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Legislative Update

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MONDAY, JULY 20 2009

OHIO SUPREME COURT URGED TO ALLOW REFERENDUM ON GOVERNOR'S RACE TRACK SLOT MACHINES

A ballot issue committee filed a lawsuit in the Ohio Supreme Court late Monday seeking a statewide vote on Gov. Ted Strickland's plan to install up to 17,500 slot machines at the state's seven horse racing tracks.

LetOhioVote.org asked justices to order Secretary of State Jennifer Brunner to treat the video lottery sections of the new state budget (HB 1) as being subject to the constitutional right of referendum.

It said Ms. Brunner should specify that the VLT sections could not take effect for 90 days, and that any referendum petitions challenging those sections must be filed within that time period.

Former Rep. Tom Brinkman (R-Cincinnati) and others filing the case said they want to refer the VLT sections to voters for approval or rejection.

They said LetOhioVote.org had started collecting signatures on a required summary petition for submission to Ms. Brunner and Attorney General Richard Cordray.

"Additionally ... LetOhioVote.org has entered into an agreement with a national petition management firm to collect signatures for the referendum petition, at a cost of approximately \$1.75 million," the complaint said.

LetOhioVote.org asked the court to issue an emergency stay blocking the VLT statutes from taking effect until justices decide the group's challenge.

"Because (the budget) claims that the VLT statutes have taken immediate effect, however, it may be that the lottery commission, by promulgating rules and calling for bids, will begin to implement the VLT statutes before this court has ruled on this complaint for mandamus," the complaint said.

"If this court sees fit to stay the implementation of these statutes, and if they are rejected by the voters, all these resources will have been spent in vain, to the loss of the taxpayers of this state," it said.

The General Assembly folded into the budget bill a section dealing with VLTs that supports a directive from Gov. Strickland for installation of the slot machines through the Ohio Lottery.

The budget states that the measure "is exempt from the referendum because it is or relates to an appropriation for current expenses within the meaning of (the) Ohio Constitution."

Gov. Strickland projects the expanded gambling will generate \$933 million over the fiscal biennium.

Mr. Brinkman and others, however, contend another section of the constitution provides that any statute that changes the permanent law of the state is subject to referendum, even if it also contains a section providing for an appropriation.

He argues the VLT sections of the budget change the permanent law of the state and should not take effect until 90 days after the budget is filed with Secretary Brunner.

"The governor and legislative leaders should have the courage to place this issue before the voters," Mr. Brinkman said in a news release.

"They didn't have the nerve to cut government, but they freely violate the expressed will of the people? Well, we say 'not so fast,'" he said. Mr. Brinkman is a co-founder of COAST, a Cincinnati-based taxpayer advocacy group.

BRUNNER ORDERS CASINO PETITION PROBE; SCIOTO DOWNS RACES TO SUPREME COURT WITH COMPLAINT

Secretary of State Jennifer Brunner said Monday her office would investigate allegations of irregularities in the circulation of petitions on behalf of a potential Nov. 3 ballot issue to allow construction of four full-service casinos.

Earlier in the day, the Ohio Supreme Court gave Secretary Brunner two days to file an initial response to a racetrack's complaint about initiative petitions for the proposed constitutional amendment.

Justices adopted an expedited timetable for parties to file written arguments in a complaint that Scioto Downs, Inc. filed late Friday.

Scioto Downs is owned by MTR Gaming Group, which operates a casino in West Virginia.

Scioto Downs is seeking invalidation of petitions that the Ohio Jobs & Growth Committee filed on behalf of a proposed constitutional amendment.

Rival casino operator Penn National Gaming, which also owns the Raceway Park horse track in Toledo, is backing the Ohio ballot issue.

Casino proponents delivered initiative petitions with more than 850,000 signatures to Secretary Brunner. They were forwarded to the county election boards for verification.

Scioto Downs alleged some circulators listed suspect non-residential addresses on the petitions, and misrepresented their identities. In at least one instance, the track said a petition circulator was a convicted felon.

State law requires circulators to sign petitions and disclose their permanent residential addresses.

Scioto Downs said that instead of requiring strict compliance with election law, Secretary Brunner told county election boards to accept circulator information on its face.

The track said a review it conducted shows "a number of circulators have listed hotels, commercial properties, or other non-residential locations as their permanent residence addresses." Others allegedly listed more than one address.

"Invalidation of part-petitions due to the irregularities described herein may materially change the result of the certification," Luther Liggett, the Columbus lawyer representing Scioto Downs, said in the complaint.

In Muskingum County, he said, the Board of Elections certified 1,940 valid signatures on casino petitions. That was enough to meet a requirement of five percent of the voters in the last gubernatorial election.

"But if the part-petitions containing the circulator irregularities described herein are invalidated, as they should be, Muskingum County would have 512 fewer signatures than needed to meet the requisite five percent threshold," Mr. Liggett said.

Separately, Secretary Brunner pointed out that new constitutional provisions voters approved last year places in the Supreme Court the authority to invalidate petitions or signatures that election boards found valid.

However, the secretary of state retains independent authority to investigate allegations of election irregularities or fraud for referral to prosecutors, a process that does not affect petition signature sufficiency.

"As we have examined the petitions in question when they are returned by the boards of elections, we believe it prudent to further investigate particular situations involving particular circulators to ensure that any issue that makes it to the ballot does so under conditions that are honest," Ms. Brunner said in a news release.

"While I no longer have the ability to invalidate individual signatures, I still can investigate to ensure the integrity of the process and prevent problems in the future," she said.

"In the end, it is likely to be the Ohio Supreme Court that will determine whether this issue is one submitted to the voters this fall," Ms. Brunner said.

Secretary Brunner determined the need for an investigation after reviewing petitions that were returned to Columbus from county election boards.

An advisory is being issued to boards of elections to coordinate any local investigations that may be underway or completed and to obtain the cooperation of boards in the effort.

Boards are required to report to the secretary of state the results of any investigation for fraud that is conducted locally.

Scioto Downs asked justices to order Secretary Brunner to investigate alleged violations and invalidate any that listed false addresses or contained other violations.

The court Monday told Secretary Brunner to respond to the complaint no later than Wednesday. Final briefs in the case are due no later than July 28.

Jeff Ortega, a spokesman for Secretary Brunner, said lawyers from the secretary of state and attorney general offices would review the complaint.

"This office will be defending against the suit," Mr. Ortega said.

Eleanor Speelman, Ms. Brunner's general counsel, pointed out in a letter to Mr. Liggett last week that responsibility for determining the validity of petitions and signatures rests with county election boards.

"This office is not aware of any statute or constitutional provision empowering the Secretary to review or alter the findings of the boards concerning the validity of part-petitions and signatures," Ms. Speelman said.

ENVIRONMENTAL GROUP LAUDS TRASH FEE, FUNDS FOR SCENIC RIVERS, BEMOANS CUTS FOR NATURAL RESOURCES, NATURE PRESERVES

Green advocates offered mixed reviews on the biennial budget's effect on Ohio's environment.

A tipping fee increase on municipal solid waste figures as a positive development to help protect groundwater and clean air resources, Jack Shaner deputy director of the Ohio Environmental Council, said recently.

"On the downside, natural resources were dealt a series of deep funding cuts," he said in a statement. "This will take a serious toll on the ability of Ohio's 88 county soil and water conservation programs to conserve topsoil and stop polluted runoff from fields and city streets entering waterways."

Gov. Ted Strickland's proposal to eliminate funding for state nature preserves and the geological surveys, which the legislature approved, were "even more wounding," he said.

"Ohio's 89 state nature preserves represent the last remaining bit of Ohio's wilderness. Without funding, their future may be threatened from neglect and the encroachment of invasive species," he said.

Another disappointment for environmental groups was the governor's decision not to veto an amendment that sets up a one-year deadline for the Environmental Review Appeals Commission to complete its work. Several organizations sent a letter to Gov. Ted Strickland last week urging him to veto the measure.

"The last accessible sounding board to seek environmental protection is essentially silenced by these impossible and unworkable deadlines," Mr. Shaner said. "The amendment will have a chilling effect on future appeals by citizen groups who already barely have the financial resources to prosecute an appeal under current ERAC timelines against the deep pockets of industry and the state."

Many of the positive outcomes that Mr. Shaner touted were successes the environmental lobby had in defeating certain proposals, such as: drilling for oil and gas in state parks; slackening regulations on construction & demolition debris landfills, and defining scrap tires and trash as renewable energy sources.

"Turning back to good news, we are grateful for the administration and the General Assembly for continuing Ohio's Scenic and Wild Rivers program, which returns benefits to paddlers and recreation enthusiasts looking for more staycation opportunities, as well as local travel and tourism business owners," he said.

STATES SEE LESSENING ECONOMIC DECLINES

PHILADELPHIA - While the recession began in late 2007, few states were actually experiencing what that typically means for an economy, a senior economic analyst for the Federal Reserve Bank said Monday.

Jason Novak, speaking at the legislative summit of the National Conference of State Legislatures, said with limited data from the states available month-to-month, the Fed has created its own indices to measure economic changes and plans to expand some of those tools in the coming months.

"Many people think the current recession is the worst. But it's not true when you look at regional activity," he said.

Looking at that information, Mr. Novak said there was actually growth in the gross domestic product in the first two quarters of 2008, so the nation has not experienced a typical recession of weak consumer demand and job losses.

But with the housing bust and declining consumer demand in parts of the country, the recession did lead to GDP losses in the first quarter of 2009, Mr. Novak said.

However, growth rates are improving, at least in the sense that they aren't falling as much as they once were as of May, he said.

"There's still some trouble ahead over the next nine months," Mr. Novak said.

STATE APPEALS BOARD REJECTS TAX EXEMPTION FOR CHURCH-SPONSORED APARTMENT BUILDING

A church sponsored apartment building in Columbus for low income, elderly, and handicapped families is not used exclusively for charitable purposes and is not entitled to a real estate tax exemption, the Ohio Board of Tax Appeals said.

The board unanimously upheld a ruling of the State Tax Commissioner that denied an application from NBC-USA Housing, Inc., doing business as New Salem Manor.

New Salem is a non-profit that relies on various religious organizations and the U.S. Department of Housing and Urban Development.

New Salem Missionary Baptist Church, Columbus, sponsors the 33-unit complex through a housing commission that the National Baptist Convention administers.

Michael Tarver, manager of the property, said the church donated real estate for the structure that was built through the HUD program.

Ms. Tarver said that once such a building opens, a sponsoring church continues to provide services to the residents.

"These services include coordinating supplemental food offerings, on-site medical visits, and prescription delivery for the residents, and offering speakers, special social events, and bible study classes," the BTA opinion said.

The board said that "while several helpful services" were provided to residents, they were "vicariously charitable" in nature.

"While we recognize the social importance of the services provided ... we are constrained to apply the law to the facts before us," the BTA said.

"The record reflects that (New Salem) does not use the subject property primarily and exclusively for charitable purposes," it said.

"Its primary purpose is to use the subject property as federally subsidized residential housing, and therefore, (New Salem) does not qualify for an exemption," the board said.

TUESDAY, JULY 21 2009

OHIO PURSUES HIGH STAKES STRATEGY FOR TRANSPORTATION STIMULUS FUNDING, DIRECTOR SAYS

The administration's strategy in seeking federal stimulus funding for transportation projects involves considerable risk, but also holds the potential to drive Ohio into the future, the governor's transportation chief said Tuesday.

Ohio's application for federal American Recovery & Reinvestment Act funding included more than 200 "multi-modal" transportation proposals - more non-road projects than any other state, Ohio Department of Transportation Director Jolene Molitoris told members of the Compact with Ohio Cities Task Force.

Ohio's submission also included the country's largest number of "local lets," or state transportation partnerships with local governments, she said.

By contrast, many states submitted applications for only a handful of large-scale roadway construction projects that were likely to receive approval from the Federal Highway Administration, which certifies ARRA projects, she said. "A lot of states did that because it was safe and it was quick."

Gov. Ted Strickland has outlined a different strategy to invest in rail, ports, mass transit, and air transportation infrastructure that prioritizes the potential for economic development, she said.

"We have the highest risk, but we believe we're going to have the highest return on investment," she told the panel.

Speaking in an interview, Director Molitoris said the emphasis on multi-modal transportation could be partly responsible for the slow pace of commencing construction on ARRA projects.

"Even though ports and rail are eligible, they didn't give any extra language to make it smooth and easy. The only thing that's smooth and easy are the road and bridge improvements, because that's something that's very obvious," she said.

Tight spending oversight and accountability measure from both the state and federal governments are also a factor, she said.

"Nobody had the kind of open process that Gov. Strickland mandated us to do," she said, noting the state received more than 4,600 project applications worth more than \$12 billion for Ohio's \$774 million share of the federal stimulus funds.

Nonetheless, the focus on alternative transportation aligns well with President Barack Obama's priorities and will pay off in the long run, she said.

"The fact that we have such a multi-modal package of investments we believe is a strength that is preparing us in a very new way for the new authorization that is coming forward," she said, referring the U.S. House's recent move to appropriate an additional \$4 billion for railroad funding through the Federal Rail Administration.

Director Molitoris faced questions from some of the task force's legislative members about how ODOT's new mission was playing out on the local level.

"Suburbanization has been the rule of thumb as to where the dollars go for a long time," Rep. Mike Foley (D-Cleveland), the panel's chairman said.

The director pointed to ODOT's efforts to revise the criteria that the Transportation Review Advisory Council uses to determine which projects receive state funding.

The new standards give more weight to economic development potential, land use planning, and access to brownfields, she said. "This is a fundamental change in the way the department prioritizes its money."

STATES LOOKING AT REFORMS TO UNEMPLOYMENT BENEFIT FUNDS

PHILADELPHIA - As more state unemployment trust funds dry up due to the continuing recession, officials are looking to make revisions to how their systems are set up.

During the summit of the National Conference of State Legislatures, Doug Holmes of the Washington, D.C.-based UWC-Strategic Services on Unemployment said each state has different needs and will recover from this economic downturn in differing ways. Mr. Holmes is a former deputy director of the Ohio Department of Job and Family Services.

Several states have or are looking at launching task forces made up of businesses, unions, legislative and state officials to examine the current structure of the unemployment benefit trust funds, including Kentucky, where recommendations from a panel are due in October, said Linda Bussell of the Legislative Research Commission there.

What is challenging to states is to provide a sustainable system that will weather the bad times without taxing businesses to pay for the benefits at levels that make it uncompetitive with other states and the world at large, Mr. Holmes said.

But Mr. Holmes did not lay blame for the insolvency of now 16 state unemployment benefit trust funds, saying, "no one projected that we would have the size of recession we had."

Most unemployment benefit funds were prepared for the seven to 10 year cyclical business cycles and prepared for a recession similar to the smaller ones of 1990 and 2000, he said, and not comparable to the 1980s, which is where unemployment figures are now.

The federal stimulus package's focus on unemployment benefits also has presented an interesting challenge to states, Mr. Holmes said.

Prior to its enactment, there was pent-up demand among the labor community for changes to benefit eligibility, he said, but once the stimulus rolled around that was coupled with the federal government trying to do something to address the recession at hand.

While the additional extension of benefits didn't hit businesses directly, some of the later provisions of the federal stimulus dealing with "modernizing" the system will have an impact, he said.

Even before that though, some states had a difficulty in keeping the taxable wage level to pay for benefits high, Ms. Bussell said. As Kentucky had an ever-growing balance in the trust fund that had come from enacting reforms in the 1980s, lawmakers looked to lower costs for businesses in the late 1990s, as well as increase the benefit level given to those who were unemployed.

"Most people agreed that was a good idea at the time," she said.

While that was not sustainable, she said, the recession quickly showed just how unsustainable that was.

"Obviously we don't know how bad this situation is going to get," Ms. Bussell said.

Kentucky is now one of 16 states that have had to borrow from the federal government to pay for their unemployment benefit system.

Mr. Holmes said it's estimated the federal unemployment account will be broke and in the hole by \$16 billion by the time 2010 rolls around. Federal regulations on interest free cash flow loans are already changing, with comments due to the government by August, he said.

More state trust funds, upward of another 10, are supposed to go into insolvency by April 2010, Mr. Holmes said, which has led to officials in those states looking to reform their system.

Ms. Bussell said the administration has decided to tackle solvency of the Kentucky fund before it deals with the modernization provisions related to the federal stimulus package.

Mr. Holmes said state officials are looking at reforms, such as Indiana increasing its taxable wage base from \$7,000 to \$9,500, including reviewing benefit reductions, more federal borrowing or bonding.

As states get more of a handle on how big the problem is, more reforms are likely, he said.

But one key factor to the reforms will be matching unemployment claimants with jobs in emerging sectors, which Mr. Holmes called a "win-win."

States also can lobby Congress for more changes to the unemployment system, which is also what happened in the early 1980s.

But as states grapple with the issue of unemployment, Mr. Holmes advised there is nothing that can be done to impact unemployment in the short term. Unemployment claims lag what's actually happening in the economy, he said, which is why it is key for all stakeholders to look long term and create a sense of shared responsibility.

STATE FISCAL OUTLOOKS CONTINUE TO BE GLOOMY

PHILADELPHIA - With most states hobbling through their 2009 fiscal years, the picture continues to be bleak for 2010, according to the latest fiscal update compiled by the National Conference of State Legislatures.

The report compared the country's last recession to the current, finding that between fiscal years 2002-2006, states rectified \$263.8 billion of budget gaps. That's compared to actual and estimated budget gaps from 2008 through 2012 expected to reach \$348.2 billion.

For fiscal year 2009, states have dealt with \$113 billion in budget shortfalls with another \$142.6 million in gaps for 2010, according to NCSL.

But Corina Eckl, director of the fiscal program for NCSL told a packed audience that collecting information from the states has been made more difficult as eight states missed their July 1 deadline for completing budgets (California resolved its budget late Monday evening).

While cuts have certainly been part of the picture, with states such as West Virginia and Montana slashing budgets to bring them into balance with available revenues, Ms. Eckl said what has been surprising is the number of states that have turned to, or are looking at, some sort of broad base tax increase to fill out some of the shortfalls.

So far \$24 billion in tax increases have been enacted across the country, which represents about 3 percent of all tax collections, she said. That's compared to the \$15.4 billion enacted in 1991, which represented 5.4 percent of all tax collections.

The personal income tax has received the most attention as states have tapped the tax 40 percent of the time for these latest revenue hikes.

Ms. Eckl said states have focused on broad base tax increases because they typically generate the most dollars and because states are facing ever-increasing large budget gaps.

Thirty-five states estimate they will have a 10 percent or higher budget shortfall in their 2010 budgets and 12 of those states expect a gap of more than 20 percent.

While more states are seeing a renewed "appetite" for tax increases in a time of what has been a fiscally conservative environment, Ms. Eckl said reliance on the federal stimulus to balance budgets has also been key.

Texas, for example, has dealt with its entire shortfall through the use of its available stimulus funding, she said.

But with the recession ongoing, it's expected states will have to continue to do more to bring their budgets into balance, which will test the endurance of officials, Ms. Eckl said.

And even after the recession officially comes to an end, states will still be on the mend, she cautioned.

"It's like having the first day of the flu. The next day you may feel better but you're not ready for a 10k marathon," she said.

HARRIS: SCHULER SUCCESSOR LIKELY TO BE SEATED NEXT MONTH

Majority Senate Republicans are expected to select a successor to the late Sen. Bob Schuler (R-Cincinnati) early next month, the chamber's leader said Tuesday.

Sen. President Bill Harris (R-Ashland) said he recognizes the importance of having a member representing the 7th district, the seat that Sen. Schuler held until his death in late June.

"I am very sensitive to the fact that folks in the 7th District don't have a senator at the present time and we'll move forward to put that in place," he said.

The president said he would likely establish a caucus screening committee after the National Conference of State Legislatures summer meeting concludes and added that the appointment of a new member is likely in early August.

One current legislator, and two former lawmakers, are among the likely candidates for the appointment. They include Rep. Shannon Jones (R-Springboro), and former GOP Reps. Michelle Schneider of Madeira and Tom Brinkman of Cincinnati.

WEDNESDAY, JULY 22 2009

SPEAKERS: STATES SHOULD GET OUT OF WAY OF RECOVERY, NOT ADD TO IT

PHILADELPHIA - The effects of the recession will persist into 2010 and states need to do what they can to avoid complicating a recovery any further, an economic and business panel of speakers told the summit of the National Conference of State Legislatures on Wednesday.

"We're not in freefall any longer. The parachute is open," said Standard and Poor's chief economist David Wyss. "But we're not on the ground either."

While the bottom of the one of the country's longest recessions may occur in the next few months, Mr. Wyss said the recovery will be more sluggish.

The speakers, including Peterson Institute Senior Fellow Simon Johnson and Comcast Executive Vice President David Cohen, said the key to recovery will be consumer confidence and spending and that simply won't happen with unemployment on the rise, even though that's a lagging indicator of what actually is occurring in the economy.

"It ultimately will be the consumer that leads us out of this recession," Mr. Cohen said.

While all agreed the personal savings rate spike is good because Americans typically only save for a rainy day when they are wet, as Mr. Wyss put it, that doesn't tend to lend itself to people spending, which is what is needed now.

The panel also argued states should get out of the way of economic stimulus coming from the federal government and private sector, spend the federal stimulus coming to it quickly and avoid complicating unemployment matters by firing employees.

People with jobs are acting like they are unemployed, Mr. Cohen said, which is something Comcast witnesses directly. And Mr. Johnson expressed concern about commodity prices and inflation potentially rising, which would put another wrench into the process of recovery.

While the pace of unemployment is declining, Mr. Wyss said people are still not getting jobs and that is leading to discouragement in the workforce. He said people are also being forced to take part-time jobs, which is not a long-term sustainable environment.

Mr. Cohen, who acknowledged his background is not in economic policy and quipped "I have no idea when we are going to hit bottom, for the record," said what he has witnessed in this recession that is different than those of the past is the impact on state and local governments.

While Mr. Cohen said that is probably due to reliance on the housing sector for revenue, Mr. Wyss said it is because of the financial sector collapse, the real estate housing bubble that burst and the struggling domestic auto sector.

The entire panel agreed that cuts to education and the social safety net will only worsen the economic problems of the country and Mr. Johnson said that while the federal stimulus package was right on target in terms of addressing the United States gross domestic product, it did not do enough to address the unemployment problem.

Pandering to the audience a bit, Mr. Johnson said it also did not help states out enough. That was something with which Mr. Wyss disagreed, arguing one of the problems of the federal stimulus is that most of it added another layer of bureaucracy in terms of state government and that getting actual dollars on the ground has slowed because of it.

Mr. Wyss said China was actually in a better position in terms of enacting its stimulus, but that relates more to its focus on infrastructure projects and its form of government. He said given the United States system of government it might not lead itself to fast implementation of fiscal stimulus.

The panel told the audience that not only is it key to spend the stimulus quickly, but to focus on projects that directly relate to jobs, particularly infrastructure, including roads and bridges, capital projects and school building repairs. They said the money should also focus on the unemployed, with Mr. Cohen saying states should accept any money its getting for that population.

Looking forward, Mr. Wyss estimated unemployment would peak to 10.5 to just under 11 percent by next summer, although Mr. Johnson was more optimistic about better times ahead starting in early 2010.

Either way, the panel said states should expect revenue shortfalls throughout next year and into 2011.

While the world is looking to the United States and Europe to pull out of the recession, Mr. Johnson and Mr. Wyss said Asia, not including Japan, will likely come out of this global crisis first. Mr. Wyss said that is problematic for the United States because most of its export goods go to Europe and Japan.

But without more uniform, global regulations of the financial sector, the panel argued the world is still vulnerable to the problem it encountered last fall.

"You guarantee there is no effective way to regulate them," with a patchwork of regulatory agencies, Mr. Wyss said.

Mr. Wyss expressed doubt a global approach would occur given how many turf wars there are over who regulates what, including the role of states.

The panel urged the audience to support more national standards, at least for national companies, including the insurance sector.

No one on the panel said there should be a second stimulus package, as they said the current one hasn't fully been implemented so it's hard to judge its impact. But they said if a second stimulus is implemented, it should focus more on real job creation through infrastructure projects.

DEWINE ENTERS REPUBLICAN ATTORNEY GENERAL RACE, SAYS 'OHIO IS IN CRISIS'

Republican Mike DeWine joined the race for attorney general Wednesday with a pledge to deal with corruption at all levels, and to "keep guns out of the hands of criminals - not law abiding citizens." Mr. DeWine, who lost a bid in 2006 for a third term in the U.S. Senate, said he was seeking the office because the state is in crisis and its economy in shambles.

"There are streets in our major cities today, every one of our major cities, where you are simply afraid to walk during the day," he said at a media availability in the Statehouse.

He cited growing problems with gang wars over drug territory, and illegal aliens who transport crack and heroin into the state.

"The fact is that we are never going to see business prosper in this state if crime is rampant. Employees have to be safe," he said. "I believe the attorney general must take the lead in fighting back. I will lead, and I will fight back."

It was his first stop after his main campaign event at the Greene County Courthouse in Xenia, where his political career began 33 years ago with his election as prosecuting attorney. Mr. DeWine declined to explain why he thought incumbent Democrat Attorney General Richard Cordray should be turned out of office.

"I want to talk about the future today. I think people expect me to talk about my vision," he told reporters.

He aligned himself with former U.S. Rep. John Kasich, the only candidate seeking the GOP nomination for governor in 2010.

"I've talked to John Kasich. As you will recall ... John Kasich and I served in the Ohio Senate together. He and I were elected to the United States House of Representatives together," Mr. DeWine said.

"I at one point endorsed him for president, and he at one point endorsed me for governor," he said. "I support John very much. I think he would be a very good governor."

He declined to say whether he also supported Mr. Kasich's proposal to phase out the state's personal income tax.

Mr. DeWine is the second candidate in the race for the GOP attorney general nomination, joining Delaware County Prosecutor Dave Yost. Mr. Yost welcomed the former senator's entry, calling him "an honorable man who has served Ohio well for several decades." Mr. Yost predicted a campaign about "ideas and ideals," and law, order, and justice.

"I will run on my record as a prosecutor and look forward to the opportunity to compare my record with my opponent's. We differ on many issues. More importantly, I relish the chance to contrast my record in the courtroom with Richard Cordray's lack thereof," Mr. Yost said.

"I've campaigned in more than 60 counties so far this year, and I am grateful for the endorsement by more than 70 percent of Republican prosecutors across Ohio," he said in a news release.

Dating to 1976, his political career includes terms as a county prosecutor, state senator, member of the U.S. House, Ohio Lieutenant Governor, and member of the U.S. Senate.

HIGH SPEED RAIL'S 'TIME HAS COME'

PHILADELPHIA - State and local governments have led the way for years in terms of rail investment, but with the latest spending from Washington, D.C., particularly with the federal stimulus package, high speed rail's "time has come," the summit of the National Conference of State Legislatures was told Wednesday.

Approximately \$8 billion of the stimulus is devoted to high speed rail initiatives, said Paul Nissenbaum of the Federal Railroad Administration, and what is key for states to know is that the money available ranges from those projects ready to hit the ground running to those states just getting their "pipeline" going.

Mr. Nissenbaum said the kind of high speed rail that is created also will vary from emerging areas of 90 to 110 miles per hour to express routes that top 150 miles per hour. While top speed is often the focus, Mr. Nissenbaum said projects really focus on average speed.

While projects ready to go will be the first focus, the longer benefits of upgrading corridors or creating new ones will also be part of the funding, he said.

So far, there has been an "impressive breadth of interest," with more than 40 states interested or having submitted pre-applications for projects.

The administration is looking at the broad public benefits of projects, including economic recovery, the environment, and those projects that can be sustainable investments.

Shayne Gill with the American Association of State Highway Transportation Officials said as these initiatives move forward it will be based on the state and local governments who have these relationships already intact.

That includes leading states such as Michigan that have partnered with Amtrak and have gone above and beyond other state levels of investment in rail.

STREAMLINED SALES TAX AS A REPLACEMENT FOR STIMULUS MONEY?

PHILADELPHIA - If Congress were to give the okay for states to mandate sales tax collections on online purchases within the next six months then states could have that program up in running by the time the federal stimulus money runs out, the head of the initiative's governing board said Wednesday.

West Virginia Delegate John Doyle, who serves as president of the Streamlined Sales Tax Governing Board, said every year states more and more are losing sales tax revenue because people make purchases online.

Currently, it's estimated that states are missing out on \$18-\$20 billion a year in uncollected sales tax. Twenty-three states currently have entered voluntarily into the streamlined sales tax and use agreement and more than 1,000 companies voluntarily collect the sales tax.

Mr. Doyle said given the timing of the last federal stimulus dollars, policymakers in states that have not agreed to the sales tax initiative (five states do not collect sales taxes) should start those discussions now.

"That's how we go about passing it," he said.

Mr. Doyle said when West Virginia discussed the issue there were some who argued it was a tax increase, but he argued it's a matter of fairness that the same product on main street and online are taxed the same.

THURSDAY, JULY 23 2009

ATTORNEY GENERAL, SECRETARY OF STATE REJECT BID TO FILE INITIAL PAPERWORK FOR SLOTS REFERENDUM

Conservative opponents of Gov. Ted Strickland's move to install slot machines at Ohio horse race tracks tried to file initial paperwork Thursday to place the question before voters, but were rejected.

The Let Ohio Vote committee attempted to deliver a referendum petition containing a summary of its proposal, along with petitions containing at least 3,000 signatures.

Both Attorney General Richard Cordray and Secretary of State Jennifer Brunner declined to accept the documents.

Secretary Brunner's office pointed out that a section of the new state budget (HB 1) related to Gov. Strickland's slot machine directive specifically states that the provision takes effect immediately and is not subject to referendum.

Jeff Ortega, a spokesman for Ms. Brunner, also said an Ohio Supreme Court opinion in 2007 basically held that the secretary of state has no legal authority to question the actions of the General Assembly and governor in the legislative process.

The budget bill contends the sections at issue are exempt from referendum because they relate to an appropriation for current expenses.

Gov. Strickland is proposing installation of up to 17,500 "video lottery terminals," through the Ohio Lottery, at the state's seven horse race tracks. The goal is to raise an estimated \$933 million over the biennium to avoid further spending cuts.

Later on Thursday, attorney David Langdon of Cincinnati, representing Let Ohio Vote, sent a letter urging Mr. Cordray's office to consider Ohio Supreme Court rulings from 1972 and 1977 before making a final decision to reject the group's petitions.

"As you know, the question of whether the VLT sections are subject to the referendum power is currently before the Ohio Supreme Court," Mr. Langdon said.

"That issue, though, is separate and distinct from the summary certification issues, which is a process established by statute, not by the Ohio Constitution," he said.

Mr. Langdon contended Secretary Brunner was not authorized to reject the group's petitions on the basis of the budget statement that the VLT sections were not subject to referendum.

In the event the Ohio Supreme Court would eventually allow a referendum to take place, and would apply the normal 90-day time frame, slots opponents would have to file at least 241,366 valid signatures, equaling at least 6% of the 2006 gubernatorial vote, and in at least 44 of the state's 88 counties.

PUCO FIRMS AEP RATE CAPS FOR LARGE-SCALE USERS

Many of the state's major electric consumers scored a victory Thursday when Ohio utility regulators specified that rate caps established in AEP-Ohio's electric security plan should apply to industrial and commercial customers.

In taking the action, the Public Utilities Commission of Ohio found that the rate caps included in the utility's electric security plan were not being followed for the large scale users.

The order specifies that rate increases for Columbus Southern Power customers will not exceed 7% in 2009 and 6% each in 2010 and 2011. Similarly, industrial and commercial users who buy electricity from Ohio Power will not see their rates increase by more than 8% in 2009, 7% in 2010 and 8% in 2011.

The changes were based on arguments several parties made during a rehearing process.

Commissioners also said that the utility's allowable total revenue increase should not have reflected changes in bills for tariff or voltage adjustments.

Ryan Lippe, spokesman for Consumers' Counsel Janine Migden-Ostrander, said the commission agreed with the OCC by disapproving rate increases tied to an AEP revenue shortfall due to the 2009 discounted rates for Ormet Primary Aluminum Corporation.

That decision, he said, means that the utility should reduce the rates it charges customers to cover for those past payments, and make sure it doesn't collect that amount for the remainder of the year.

In the same order, the PUCO directed AEP-Ohio to remove an annual \$51 million recovery tied to carrying charges for its Waterford Energy Center and Darby Electric Generation operations. The change will lower future deferrals collected from ratepayers, the commission said.

OHIO BUSINESS: HUNTINGTON BANCSHARES HAS NET LOSS OF \$125 MILLION IN 2ND QUARTER; FIFTH THIRD SEES \$882 MILLION NET INCOME

Regional bank holding company Huntington Bancshares Inc. said Thursday it recorded a 2009 second quarter net loss of \$125.1 million, or \$0.40 per common share.

The performance compared with a net loss of \$2.4 billion, or \$6.79 per common share, in the first quarter of the year.

For the first six months of 2009, the Columbus-based Huntington listed a net loss of \$2.5 billion, compared with net income of \$228.4 million in the comparable 2008 period.

Stephen Steinour, the chairman, president, and chief executive officer, said the company continued to make steady progress in underlying financial performance despite the reported loss for the quarter.

"Our pre-tax, pre-provision earnings were \$229.3 million, up \$4.7 million, or 2%, from the first quarter. This reflected a combination of positive factors key to improving our long-term financial performance," Mr. Steinour said.

He said Huntington believes it has sufficient capital to weather a severe economic scenario similar to that the Federal Reserve used in its modeling of capital sufficiency for 19 large banks outlined in May.

"Our actions also set the stage for eventual repayment of our \$1.4 billion in TARP capital, though it would be premature to consider this in the near term given the economic uncertainty in our Midwest region," Mr. Steinour said in a news release.

Fifth Third: Fifth Third Bancorp in Cincinnati said Thursday it recorded net income of \$882 million in the second quarter of 2009, compared with net income of \$50 million in the first quarter of the year.

The second quarter gain in net income followed a net loss of \$202 million in the same period for 2008.

During the quarter, Fifth Third completed the sale of a 51% interest in its processing business through a joint venture with Advent International. The transaction produced an after-tax gain of \$1.1 billion. Fifth Third also successfully issued \$1 billion of common stock.

Kevin Kabat, chairman, CEO, and president, said the quarter was eventful for Fifth Third and for the industry.

"Credit trends remain difficult and signals regarding future trends are somewhat mixed at this point. We continue to work aggressively to manage the risk in our loan portfolio. As expected, net charge-offs increased from the first quarter to \$626 million," Mr. Kabat said.

"We expect loan losses to increase moderately in the third quarter, with higher commercial real estate charge-offs partially offset by lower consumer charge-offs," he said in a news release.

INTRODUCED IN THE HOUSE

HB 255 FIREFIGHTER TAX CREDIT (Balderson) To allow a \$400 income tax credit for volunteer firefighters. Am. & En. 5747.08, 5747.98 and 5747.67

FRIDAY, JULY 24 2009

SENATE BUDGET LEADERS INTRODUCE BILL TO FUND HEALTH CARE, CONSERVATION PROGRAMS CUT BY BIENNIAL BUDGET

A bipartisan pair of senators think Ohio should bypass upcoming federal tax changes in order to generate funding for three programs that sustained drastic cuts in the recently passed biennial budget.

Sen. John Carey (R-Wellston), chairman of the Senate Finance & Financial Institutions Committee, and Sen. Dale Miller (D-Cleveland), the panel's ranking minority member, recently introduced legislation as joint cosponsors that would decouple certain provisions of Ohio's income tax from the federal code (SB 155).

Sen. Carey said the bill would save the state about \$20 million a year in foregone revenue that could restore appropriations for Soil & Water Conservation Districts, post-adoption special subsidies, and the disability medical assistance program.

Sen. Carey said he and Sen. Miller agreed that those three programs, which sustained heavy reductions in the biennial budget (HB 1), deserved to be funded.

"There's other areas that obviously got cut and were worthwhile programs - we had to make decisions - but these are the three that I felt I needed to find some way to address," he said.

The measure would appropriate \$6 million a year in general revenue for both soil & water districts and disability medical insurance. It would allocate \$8 million in GRF annually for adoption subsidies, which would draw an additional \$17.2 million federal match in fiscal year 2010 and \$15.3 million in FY 2011.

Sen. Carey said the biennial budget eliminated funding for critical subsidies that help parents afford medical treatment for their newly adopted children, who often have very expensive health conditions. "I really think that's a hard thing not to fund."

Money for soil and water districts also dried up in the budget after lawmakers scrapped the governor's proposal to increase tipping fees on construction & demolition debris landfills, he said.

Sen. Miller said restoring funding for disability medical assistance, which offers primary care and prescription drug coverage for indigent Ohioans not eligible for Medicaid, would be "both humane and cost-effective."

"If we don't continue this program and these people don't get their medications, they're going to end up on the streets, in the mental hospital, or in the jails and it's going to end up costing us more money," he said. "So I'm pleased to joint sponsor the bill with Sen. Carey."

Department of Taxation spokesman John Kohlstrand said the recently passed biennial budget adopted several changes in the federal code that were included in the federal stimulus measure.

The legislature usually adopts any changes Congress made to the federal tax code to simplify the filing process and to prevent potential legal uncertainties, he said.

The American Recovery & Reinvestment Act includes three federal changes that will reduce Ohio's tax revenues by a total about \$65.7 million for the biennium, he said. They include: an exemption for unemployment benefits income; a provision that allows businesses to carry back net operating losses; and a deferral for income tied to the cancellation of certain business debts.

Sen. Miller said the measure wouldn't affect the new tax exemption for unemployment compensation income.

While the bill could provoke opposition by those who might view it as a tax hike, Sen. Carey said he didn't see it that way.

"Those tax rates haven't been changed yet. Instead of cutting our taxes on this particular issue, we'd be keeping them the same," he said.

Sen. Carey suggested speculation about lawmakers introducing a budget corrections bill in September could be the result of misinterpretation of his comments about the need for this measure to fund certain programs that were cut in the biennial spending plan.

BRUNNER OPPOSES EMERGENCY STAY IN TRACK SLOTS LAWSUIT AS STRICKLAND ADMINISTRATION INTERVENES

The Ohio Supreme Court was asked Friday to deny a request from opponents of Gov. Ted Strickland's race track slots plan for an emergency order that would halt implementation of parts of the recently enacted state budget.

Secretary of State Jennifer Brunner told justices that the request for a stay from the Let Ohio Vote ballot committee "puts the cart before the horse."

The conservative group wants the court to block the Ohio Lottery from working on Mr. Strickland's plan to install up to 17,500 slot machines at horse tracks until an underlying complaint seeking a statewide vote is resolved.

Assistant Attorney General Richard Coglianesse, representing Ms. Brunner, said slots opponents were effectively asking the court to issue a temporary restraining order, and to make a premature determination before they argued merits of their case.

Sections of the new budget (HB 1) help implement Gov. Strickland's separate directive for installation of the "video lottery terminals" in an attempt to generate \$933 million over the biennium.

The budget specifically states that the lottery slots language was to take effect immediately, and was not subject to referendum.

"Because the challenged portions of (the budget) are already effective law, those provisions enjoy a presumption of constitutionality that (opponents) must rebut," Mr. Coglianesse said in a court filing.

"Rather than presuming that the law is constitutional - which by its terms states that it is not subject to a referendum and takes immediate effect - (opponents) are presuming that the opposite is true: that the law is subject to a referendum," he said.

"Since that question is at the core of the merits of the case, and since the merits will, under the court's expedited briefing schedule, be resolved in short order, (the) stay request should be denied, and the status quo should be preserved until a final determination," Mr. Coglianesse said.

Let Ohio Vote argued in its initial court filing that a stay is needed because the potential exists for the lottery commission to begin implementing the law before justices could rule on the merits.

LetOhioVote.org is a conservative ballot issue committee consisting of former Rep. Thomas Brinkman (R-Cincinnati); David Hansen, formerly with the Buckeye Institute for Public Policy Solutions; and Gene Pierce, a public affairs communications consultant.

They want the Supreme Court to allow them the opportunity to gather signatures on petitions to place the slot machine measure before voters.

In 1996, voters rejected, 57% to 43%, a proposal to permit slots at the racetracks and to build two casinos in Cleveland.

Separately, Gov. Ted Strickland's administration filed an unopposed motion Friday to intervene in the case.

Listed as the intervenors were Director Pari Sabety, Office of Budget and Management; and Director Michael Dolan of the Ohio Lottery Commission. Solicitor General Benjamin Mizer of the attorney general's office is representing them in the case.

OHIO RANKS 38TH IN PER CAPITA FEDERAL PAYMENTS IN 2008, CENSUS BUREAU SAYS

Ohio received about \$90.6 billion of the total \$2.79 trillion that Washington distributed to states in federal fiscal year 2008, according to data the U.S. Census Bureau released this week.

Ohio ranked 38th in terms of per capita federal payments, which equate to \$7,887 for each of the state's 11.5 million residents - the lowest rate of the surrounding states, according to the bureau's Consolidated Federal Funds Report.

Federal per capita spending was highest in Virginia at \$15,256 per resident, while Utah received the least at \$6,255 per resident. The national average was \$9,041 per American.

In 2007, Ohio received about \$105.2 billion from the federal government, which was considerably higher than the \$80.7 billion in 2006. Previously the state's payments increased steadily since 1999, when it received \$53.7 billion from Washington.

Total federal domestic spending in 2008 increased 9.3% from the previous year, the bureau said. Federal health and retirement programs consumed \$1.35 trillion, or 48% of all federal spending, with \$659 going to Social Security.

Of the \$90 billion in federal funds Ohio received in 2008, the largest portion, about \$31.7 billion went to retirement and disability programs. Grants comprised about \$17.7 billion, procurement about \$9 billion, and salaries and wages \$6.3 billion.

Federal Medicare payments to Ohio included about \$9 billion for hospital insurance and \$7.5 billion for supplementary medical insurance. Other 2008 payments included:

- \$1.5 billion in excess earned income tax credits.
- \$1.4 billion in unemployment compensation.
- \$1.5 billion in food stamp payments.
- \$601 million in housing assistance.
- \$512 in agricultural assistance.
- \$588 million in federal employees life and health insurance.

The report does not include interest paid on the federal debt and foreign aid, the bureau noted. Monetary obligations from the American Recovery and Reinvestment Act are also not included since the legislation was passed in 2009.

I said, citing data from the National Association of Insurance Commissioners. Auto insurance rates in the state are the 13th lowest in the U.S.

"While we did experience premium rate increases in 2008, it's important to remember that Ohio still has some of the lowest insurance rates in the nation," Director Mary Jo Hudson said in a statement. "The Department will continue to monitor these markets, and also assure that Ohioans have access to competitive coverage."

The rise in homeowner's insurance rates last year, which ranged from -0.5-13.1% for the state's 10 largest companies, outpaced increases seen in the previous four years, the agency said. Auto insurers' rates rose 0-3%.

Increasing building and material costs and weather related claims are likely the reason homeowners' rates increased significantly, ODI said. Changes in auto insurance rates are associated with medical costs, weather related claims, the number of cars on Ohio roads and repair costs.

Department analysts expect the 2009 insurance rate activity to follow a similar trend, where auto premiums rise slightly and homeowners' rates increase at a faster pace.

HOMEOWNERS INSURANCE RATES SPIKED IN 2008, AUTO PREMIUMS INCREASED SLIGHTLY, STATE SAYS

Auto insurance rates in Ohio inched higher by 0.8% last year, but coverage for homeowners shot up 6.9%, the Department of Insurance said Friday.

Nonetheless, Ohio still has the sixth lowest homeowners insurance average premiums in the country, ODI said, citing data from the National Association of Insurance Commissioners. Auto insurance rates in the state are the 13th lowest in the U.S.

"While we did experience premium rate increases in 2008, it's important to remember that Ohio still has some of the lowest insurance rates in the nation," Director Mary Jo Hudson said in a statement. "The Department will continue to monitor these markets, and also assure that Ohioans have access to competitive coverage."

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AGENCY BRIEFS: AGENCIES PREP FOR STATE FAIR; COMMERCE REMINDS ON CABLE COMPLAINTS

Ohio State Fair: Fair organizers highlighted a series of new attractions at this year's fair, including "Wild About Monkeys," "Mutton Bustin'," and a NASA Glenn "Journey to Tomorrow" tour.

The family-focused monkey exhibit features baboons, a baby monkey, a parrot and a dog. Mutton Bustin' gives kids six and under a shot at staying on a sheep for more than six seconds. The NASA tour lets visitors explore 100 years of powered flight.

Also new this year: a BMX trick team, radio-controlled cars, street artists, Boy Scout activities, an Earth-friendly sustainable house and deep-fried Buckeyes.

The fair opens on Wednesday, July 29.

Department of Commerce: The agency reminded Ohioans that they can contact the department if they are having trouble getting issues with their cable companies resolved.

Commerce said it has received more than 3,900 complaints regarding the industry since a new law took effect in 2007, adding that issues involved billing concerns, picture quality, equipment malfunctions and canceled or missed appointments.

Under the law, the agency has issued 39 video service certificates that allow providers to sell services across wide areas of the entire state. The consumer hotline can be reached at 800-686-7826.

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