed at finalizing pending legislative issues before heading back to their respective districts for the holidays. They are expected to return to Columbus January 20th for a very limited schedule prior to the March 15th Primary Election.

The fall session was characterized by moderate activity on legislative issues but was devoid of any heavy lifting on major policy initiatives heading into the end of the year. A two-year state capital appropriations measure to finance construction, renovation and repair of state-owned facilities and provide support for some cultural and economic development facilities projects around the state of local or regional importance is expected to be introduced when the legislature reconvenes next year.

Here is a brief recap of legislation and policy issues of interest from this fall, including some items that are expected to see further action in 2016:

Passed Legislation

House Bill 340 (Amstutz) – Budget Corrections Bill: This legislation, originally introduced to extend the work of the Local Government Innovation Council slated to expire at the end of 2015, became this year's legislative "Christmas Tree," serving as the vehicle for numerous non-controversial corrective amendments to provisions in House Bill 64, the state's two-year budget legislation passed in June. Of particular note, H.B. 340 appropriates approximately \$50 Million for additional payments to schools that have experienced decreased funding due to the elimination of the state's Tangible Personal Property Tax.

Senate Bill 208 (Beagle) – Small Business Income Tax: Also introduced to primarily address provisions enacted in the state budget bill, H.B. 208 corrects an oversight in H.B. 64 that would have resulted in higher 2015 income tax rates for some small businesses, contrary to the legislature's

intent to lower tax rates for all businesses in this year's state budget bill by establishing a flat 3% tax rate on business earnings exceeding \$250,000.

Pending Legislation

House Bill 394 (Sears) – State Unemployment Insurance System: This legislation is intended as a major overhaul to Ohio's unemployment insurance system to ensure the system's solvency and stability in future years. Among numerous provisions in the bill, H.B. 394 proposes to temporarily increase from \$9,000 to \$11,000 the taxable wage base on which employers pay state unemployment taxes until the state fund reaches a minimum safe level of solvency, and reduce the maximum time period a claimant may receive unemployment benefits from the current maximum of 26 weeks to a range of 12 to 20 weeks, depending on the state's unemployment rate at the time the application is filed. The House Insurance Committee has held four hearings on H.B. 394 thus far, and the bill is expected to undergo further deliberation in 2016.

House Bill 48 (Maag) – Concealed Handgun Laws: Makes changes to Ohio's concealed carry restrictions to allow legally permitted individuals to possess concealed handguns in day-care centers, private aircraft, and public areas of airports and police stations, as well as government buildings under certain specified circumstances. The bill also permits a licensee to carry a concealed handgun into a school safety zone so long as the handgun remains inside a vehicle and the individual locks the vehicle upon exiting. H.B. 48 additionally authorizes the governing bodies of colleges and universities to adopt policies allowing specific individuals or classes of individuals to carry a concealed handgun on a higher education campus. Proponents of this legislation claim that it helps eliminate "victim zones" in Ohio, while opponents argue that loosening current concealed carry restrictions will lead to increased gun injuries and deaths. H.B. 48 passed the House by a mostly party-line vote of 68-29 on November 17th, and has been referred to the Senate Government Oversight and Reform Committee, where it is expected to undergo further hearings in 2016.

Ohio 2020 Tax Policy Study Commission

Created in this year's budget bill to formally study state tax policy issues and make recommendations to the General Assembly on how to maximize Ohio's competitiveness, the Ohio 2020 Tax Policy Study Commission is specifically required to issue reports and recommendations on the following topics:

- **Oil and Gas Severance Tax Reform (report due October 1, 2015)** – The Commission issued an initial workgroup report on the oil and gas severance tax at its inaugural meeting in October, recommending a market-based trigger or slow phase-in of any tax increase with due consideration for maintaining and fostering growth in the industry. It is unlikely that legislation addressing the severance tax will be taken up next year. The Commission plans to build on the information gathered for the initial report and include more comprehensive recommendations regarding severance tax reform in its final report due in 2017.
- **Historic Rehabilitation Tax Credit (report due October 31, 2016)** – Recommendations for making the historic rehabilitation tax credit program more efficient and effective, including potentially converting it to a fully refundable credit or a grant program. The Commission is expected to hold hearings on this issue next year to gather stakeholder input in preparation for its report.

- **Transition to a Flat Rate Personal Income Tax (report due October 1, 2017)** – Upon completion of its comprehensive review of state tax policy, the Commission is tasked with issuing recommendations for transitioning Ohio's personal income tax to a 3.5% or 3.75% flat rate by 2018. The Commission is also specifically required to review and evaluate all tax credits authorized by the state as part of its final report.

The Commission has held three meetings this year to hear general reports on Ohio's current tax landscape from administration officials, tax specialists, and industry representatives, and is expected to hold monthly hearings regarding specific tax topics – the historic rehabilitation tax credit in particular – beginning in 2016. The Commission is comprised of six legislators and the Director of the Ohio Office of Budget and Management, Tim Keen. Senate members include Commission Co-Chair Senator Bob Peterson (R-Sabina), as well as Senators Scott Oelslager (R-Canton) and Charleta Tavares (D-Columbus). House members include Commission Co-Chair Representative Jeff McClain (R-Upper Sandusky), as well as Representatives Kirk Schuring (R-Canton) and Jack Cera (D-Bellaire).

Ohio Energy Mandates Study Committee

Established by Senate Bill 310 of the 130th General Assembly, legislation that placed a two-year freeze on state-mandated energy efficiency, renewable energy, and peak demand reduction benchmarks for electric utilities, the Energy Mandates Study Committee held eight hearings and conducted site visits to explore these topics and issued a report of its findings to the General Assembly on September 30th. The Committee's main recommendation was that the freeze on Ohio's energy mandates should be extended indefinitely, in particular in light of current uncertainty over what implementation steps may be necessary for the state to comply with federal mandates stemming from the Obama Administration's recently released Clean Power Plan. While legislation has yet to be introduced addressing the Committee's recommendations, the temporary freeze on the state mandates is set to expire at the end of 2016, so it is likely that a legislative proposal will emerge on this issue at some point next year.

November General Election – Statewide Issues

With the 2016 presidential election looming on the horizon, statewide proposals to amend Ohio's Constitution took center stage in the 2015 General Election, with the following results:

- **State Issue 1 – Legislative Redistricting:** The product of a bipartisan agreement among state legislative leaders to change Ohio's process for redrawing state legislative districts, in order to provide for more compact and politically competitive districts and allow more meaningful input from the public and minority party representatives, Issue 1 passed easily at the ballot box by a 71% to 29% margin. The new process will first be implemented in 2022, when the Ohio Redistricting Commission convenes to redraw state legislative districts following the next federal decennial census.
- **State Issue 2 – Anti-Monopoly Amendment:** Advanced by legislative leaders partly in direct response to the Issue 3 marijuana legalization proposal, discussed below, Issue 2 prohibits initiated amendments to Ohio's Constitution that would grant the petitioners a monopoly, oligopoly, or cartel for their exclusive financial benefit or that would establish a preferential tax status for a particular individual or group. In the event the Ohio Ballot Board determines that a proposed amendment is in violation of this prohibition, Issue 2 requires the Ballot Board to present two separate ballot questions to voters: first,

whether the Ohio Constitution should be amended to allow a monopoly, oligopoly, cartel or special tax rate; and second, whether the particular monopoly or preferential treatment amendment being proposed should be allowed. Issue 2 passed narrowly in November by 51% - 49% margin.

- **State Issue 3 – Marijuana Legalization:** Backed by a multi-million dollar advocacy effort, Issue 3 proposed to legalize marijuana in Ohio for recreational and medicinal purposes, and grant exclusive rights to the owners of ten predetermined sites for the commercial growth and cultivation of marijuana in the state. The proposal would have permitted the sale of recreational marijuana and marijuana-infused products at approximately 1,100 licensed retail establishments statewide. In large part due to skepticism over granting a monopoly for marijuana growth, Issue 3 **failed** to receive the majority vote from Ohio electors necessary for passage, losing by a 36% - 64% margin.

Despite the failure of Issue 3, voters will likely be asked to weigh in on marijuana legalization in some form as early as the November 2016 General Election, as there are several alternative proposals in the signature-gathering stage that could advance through the certification process. Issue 3 backers have indicated that they intend to try again as well.

In addition, Ohio's legislative leaders have expressed a willingness to consider enacting medicinal marijuana legislation to potentially short circuit further attempts by interest groups to bring the issue straight to voters, so legislative activity on this topic is a distinct possibility during the first half of 2016.

Employers should consider the ramifications of legalized marijuana on their workplace policies – for example, whether employees could still be terminated for marijuana use under drug-free workplace policies, and whether employers would be required to accommodate employees' use of medicinal marijuana at work.

Contact your Vorys Advisors government relations team for assistance with any of these issues, or others you would like to discuss.