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Legislative Update

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MONDAY, MAY 4 2009

TAX INCENTIVE REPORT URGES RESTRUCTURING OF PROGRAMS

Ohio should establish a bipartisan working group later this year to develop a proposal to restructure the state's business tax incentives, according to a report issued Monday by the Ohio Department of Development.

The Ohio Economic Development Incentive Study said the task force - to be created after the currently debated budget bill (HB 1) is enacted - will produce ideas to "rework and combine" existing programs to be more responsive to state needs.

"With a global economy that is more competitive every day, Ohio needs to ensure our business attraction and retention tools are responsive, effective, and easy for companies to navigate," Interim Development Director Mark Barbash said. "Many of the study's recommendations go hand-in-hand with our Department's strategic vision to grow jobs as well as Governor Ted Strickland's current budget plan to improve and accelerate Ohio's economic incentives."

The report also:

- urges the state to simplify reporting requirements for the Job Creation Tax Credit and expanding eligibility for the Job Retention Tax Credit.
- says loan and tax credit programs should be less complex and quicker to put in place.
- urges officials to recognize certifications for minority-owned companies, eliminating the need for dual certification.

"We know that many of our existing Ohio companies are challenged more than ever now because of our country's current recession," Mr. Barbash said. "We are committed and focused on finding ways to assist our businesses, and are using these recommendations as a launching point to pursue changes that benefit and assist our state's existing companies."

The study indicates that the state's current incentive structure is competitive with other states' programs but noted that opportunities exist to improve the "transparency" of the deals and the decision-making process.

POLITICS NOTEBOOK: REP. MILLER'S DEPARTURE LEAVES OPEN CLEVELAND HOUSE SEAT; DAN BRADY SEEKS RETURN TO LEGISLATURE

Rep. Eugene Miller (D-Cleveland) has bolted the legislature after less than three years to take an open Cleveland City Council seat, and the councilman he is replacing is eying an appointment to the 10th House District.

Mr. Miller, who has served as chairman of the House Public Safety & Homeland Security Committee, was selected for the local seat during a Monday council caucus meeting and was to be sworn in later in the evening, *The (Cleveland) Plain Dealer* reported.

He will replace former Councilman Roosevelt Coats, who the paper reported as being a potential successor to the legislator.

Mr. Miller earned about \$61,000 in base pay as a House member and a \$6,500 annual stipend as a committee chairman this year. Cleveland council members are paid about \$74,000 a year.

House Democrats will form a screening committee by the end of the week and will later announce further details on the replacement process, spokesman Dave Isaacs said.

Brady Launch: Separately, former Sen. Dan Brady announced recently that he would seek election next year to the west Cleveland House seat occupied by term-limited Rep. Michael Skindell (D-Lakewood).

The former lawmaker looks forward to the opportunity to return to the Ohio General Assembly and believes that his extensive legislative experience will be an asset to the citizens of House District 13 and the Democratic majority, he said in a news release.

Mr. Brady served in the Ohio House and Ohio Senate as a member of the minority from 1996 to 2006.

The seat's opening in 2010 could draw a crowd of Democratic hopefuls in a district where the primary winner is likely to be a shoo-in for the general election. Tom Bullock, a Lakewood city councilman, has already indicated his intention to run.

TUESDAY, MAY 5 2009

STATE OFFICIALS: FISCAL YEAR SHORTFALL COULD TOP \$900 MILLION AS APRIL TAX INTAKE CONTINUES SLIDE; BUDGET BILL FACES HUGE CUTS

The state is facing a new income tax revenue shortfall that could exceed \$900 million in this fiscal year and will impact ongoing deliberations over the budget for the next biennium, state finance officials said Tuesday.

Because only two months remain in FY 2009, the most likely short-term solution is a dip into the \$948 million "rainy day" Budget Stabilization Fund, which was already earmarked in its entirety for the FY 2010-2011 spending plan (HB 1).

Given the current year's revenue baseline is now expected to be at least \$600 million lower than when Gov. Ted Strickland's plan was introduced last winter, the developments point to the likely need of upwards of \$2 billion in adjustments to the budget bill.

And that figure could grow considerably by the time revenue estimates are updated for upcoming biennium when the conference committee meets in June.

Senate President Bill Harris (R-Ashland) signaled that his caucus would be pushing for significant cuts.

"Today's grim news is exactly the situation we are trying to avoid as we have looked skeptically at the sustainability of the 2010-2011 state budget as passed by the Ohio House," he said. "If there was ever any doubt, it is now clear that we will need to start from scratch and reevaluate everything in a very short period of time.

"We are at a fork in the road and neither path is easy. It's either a tax increase or significantly cutting the size of state government moving forward. From the Senate's perspective, there is really only one option."

Among many other options, he said, is the enactment of a one-year budget starting July 1. Rep. Randy Gardner (R-Bowling Green) later renewed his call for such a move.

Tax Commissioner Rich Levin and Office of Budget and Management Director Pari Sabety declined to put a number on the hole in the pending biennium budget plan, saying that state forecasters were just beginning the process of crunching numbers in preparation for the conference revenue update.

"The implications for the '10-'11 budget, given how close we are to the end of fiscal year '09, is that we're going to have to work with the legislature to work through an approach on how we can close this budget hole as well as move the budget through the remainder of its process in the Senate," Ms. Sabety said.

While Republicans alleged otherwise, the administration officials also said majority House Democrats were not warned against deploying more optimistic revenue estimates last week in increasing total appropriations in the \$54 billion measure.

Mr. Levin said the Department of Taxation wanted to see results from the entire income tax filing season before going public with what already was shaping up to be a down month compared to estimates. He noted that the state collected more than \$600 million in revenue over the last three days of April 2008.

"As April progressed I guess we began seeing some concerns here when looking at income tax revenues, but until you have the month totaled up you really don't know how it's going to turn out," he said.

Still, Sen. John Carey (R-Wellston), chairman of the Senate Finance & Financial Institutions Committee, said he was disappointed that House Democrats forced through an expanded budget when they must have had information that revenues for the current fiscal year were going to fall far short of projections.

"Two days after the House passes it, they say, 'Oh, by the way, we're \$1 billion short,'" he said.

"There has to be questions about why this wasn't brought forth before the House passed the bill. It's going to put us in a very difficult position," Sen. Carey added. "So the increases the House made were basically made with money that wasn't there."

House Minority Leader Bill Batchelder (R-Medina) and Rep. Ron Amstutz (R-Wooster) issued a joint statement saying there were plenty of signs for the House majority to follow in crafting the budget, including the governor's announcement last week of further proactive spending cutbacks.

"It is now clear that the House Democrats abdicated their constitutional responsibility to craft a balanced budget," the lawmakers stated. "The question remains, were they aware of the declining revenues - as the governor's office was - or did they ignore the signs all together. Obviously, they did not follow through with their commitment to live within their means."

Speaker Armond Budish (D-Beachwood) said in a prepared statement: "The troubling news about Ohio's revenue shortfall is another grim reminder about the very serious pain Ohioans are feeling during this economic crisis.

"The budget passed by the House last week aimed to invest in our priorities and protecting those hardest hit by this tough economy. The challenges of preserving these priorities are significantly greater as a result of today's announcement, but we must continue to find ways to create jobs, improve our schools, and protect those who are struggling in these difficult times."

Gov. Strickland said in a statement that he planned on discussing the more immediate use of the rainy day fund with legislative leaders.

"Addressing the challenges before us will require extraordinary collaboration and bipartisan consensus-building among the state's elected leadership," he said. "I know that we can work together to make the tough choices necessary to maintain a balanced budget while continuing to invest in education and job-creation that will lead to Ohio's economic revival."

Senate Minority Leader Capri Cafaro (D-Hubbard) also called for bipartisan cooperation in dealing with a problem affecting other states as well as local governments. "Cities and towns across Ohio have been forced to revise their estimates as tax revenues drop and demands for social services increase," she said. "We should work together, on a bipartisan basis, to find a solution that leads to more jobs and a brighter future for all Ohioans."

Despite Tuesday's announcement, Sen. Carey said he planned to work from the Legislative Service Commission's rosier revenue projections for the next biennium that the House adopted. "And then if we have to revise the estimates in conference committee, we'll take another look then," he said.

Historic Income Tax Dip: April's personal income tax intake, as reported by the state officials during a news conference in Columbus, show that Ohio's withering tax revenues continued unabated through the main filing season, with PIT collections running \$322 million, or 22%, short of projections. Net income tax collections for April were \$1.129 billion, when \$1.451 billion had been expected.

Mr. Levin said an informal survey of 12 other state tax departments found the average decrease from 2008 tax returns was 33% compared to Ohio's drop of 39%. Quarterly estimated payments for this year, which also figure into the April shortfall, were down an average 34%, which was slightly below Ohio's plunge of 35%.

"The phenomenon we're seeing in Ohio is widespread across the United States," Mr. Levin said.

For Ohio, the result has been a nosedive of epic proportions that has far exceeded the most pessimistic estimates. Mr. Levin said Ohio is in the midst of the biggest annual drop in personal income tax intake in the history of the tax, which was enacted in 1971.

The current projections dating to last December projected a year-to-year drop of 9.5% in the personal income tax, which is in the final year of a total 21% across-the-board reduction enacted in 2005.

As of Tuesday, Budget forecasters said the personal income tax shortfall for this fiscal year, which ends June 30, will be at least \$600 million and could exceed \$900 million in relation to last winter's forecast. Compared to last year, the actual collections now lag by 15.4%.

Details on other revenue collections are to be released later this week. As of last month, sales tax revenue alone was lagging updated estimates for the fiscal year by \$161 million, or 2.9%, and the state's total tax intake was nearly \$196 million off the mark.

Tax revenue has continued to lag OBM estimates that were revised downward late last year, when the administration announced that the fiscal crisis had entered into the worst of three scenarios as laid out by the budget office the year before. As a result of those forecast changes, Gov. Strickland had already ordered some \$1.9 billion in budget adjustments including cutbacks.

Despite what Ms. Sabety described as "truly grim forecasts" of wage and salary growth that serve as the underpinnings for OBM's revenue estimates, she said the governor has not changed his position on tax increases.

"The governor has been very clear that tax hikes in this dire an economic situation would not be productive for the economy," she said.

UNANIMOUS SENATE APPROVES FRAUD REPORTING MEASURE

Ohioans would be able to submit allegations of fraud and misspending to a permanent reporting system created by legislation that cleared a unanimous Senate on Tuesday.

The bill (SB 7) largely codifies reporting mechanisms that have been operated by State Auditor Mary Taylor.

Sen. Mark Wagoner (R-Toledo) said the measure, approved on a 32-0 vote during a brief session, requires notification of the system to current and new state and local government employees, and provides whistleblower protections for workers who might submit abuses to the system.

The sponsor said the bill will increase the state's ability to identify improper actions and excessive spending.

"Ohioans expect their government to spend their tax dollars wisely, and state and local officials deserve to be held accountable for their actions," Sen. Wagoner said. "This legislation will help make our government more transparent and allow Ohioans to take an active role in eliminating corruption by those individuals who have abused the public's trust."

Ms. Taylor welcomed the vote. "This important legislation will enhance our efforts to hold state and local government accountable for how it spends tax dollars," she said. "This legislation builds upon the Auditor of State's existing fraud reporting system and expands our public awareness campaign to every government employee in Ohio."

SENATOR SAYS BANKRUPT UNEMPLOYMENT FUND COULD AGGRAVATE BUDGET GAP

The federal government temporarily bailed out the state's unemployment compensation fund, but interest payments and growing joblessness could leave Ohio \$4 billion poorer by the end of next biennium, Sen. Karen Gillmor said Tuesday.

While employers will pay an estimated \$1.1 billion into the Unemployment Compensation Trust Fund this year, the state will pay out an estimated \$3.1 billion, said Sen. Gillmor (R-Tiffin) in a news release. Meanwhile, Ohio's unemployment rate will likely continue rising until mid-2010.

"Many Ohioans, jobless through no fault of their own, are relying on unemployment benefits to feed their families and clothe their children during these troubled times," she said. "It's critically important that state leaders take proactive measures to ensure that our unemployment fund - a critical safety net for many Ohioans - remains viable."

Sen. Gillmor, a newly appointed member of the Unemployment Compensation Advisory Council, said she was "deeply troubled" to learn that last year's recommendations designed to stabilize the fund were ignored.

Since the fund went bankrupt at the end of last year, the state has borrowed more than \$850 million from the federal government to continue paying unemployment benefits, she said. When the state begins repaying an estimated \$4 billion in January 2011, the payments will be extracted directly from the state's general revenue fund.

"At a time when Ohioans want and need conservative, sound, and prudent financial leadership, the current administration and House leaders have proposed a budget based on overly optimistic tax estimates and balanced on one-time money," she said. "The Ohio Senate will have to take responsible steps to protect the future of Ohio's citizens."

OHIO COUNTIES INCLUDED IN PITTSBURGH REGION 'VISIONING' PROJECT

Five eastern Ohio counties are being included in a new effort to create a shared vision for a four-state region that surrounds greater Pittsburgh, it was announced Tuesday.

The new Regional Visioning Project, which is expected to last for two years, includes Mahoning, Columbiana, Jefferson, Belmont and Monroe counties, as well as counties in West Virginia, Pennsylvania and Maryland.

The project is intended to established the shared vision, instill a sense of optimism, help solve regional problems and connect people, communities and institutions in the area.

Project organizers hope to involve the largest number of people in any regional visioning process, topping the 18,000 who were involved in a similar effort involving Calgary.

The effort will be led by Allen Kukovich, who most recently directed Pennsylvania Governor Ed Rendell's southwest regional office.

PASSED IN THE SENATE

SB 7 FRAUD REPORTING (Wagoner) To require the Auditor of State to establish a fraud-reporting system for residents and public employees to file anonymous complaints of fraud and misuse of public funds by public offices or officials. 32-0 (Earlier REPORTED-AMENDED)

SNEATE COMMITTEE HEARINGS

State & Local Government & Veterans Affairs

SB 7 FRAUD REPORTING (Wagoner) To require the Auditor of State to establish a fraud-reporting system for residents and public employees to file anonymous complaints of fraud and misuse of public funds by public offices or officials. (3rd Hearing-All testimony-Possible vote)
REPORTED-AMENDED On calendar for Tuesday session

The committee reported the bill without objection after adopting an amendment from Sen. Wagoner that specifies an initial complaint does not become a public record until an audit report is issued. Added at the suggestion of Sen. Grendell was a provision making the public record status "subject to any applicable privileges, including but not limited to the attorney-client privilege."

Gene Krebs, co-director of Greater Ohio, endorsed the bill and cited the need for accountability and transparency in spending federal stimulus funds. "Many of us are worried that this money will be spent in a manner that does not exactly instill confidence in the government," he said. "In addition ... historically in Ohio there are several hot spots where fraud is alleged to have taken place regarding land use and zoning, and this bill could be helpful in exposing such activities."

Insurance, Commerce & Labor

SB 94 POLICE & FIRE CONDITIONS (Patton) To provide that a firefighter, police officer, or public emergency medical services worker who is disabled as a result of specified types of cancer or certain contagious or infectious diseases is presumed for purposes of the laws governing workers' compensation and the Ohio Police and Fire Pension Fund to have incurred the disease while performing official duties as a firefighter, police officer, or public emergency medical services worker. (1st Hearing-Sponsor)
SCHEDULED BUT NOT HEARD (Sponsor request)

WEDNESDAY, MAY 6 2009

BUDGET PROBLEM COULD APPROACH \$3 BILLION BY END OF JUNE, SENATE GOP SAYS; SALES TAX LAG ADDS TO REVENUE WOES

News that revenues will fall short this fiscal year by at least \$600 million and maybe more than \$900 million will cause a domino effect that may eventually require some \$3 billion in adjustments to the pending biennium spending package, Senate Republicans acknowledged Wednesday.

The chamber's GOP majority, however, plans to include the participation of Democrats in charge of the House when the major axe falls as expected next month.

Meanwhile, the Office of Budget and Management's release of preliminary April revenue figures show that the giant hole in personal income tax intake isn't the only problem facing policymakers. Sales tax receipts also continued to lag estimates last month and now stand at \$185 million, or 3%, behind revised year-to-date estimates for FY 2009.

Tuesday's announcement regarding the historic slump in personal income tax revenue sent shock waves through Capitol Square, where Gov. Ted Strickland's two-year spending package (HB 1) is now past the halfway point and under scrutiny by the Senate.

While the immediate problem was said to require adjustments in the neighborhood of \$1 billion, budget crafters estimate that the fallout from this year's shortfall and proposed solution could easily exceed \$2 billion and push \$3 billion by the time lawmakers huddle for conference committee in June.

The developments have prompted more calls for a one-year budget plan, however Gov. Strickland on Wednesday expressed doubts about such a tack. *(See separate story)*

If policymakers move forward with a two-year budget, which is the norm for Ohio but not a requirement, the plan to spend \$54 billion in FYs 2010-2011 would have to be shaved considerably since neither party supports a tax hike and the prospect for new gambling revenues remains a long shot.

Sen. John Carey (R-Wellston), chairman of the Senate Finance & Financial Institutions Committee, said the caucus finance staff is looking at the potential for addressing up to a \$3 billion hole prior to the budget's enactment.

That projected deficit stems mostly from Tuesday's announcement from the tax commissioner and state budget director that Ohio's main revenue source is now more than 15% below last year's performance. Analysts say those numbers paint a grim outlook for budgetary mathematics:

- Since revenues for FY 2009 are now projected to be at least \$600 million short through June 30, according to OBM, that will drop baseline revenues for the upcoming biennium by at least that much per year, or a total of \$1.2 billion up to \$1.8 billion.
- With policymakers having little time to cut their way out of this year's hole, the likeliest solution appears to be an earlier-than-expected dip into the unobligated balance of \$948 million in the state's "rainy day" Budget Stabilization Fund. Because the BSF was earmarked for draining in the budget bill, that results in another hit of \$600 million to \$900 million for the FY 2010-2011 document.
- The House adopted LSC's more optimistic revenues but did not include the legislative agency's assessment that changes in the federal tobacco tax will cost the state more than \$170 million a year. That reduction would likely need to be included in the future revenue estimate update.
- Finally, with most economists predicting that the employment situation won't turn a corner until 2010, there is near unanimity among state government budget analysts that the revenue forecast for the upcoming biennium will be revised downward significantly for conference committee. In general, initial revenue estimates are prepared well ahead of a budget's introduction early in the year. Since last fall, the nation has seen the economic malaise accelerate and an accompanying hemorrhage of jobs such as has not been seen in decades. Even if revenue estimates were adjusted downward by a relatively small percentage, it would require hundreds of millions more in adjustments.

Majority Senate Republicans, peeved at what they view as a failure by the Democrat-controlled House to send them a reasonable budget package given the prior economic signs, plan to push a good portion of the fiscal heavy lifting - most likely the severe cutting - into conference committee so Democrats can participate more directly in the bloodletting.

Sen. Carey reiterated Wednesday that the chamber will work on addressing the FY 2009 problem and related BSF hole in the budget bill but will otherwise stick with the House's revenue estimates in passing the bill early next month since the official conference revenue update will not yet be available.

Speaker Armond Budish (D-Beachwood) pointed to that plan of action Wednesday in defending the House version of the budget as fiscally responsible considering the estimates the chamber was working with in passing the bill last week.

"We acted in a very fiscally responsible manner and made significant cuts in this budget," he said. "We used projections that were done by...the House and Senate's legislative budget office, as has been done by legislatures repeatedly over the years and their track record has been excellent.

"So I think it's unfair to say that we acted in any way but fiscally responsible. We did not have the tax results, nor could we have had the tax results given the time frame."

Nevertheless, Speaker Budish acknowledged that moving forward the plan would have to be reduced given opposition to additional revenues including money from expanded gambling.

"At this point I would think that everything we could possibly do we will take a look at but it would be my view that additional cuts would likely have to be made," he said.

Senate President Bill Harris (R-Ashland) said his members continue to explore options for balancing the budget.

"We will be very focused on not passing anything that sets up a situation for a tax increase in 2011, or 2010, or 2009," he said.

He noted, however, that the Senate will protect charter school funding. "I consider charter schools to be the same as public schools," he said. "I think the most unjust, inhumane thing done in our state would be to cause charter schools to close their doors. We're just not going to do that."

April Revenues: Meanwhile, OBM's latest preliminary monthly revenue charts show total tax revenue, due mainly to underperforming PIT and sales taxes, now stands at \$541 million, or 3.7%, below estimates for the year to date.

April also saw shortfalls in the soon-to-be eliminated corporate franchise tax (\$6.4 million, or 14% below estimates) and the estate tax (\$5.3 million, or 27% below), according to OBM data.

All told, and mostly fueled by the underage in the PIT, April tax revenues came up \$345.5 million, or 15.5%, short of OBM's revised estimates.

GOVERNOR DEFENDS BUDGET ADVISORS' REVENUE ESTIMATES, REJECTS OPTIONS OF ONE-YEAR BUDGET, TAX INCREASE, GAMBLING

Gov. Ted Strickland defended the performance of his fiscal advisors Wednesday despite the latest plunge in tax revenue estimates that poses a potential \$900 million shortfall for state government over the next 55 days.

Mr. Strickland also rejected a Republican legislator's suggestion to adopt only a one-year budget - instead of a biennial spending plan - in view of uncertain revenue estimates.

And the governor said he did not intentionally withhold release of the latest shortfall figures from Senate Republicans who now face hard choices as they prepare their version of the budget (HB 1).

State Tax Commissioner Rich Levin and Director Pari Sabety of the Office of Budget and Management said Tuesday the state was facing a new income tax revenue shortfall that could exceed \$900 million in the current fiscal year.

Gov. Strickland told reporters Wednesday that he called Senate President Bill Harris (R-Ashland) on Sunday and told him what the numbers were looking like.

"When I talked with Senator Harris on Sunday, and when I talked with him on Monday, he asked me if I knew the specific amount. And I told him at that time I did not, but I felt that it perhaps would approach a billion dollars," the governor said.

"So I did give him an estimate that was even beyond the estimate that we released at the press conference," he said.

Mr. Strickland said he sees no benefit in having a one-year budget, an idea Rep. Randy Gardner (R-Bowling Green) has advanced in view of a volatile economy and rapidly changing revenue forecasts.

"If someone can give me a rationale as to why that would be helpful or beneficial, but I see no real benefit from having a one-year budget. And to my knowledge Ohio has never had a one-year budget," the governor said.

He favors a two-year spending plan with the existing ability, already exercised on several occasions, to make periodic re-evaluations.

"Quite frankly, over the last biennial budget we've made new forecasts every few months, and there's no reason why that could not continue during a second two year budget," Gov. Strickland said.

The governor said he did not know what would make the revised forecasts any more reliable over the next two years than previous projections.

"(As) I've said to you before, I'm not a prophet," Mr. Strickland said.

"But I can tell you that our budget estimators, I think, have done a credible job when compared with budget estimates and forecasts that have been made by some of the leading corporations and corporate analysts in this country and in our state," he said.

Rep. Gardner said a biennial budget usually provides some stability, giving schools, local government and state agencies a chance to plan ahead.

"(The) current situation offers none of that," Mr. Gardner said in a news release. "Despite our collective best efforts, a constitutionally-balanced two-year budget does not seem practical in these turbulent economic times."

On other matters, Gov. Strickland said:

- There appear to be "some embryonic signs" of recovery in the national economy.
- An increase in state taxes is "not something we should consider at this time."
- He would hate for Ohio to move in the direction of expanded gambling. "I think it is not good for the long-term well being of our state."

Gov. Strickland also responded to critics of his reliance on one-time, federal stimulus money to make up for reduced state tax revenue in his proposed biennial budget.

"The problem we face today would be considered miniscule compared to the problem we would be facing were it not for those stimulus resources. We would be facing multiple billions of dollars of deficits," he said.

SENATE PANEL DELVES INTO RIVAL PROPOSALS ON REGULATING HOME SEWAGE SYSTEMS

In what's becoming a budgetary tradition, lawmakers again waded into the controversial issue of regulating home sewage systems Wednesday with testimony on opposing measures sponsored by two Senate Republicans.

Many of the witnesses who testified before the Senate Environment & Natural Resources Committee to support of a measure (SB 110) sponsored by Sen. Tom Niehaus (R-New Richmond) served on the Household Sewage and Small Flow On-Site Sewage Treatment System Study Commission. The group was created last budget to recommend an alternative to rescinded regulations.

Meanwhile, several homeowners and public health officials from northeast Ohio spoke in support of legislation (SB 100) offered by Sen. Timothy Grendell (R-Chesterland), which would generally shift authority over home sewage systems from the state to local health officials.

Environmental attorney Christopher Schraff, who represented the Ohio Association of Realtors on the study commission, said the bill was an imperfect solution to a wide range of disparate opinions on the subject.

The measure "addresses the balance between the authority of the Public Health Council to adopt uniform standards and criteria and the ability of local jurisdictions to adopt more stringent rules by specifying exactly what types of rules the Public Health Council may adopt."

The bill would allow homeowners to choose any wastewater treatment technology approved by the Department of Health and would clearly defines a public health nuisance, he said.

Sen. Grendell asked the witness if there were any major examples of people getting sick from defective home sewage systems in Ohio. Mr. Schraff said failing systems contributed to an incident in Put-In Bay where several individuals developed gastrointestinal illness.

Sen. Grendell also asked how the provisions of the bill could be enforced without on-site inspections. Mr. Schraff said the legislation would simply require homeowners to show documentation proving that the system has been maintained periodically.

Michael Felton, of the Ohio Onsite Wastewater Association, said the study council achieved consensus on about 20 recommendations.

"Only two were left to be resolved - local health department rules and discharging of systems for new lots," he said. "In the end, this legislation represents the direction and intent of the key members of the industry."

Richard Noland, an engineer from Marysville, offered comments on both measures, saying he favored Sen. Grendell's proposal.

In questioning the need for more stringent sewage regulations contained in Sen. Niehaus's bill, he summed up a criticism echoed less colorfully by several proponents of Sen. Grendell's measure.

"You see it, it stinks, you don't go near it. That's been my observation," he said. Referring to his years of experience working in a sewage treatment plant, he added, "Quite a few times I got a mouthful of wastewater. But I never had a problem."

William Wendell, a registered sanitarian with Geauga County Health District, said Sen. Grendell's measure would give local health districts authority to determine what types of sewage treatment systems will perform effectively in their specific areas.

Ellen Mee, director of environmental health policy for the Ohio Environmental Council, testified in support of Sen. Niehaus's bill, saying inadequate or failing sewage systems could allow pathogens to enter ground and surface waters where they threaten the environment and public health.

"It is responsive to the needs of homeowners, home builders, treatment system manufacturers and installers, and other related industries, while providing an effective and flexible regulatory framework to protect public health and our wonderful aquatic ecology and resources," she said about the legislation.

Witnesses that offered additional support for Senate Bill 110 represented several statewide groups, including: the Ohio Township Association, Association of Ohio Health Commissioners; Ohio Environmental Health Association; Ohio Waste Haulers Association; Ohio Onsite Wastewater Association; Ohio Manufactured Homes Association; Ohio Precast Concrete Association; and several county health departments.

Christopher Kiehl, environmental director of the Carroll County Health Department, testified in support of Sen. Grendell's bill, saying the rescinded rules designed to implement previous legislation (HB231, 125th General Assembly) had been "disastrous" to residential development in the area.

The sewage systems required by the previous rules cost about \$18,000, but after the rules were eliminated homeowners spent an average of \$8,000, he said. "Financially the rules had a disastrous effect on Carroll County residents and the health department. Senate Bill 100 avoids these pitfalls."

In response to questions, Mr. Kiehl said the detailed rulemaking required by Sen. Niehaus's bill would be contentious. "I don't know how you could develop a set of rules that would navigate all those rough waters."

The technology that would be required by Sen. Grendell's measure would ensure adequate protection for public health, he said in response to further questions.

"I wouldn't be on this side speaking on this if there was a public health crisis in my county," he said. "I kind of feel like we're being pushed to drive a Porsche when we can get there in a pickup truck."

The panel heard similar testimony in support of Senate Bill 100 from officials with the Geauga County Health District, Chardon Township, and several individuals.

REFERRED TO HOUSE COMMITTEE

State Government:

SB 7 FRAUD REPORTING (Wagoner) To require the Auditor of State to establish a fraud-reporting system for residents and public employees to file anonymous complaints of fraud and misuse of public funds by public offices or officials.

SENATE COMMITTEE HEARING

Ways & Means & Economic Development

SB 111 TAX PAYMENTS (Stewart) To make permanent the temporary reimbursements for local government and school district tangible personal property tax losses. (1st Hearing-Sponsor)

CONTINUED

Sen. Stewart said it is important that the state permanently continue reimbursing schools and local governments for the loss of tangible personal property taxes that are being phased out. The House version of the budget (House Bill 1) extends the hold harmless provision through 2011 while the tax reform law extended it to 2010 for schools. Athens City Schools in his district receives \$1.2 to \$1.4 million a year in hold harmless payments that it cannot afford to lose without making staff and program cuts.

SB 109 PROPERTY TAXES (Gibbs) To exempt from real property taxation the value of single-family residential property owned by a developer or builder until the developer or builder transfers possession or title. (1st Hearing-Sponsor)

CONTINUED

Chairman Gibbs said the bill would provide some relief to builders who must pay taxes on vacant properties before they are sold and that it would help builders provide jobs.

THURSDAY, MAY 7 2009

REPUBLICANS VENT OVER HOUSE-PASSED BUDGET; OBM DIRECTOR ACKNOWLEDGES 'SIGNIFICANT' HOLE

The next two-year budget faces a "significant" shortfall because of slumping tax revenue, but enacting a one-year plan instead won't solve the problems, state Budget Director Pari Sabetty told lawmakers Thursday.

Ms. Sabetty spent most of her time in the Senate Finance & Financial Institutions Committee parrying GOP questions over the House-passed plan, which irks Republicans because the Democrats' expansions came only a few days before the Department of Taxation announced a huge shortfall for the current fiscal year.

"Help me reconcile how that happened," Sen. Mark Wagoner (R-Ottawa Hills) said.

The Office of Budget and Management director, after testifying to her own agency's operating said repeatedly that it was the House's prerogative to use Legislative Service Commission estimates. She and Tax Commissioner Rich Levin also reiterated that they did not warn the House ahead of time that income tax revenues were historically low because the final reading for the collections wasn't available until the end of April.

"I can't stand here and speak for the House," Ms. Sabety said. "The reality is, everybody has been wrong" in trying to forecast the economic picture of late - both public and private sector analysts.

Ms. Sabety did acknowledge that news of a shortfall of at least \$600 million for the current fiscal year would create a domino effect requiring adjustments to the bill at hand. While still declining to put a figure on the problem, she told reporters after the hearing: "We know it's going to be significant."

Republicans have calculated that the hole could hit \$3 billion by the time revenue estimates are updated for conference committee deliberations in June.

Despite the looming problems with the document, Ms. Sabety told Sen. Dale Miller (D-Cleveland) that enacting a one-year plan instead of a blueprint that covers the upcoming biennium would not resolve the issues. She noted that states that traditionally have one-year budgets are experiencing the same kinds of drastic tax revenue shortfalls as Ohio.

"I'm not sure what it gets us, to be honest," she said, since the budget has to be in balance at the end of each fiscal year anyway. "I don't think this tactic would solve the budget problem before us" or increase stability, the director added.

Ms. Sabety's comments come as the chorus has increased for taking such a tack, which was first broached by Rep. Randy Gardner (R-Bowling Green), one of the longest serving members in the legislature.

The Ohio Chamber of Commerce has also advocated for a one-year budget plan.

"It has become abundantly clear that revenue projections for 18-24 months from now, given the state's current economic situation, have little to no meaning or relevance," said Dan Navin, the Chamber's assistant vice president of Tax & Economic Policy.

"Such estimates certainly can't be the basis for a state expenditure blueprint. Until the state's economy stabilizes, the Ohio Chamber believes only enacting a one-year budget for FY 10 is the best approach for Ohio."

Director Sabety signaled some willingness to accept some Senate changes to the House plan, which among other things reinstated many earmarks that increased the overall spending in the package.

She told Sen. John Carey (R-Wellston), the Senate Finance chairman, that the administration believed it was important to introduce a budget without earmarks to provide flexibility for agency directors to manage their depleted budgets.

After the hearing, the director also acknowledged the House had gutted three key areas of state restructuring that she had cited in prior House testimony as being key to the sustainability of the plan, which is heavily reliant on federal stimulus funds, moving forward beyond the next biennium. Those initiatives included shifts in nursing home payment methodologies, revamped Medicaid managed care guidelines and sentencing reform - all of which the House significantly altered or scrapped altogether.

"It calls into question significant advances the executive budget made in three areas that are key" to sustainability moving into the out years, Ms. Sabety said.

The director reiterated that use of the unobligated \$948 million in the state's "rainy day" Budget Stabilization fund is the likeliest solution to the FY 2009 shortfall.

She said the agency believes it can, with savings from debt service payments, Gov. Ted Strickland's recent executive order spending reductions and other maneuvers shave between \$100-\$150 million of the shortfall over the final two months of the current fiscal year.

OEPA DIRECTOR DEFENDS ENVIRONMENTAL ENFORCEMENT, SAYS HOUSE BUDGET REDUCTIONS COULD DELAY PERMITTING

The state's top pollution cop defended his authority to enforce environmental regulations against skeptical Senate Republicans, who sought assurances that certain projects and facilities wouldn't be subject to lawsuits.

Ohio Environmental Protection Agency Director Chris Korleski also expressed some concern about recent House changes to proposed fee increases in the biennial budget (HB 1) that will reduce the agency's revenue by nearly \$4 million over the biennium.

During a hearing of the Senate Environment & Natural Resources Committee Wednesday, Sen. Timothy Grendell (R-Chesterland) was one of several GOP members to express frustration with what he called the agency's "overextended interpretation of environmental regulations."

Referring to proposed development on wetlands in Lake County, he asked the director to assure him that the agency would stop blocking the project.

Director Korleski said his agency sought to balance industry concerns with environmental protection and state and federal laws obliged him to take certain actions. "I will never stand here and assure people that things will go the way they want to. That would be irresponsible."

Sen. Bob Gibbs (R-Lakeville) complained that a sewage treatment plant in his district was sued by OEPA after it cooperated with the agency and nearly came into full attainment with regulations. He said the lawsuit cost the county a lot of money.

"This is taxpayers versus taxpayers," he said, asking the director to assure him that the agency wouldn't sue public entities that make a good-faith effort to comply with environmental regulations.

The agency tries to avoid taking action against entities that cooperate, "But I can't say there will never be an enforcement action," Mr. Korleski said. While penalties are intended to punish lawbreakers, they also recompense OEPA for expenses it incurs in enforcing the law.

Further, the agency would be at risk of getting sued by the U.S. EPA if OEPA ignores an environmental problem that later results in an enforcement action, he said.

"My view is one of escalated enforcement only when necessary. I don't want to play gotcha," he said. "But I can't sit here and say there will be no enforcement."

Sen. Dale Miller (D-Cleveland) said he was "a little bit distressed this morning because it seems to be open season on the Ohio EPA. People seem to think there aren't any economic costs to pollution." He asked about the impacts of pollution.

Director Korleski said public health and environmental quality were "difficult to quantify."

He offered an example of high rates of manganese emissions at an Ohio facility that is under investigation by OEPA, saying it was taking a toll on children living in the area. "It is slowly eroding the ability of their brain to function. That is a cost."

Ohio's overall environmental quality has improved over the past two decades, he said. "But I ask myself would it be getting cleaner if we didn't have a Clean Water Act, a Clean Air Act? In my opinion, no, it would not."

OEPA Budget: Barring any help from the Senate, reductions the House made to OEPA's budget would likely impact agency functions, such as slowing the speed of processing pollution permit applications, Director Korleski said in an interview after the hearing.

The House eliminated \$0.45 of the proposed \$2.70 per ton tipping fee increase on C&D landfills that was earmarked for agency's operations, he said. That will reduce funding by about \$3.6 million for the biennium.

"It's lost revenue. Lost revenue means we're concerned about doing the job we want to be able to do," he said. "We know the economy's tough for everybody and we're not crying the blues here. But we want to be able to do a good job."

Another revision eliminated a proposed tire fee designed to fund E-Check, which will instead depend on a general revenue fund appropriation of \$14.4 million in fiscal year 2010 and \$14.8 million in FY 2011.

"GRF is very, very, very stressed with all the demands that are being placed upon it," he said, expressing a preference for a fee-based revenue stream to support the program. "But that is a decision obviously that's up to the General Assembly."

Director Korleski said he was still reviewing the House's decision to remove the Environmental Review Advisory Board from \$487,000 a year in GRF to fund the entity with a \$637,000 a year appropriation from OEPA's budget. "That's something that, frankly, I'm still wrestling with in my mind."

Rather than offering any alternative revenue raising ideas for the agency, Director Korleski said he wanted to see what changes the Senate makes to the budget before pitching a plan during conference committee negotiations.

POLITICS NOTEBOOK: U.S. REP. SPACE WANTS TO STAY IN HOUSE, BACKS FISHER FOR U.S. SENATE; REP. BACON SEEKS STATE SENATE SEAT

A two-term congressman from Appalachian Ohio who considered "with some degree of seriousness" running for the U.S. Senate instead endorsed Lt. Gov. Lee Fisher on Thursday for the Democratic Party nomination for the office.

U.S. Rep. Zack Space (D-Dover) cited Mr. Fisher's "proven dedication" to the state and his "long track record of accomplishment" for a decision to "wholeheartedly endorse" the Cleveland Democrat.

Rep. Space said he decided against a Senate bid, and to seek re-election to the U.S. House next year, because he was involved in a number of projects in the 18th Congressional District.

"I considered it with some degree of seriousness," he said in reference to the Senate race. "We want to see these projects through."

Rep. Space said in a media conference call that he discussed his endorsement in advance with Secretary of State Jennifer Brunner, who is also seeking the Senate nomination.

Lt. Gov. Fisher welcomed the endorsement from a congressman he described as one of the most popular, committed, and effective members in the Ohio delegation.

He said the endorsement was "extremely helpful to our campaign in many, many ways."

Rep. Space said his decision had nothing to do with the prospect of congressional redistricting after the 2010 Census.

Population changes are expected to result in Ohio's loss of at least one and possibly two seats in the U.S. House.

The congressman credited Mr. Fisher with assisting in a series of economic development projects in the district including Morgan County, one of the most depressed in the region.

Sen. Bacon?: Second-term House member Kevin Bacon (R-Columbus) announced his candidacy Thursday for the 3rd Senate District seat being vacated by term-limited Sen. David Goodman (R-New Albany).

"There is much work to be accomplished and I am committed to listening and working each and every day to ensure their voices are heard at the Ohio Statehouse," Rep. Bacon said in a news release.

"In the Ohio Senate I plan to draw on both my experience in the private sector and my time in the Ohio legislature to benefit the businesses and families of Central Ohio," he said. "I have the experience and knowledge to hit the ground running from day one, and that's just what I intend to do."

Rep. Bacon, a former prosecutor for the Lancaster City Attorney's Office, touted his efforts improve access to healthcare and educational opportunities for children with special needs.

Mr. Bacon said former Rep. Larry Flowers (R-Canal Winchester), who previously expressed interest in running for the Senate seat, had already endorsed him.

ATTORNEY GENERAL'S OPINIONS

No. 2009-011. Requested by Brown County Prosecuting Attorney Jessica Little. SYLLABUS:

A person who has been convicted of felony domestic violence under the laws of Ohio and who has not been granted a full pardon by the Governor or had his conviction reversed or annulled or the record of his conviction sealed is barred by R.C. 2961.01 from holding the office of township trustee unless he has had the privilege of holding an office of honor, trust, or profit restored to him, as provided in R.C. 2967.16(C)(1) or its predecessors.

SENATE COMMITTEE HEARINGS

Finance & Financial Institutions

HB 1 STATE BUDGET (Sykes) To make operating appropriations for the biennium beginning July 1, 2009, and ending June 30, 2011, and to provide authorization and conditions for the operation of state programs. (11th Hearing)

CONTINUED

Department of Insurance Director Mary Jo Hudson was among several agency chiefs to testify on their budgets Thursday, which also saw the panel get another crack at questioning Office of Budget and Management Director Pari Sabety in light of recent revelations on the dire tax revenue outlook.

Ms. Hudson outlined her agency's duties and budget request, which includes \$34.4 million a year from industry fees for operations, \$10 million a year from the GRF for initiatives to be led by the Health Coverage and Quality Council, and additional funds from the federal stimulus package. The latter component boosts the agency's all-funds request to a total of \$94.8 million in FY 2010 and \$144.9 million in FY 2011.

The stimulus plan provided ODI the opportunity to draw down federal matching funds at a ration of \$10 for every \$1 in state money, the director said. "This opportunity for federal stimulus package funding represents the largest part of the department's budget request for the upcoming biennium and is the reason the department's budget looks like it is growing. In reality, our operating expenses have remained flat, but the opportunity for federal stimulus funds to support health information technology is an opportunity our state cannot miss."

Ms. Hudson called for reforms to open enrollment laws because less than 2,000 Ohioans are currently enrolled. "We are proposing to change the open enrollment rules so that the rates will be reduced by 50-70% to a monthly average of \$300," she said. "The changes we are proposing are expected to have a moderate impact on rates in the individual market, with expected increases of approximately 5.5%. While some individuals may drop their coverage due to this increase, we believe that at least 52,000 more Ohioans will be able to afford coverage with this change."

The director said other initiatives in the ODI budget include: an expansion of the dependent child coverage up to age 29; the continuation of health care benefits during unemployment for small employers, known as "mini-COBRA"; a requirement for employers to offer Section 125, or "cafeteria," plans to their employees; and regulatory reforms aimed at increasing transparency in the health insurance marketplace.

The Section 125 language has caught the attention of business groups and prompted some questions in committee over the state's plans for the new requirement. At question is whether the ODI proposal will fit with federal tax code requirements related to group health plans.

Ms. Hudson said the only cost to employers under the phased-in requirement is the cost of deducting money from employees' paychecks and depositing it in a separate account for the employee to buy their own health insurance. "This is a minor expense when compared to the 40% savings the employee will get off their health insurance premiums," she said.

Department of Transportation Director Jolene Molitoris testified in support of her agency's GRF budget, which totals about \$25.6 million a year after the House added \$6 million a year for public transit initiatives.

"Across our great state, transit ridership was up more than 4% from 2007 and 2008 and continues to rise in 2009," she said. "At a time when demand for public transit continues to rise, transit systems have cut jobs and cut service hours by an average of 10% over the last five years due in part to reduced state funding."

Chairman Carey said he appreciated the director's comments regarding public transit but added that the Senate is now working on the assumption that there will be \$1 billion less than the House approved for the overall GRF budget because of this week's announcement regarding an unprecedented tax revenue dive.

State Treasurer Kevin Boyce provided testimony on his operating budget along with the budgets of the State Board of Deposit and the Sinking Fund.

In response to a question from Sen. Wagoner, he said the state's conservatively invested portfolio has seen "substantial progress" over the last few months and has gained in value by \$70 million.

The panel also heard testimony Thursday on mostly non-controversial budgets for the Governor's Office, Elections Commission and the Rail Development Commission

COMMITTEE SCHEDULE FOR WEEK OF MAY 11

TUESDAY, MAY 12

Senate Finance & Financial Institutions, (Chr. Carey, 466-8156), Finance Hearing Rm., 10 a.m.

HB 1 STATE BUDGET (Sykes) To make operating appropriations for the biennium beginning July 1, 2009, and ending June 30, 2011, and to provide authorization and conditions for the operation of state programs. (12th Hearing)

Senate Insurance, Commerce & Labor, (Chr. Buehrer, 466-8150), South Hearing Rm., 4 p.m.

HB 15 BWC BUDGET (Sykes) To create the Deputy Inspector General for the Bureau of Workers' Compensation and Industrial Commission Fund; to make other changes to the Workers' Compensation Law; to make appropriations for the Bureau of Workers' Compensation for the biennium beginning July 1, 2009, and ending June 30, 2011; and to provide authorization and conditions for the operation of the Bureau's programs. (2nd Hearing-All testimony)

HB 16 INDUSTRIAL COMMISSION BUDGET (Sykes) To make appropriations for the Industrial Commission for the biennium beginning July 1, 2009, and ending June 30, 2011, and to provide authorization and conditions for the operation of Commission programs. (2nd Hearing-All testimony)

WEDNESDAY, MAY 13

Senate Finance & Financial Institutions, (Chr. Carey, 466-8156), Finance Hearing Rm., 9:30 a.m.

--Budget testimony from State Board of Career Colleges & Schools, Higher Education Facilities Commission, School for the Blind and School for the Deaf

HB 1 STATE BUDGET (Sykes) To make operating appropriations for the biennium beginning July 1, 2009, and ending June 30, 2011, and to provide authorization and conditions for the operation of state programs. (13th Hearing)

House Local Government/Public Administration, (Chr. Chandler, 466-2004), Rm. 114, 10 a.m.

HB 49 WATER DISCOUNTS (Ujvagi) To authorize a board of county commissioners or a board of trustees of a regional water and sewer district to offer discounts on water and sewer rates to persons sixty-five years of age or older. (1st Hearing-Sponsor)

Senate Environment & Natural Resources, (Chr. Schaffer, 466-5838), North Hearing Rm., 11:15 a.m.

SB 100 HOUSEHOLD SEWAGE (Grendell) To revise the Household Sewage and Small Flow On-Site Sewage Treatment Systems Law, to establish the Household Sewage Treatment System Revolving Loan Program and the Household Sewage Treatment System Grant Program in the Department of Health, to make appropriations, and to declare an emergency. (3rd Hearing-Proponent)

SB 110 HOUSEHOLD SEWAGE (Niehaus) To revise the Household Sewage and Small Flow On-Site Sewage Treatment Systems Law, and to declare an emergency. (3rd Hearing-Proponent)

Senate Finance & Financial Institutions, (Chr. Carey, 466-8156), Finance Hearing Rm., 2:30 p.m. or after session

THURSDAY, MAY 14

Senate Finance & Financial Institutions, (Chr. Carey, 466-8156), Finance Hearing Rm., 9:30 a.m.

HB 1 STATE BUDGET (Sykes) To make operating appropriations for the biennium beginning July 1, 2009, and ending June 30, 2011, and to provide authorization and conditions for the operation of state programs. (14th Hearing)

FRIDAY, MAY 15

Senate Finance & Financial Institutions, (Chr. Carey, 466-8156), Finance Hearing Rm., 9:30 a.m.

--Public budget testimony

HB 1 STATE BUDGET (Sykes) To make operating appropriations for the biennium beginning July 1, 2009, and ending June 30, 2011, and to provide authorization and conditions for the operation of state programs. (15th Hearing)

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