



# GOVERNMENTAL POLICY GROUP, INC. RH RESOURCES

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## Week in Review February 24, 2023

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## **ATTORNEY GENERAL**

Attorney General Dave Yost and 41 other attorneys general say the federal government should back off proposed regulations for accessing the Financial Crimes Enforcement Network's (FinCEN) corporate ownership database so state and local authorities can get the information they need to fight corruption, white-collar crime, racketeering and terrorism under the 2021 Corporate Transparency Act (CTA). The states sent an 11-page letter to FinCEN at the U.S. Department of Treasury asking it to ease proposed requirements on database access to actual or "beneficial" corporate owners. They say state, local and tribal (SLT) entities should not have to provide written justification for this information and should be able to self-certify they have the necessary court order without further review by FinCEN.

## **BUDGET – F.Y. 24-25**

Secretary of State Frank LaRose and Ohio Department of Administrative Services (DAS) Director Kathleen Madden got their chances to lay out their plans for the FY24-25 state budget Tuesday, providing testimony to lawmakers in the House Finance Subcommittee on Higher Education and fielding questions on the implementation of 134-HB458, in LaRose's case, and on the Multi-Agency Radio Communication System (MARCS), in Madden's case.

The House Finance Subcommittee on Health and Human Services Thursday heard extensive testimony on operating budget provisions in HB33 (Edwards) regarding care for Ohio's aging population, with Ohio Department of Aging (ODA) Director Ursel McElroy expanding on previous testimony to the full House Finance Committee. McElroy added comments on the Summary Assessment of Older Ohioans, which found a gap of over 29 years in life expectancy depending on the zip code where a person lives. Additionally, more adults have chronic conditions that "dramatically impact" their quality of life without shortening the length of life. She discussed the \$40 million Healthy Aging Grant program in particular, saying it is drawing "excitement and support" from aging and community-based organizations, health care providers and the County Commissioners Association of Ohio. The program seeks "to keep at-risk aging Ohioans in their homes and communities while preventing or delaying the move to institutional care and reliance on Medicaid funding."

## **DISABILITIES**

Ohio would put up enough state money to draw down the maximum federal match for services to help people with disabilities find and keep jobs for the first time in about 15 years under the executive budget proposal, HB33 (Edwards), Opportunities for Ohioans with Disabilities (OOD) Director Kevin Miller told the House Finance Health and Human Services Subcommittee Wednesday. Miller said that Ohio gets \$3.69 in federal match for every dollar of state funding. OOD will "strategically expand" employment-related services with this additional money, building on partnerships in higher education, career centers and with hundreds of businesses. According to the OOD Redbook from the Legislative Service Commission (LSC), the agency is in for a substantial boost in General Revenue Fund (GRF) support over the biennium, from shy of \$20 million per year in the current budget to \$27.2 million in FY24 and \$32.4 million in FY25 under Gov. Mike DeWine's executive proposal. That represents GRF funding increases of 37.3 percent and 19.1 percent and total funding changes of 7.3 percent and 8.1 percent per fiscal year.

## **EAST PALESTINE DERAILMENT**

U.S. Environmental Protection Agency (USEPA) Administrator Michael Regan Tuesday ordered Norfolk Southern to conduct all necessary actions associated with the cleanup from the East Palestine train derailment. As part of USEPA's legally binding order, Norfolk Southern will be required to do the following, Regan said at a news conference joined by Ohio Gov. Mike DeWine and Pennsylvania Gov. Josh Shapiro:

- Identify and clean up contaminated soil and water resources.
- Reimburse USEPA for cleaning services to be offered to residents and businesses to provide an additional layer of reassurance, which will be conducted by USEPA staff and contractors.
- Attend and participate in public meetings at USEPA's request and post information online.
- Pay for USEPA's costs for work performed under this order.

In keeping with this next phase, both governors sought to assure their residents that they will not abandon East Palestine, as DeWine said, "in the weeks, months and years going forward."

U.S. Department of Transportation (DOT) Secretary Pete Buttigieg visited the crash site Thursday in conjunction with the National Traffic Safety Board's (NTSB) preliminary report release on the hazardous chemical incident and the DeWine administration's update on air and water quality, wildlife loss and waste removal from the 38-car derailment. It was Buttigieg's first visit to examine the site in the three weeks since the derailment. He later met with East Palestine residents and area first responders.

NTSB's four-page report, "Norfolk Southern Railway Train Derailment with Subsequent Hazardous Material Release and Fires," confirms a primary crash cause of train wheel bearings at "critical" temperatures, though it says the train was traveling 3 mph under its authorized speed of 50 mph. Of three dozen derailed cars, it says 11 were carrying "combustible liquids, flammable liquids and flammable gas including vinyl chloride" used to manufacture PVC plastic.

## **EDUCATION**

Ohio children from Medicaid-eligible families will automatically qualify for free or reduced-price school meals in the coming school year after approval from the U.S. Department of Agriculture (USDA). The policy complements existing practices for qualifying children for meals if they're in households receiving Supplemental Nutrition Assistance Program (SNAP) or Temporary Assistance for Need Families (TANF). The Ohio Department of Education (ODE) announced it is one of 14 states recently selected by USDA for the "Direct Certification with Medicaid Demonstration Project" starting in the 2023-2024 academic year. The program uses Medicaid data to certify children as eligible for free or reduced-price meals without an additional application, and ODE says it will ensure more children receive meals. As of October, an estimated 677,000-plus Ohio children qualified for free or reduced-price meals.

A representative of the Hunger-Free Schools Ohio Coalition set a price tag of \$200 million in state money Monday to provide free breakfast and lunch to all K-12 students, regardless of a family's ability to pay. The coalition hosted a press conference with members including the Ohio Education

Association (OEA), Children's Defense Fund (CDF), school district staff and parents. "Every child in Ohio, regardless of where they're from, what they look like or how much money their parents make, needs to be able to eat full, nutritionally complete meals at school ... allowing them to focus on what they're learning, not on the hunger pangs they're feeling," said OEA President Scott DiMauro, who hosted the discussion.

The chair of the House Primary and Secondary Education Committee and a Democratic colleague introduced legislation to require automated external defibrillators in schools and sports and recreation centers across the state. Rep. Adam Bird (R-Cincinnati), the committee chair, and Rep. Richard Brown (D-Canal Winchester), introduced their proposal as HB47.

The Senate Education Committee Tuesday adopted a handful of amendments on K-12 governance overhaul measure SB1 (Reineke) and heard from numerous witnesses on the proposal. The committee accepted three changes that are meant to address rulemaking, qualifications of senior staff at the proposed Department of Education and Workforce (DEW) and stakeholder engagement. Among numerous witnesses providing in-person or written testimony in opposition to SB1 Tuesday were sitting members of the State Board of Education.

Leaders of private schools, parents and students urged the Senate Education Committee in testimony Tuesday to approve a broad expansion of the EdChoice scholarship program to all Ohio students regardless of income or their local schools' performance. The committee took proponent testimony in person and in writing on SB11, Sen. Sandra O'Brien's (R-Rome) bill to allow all any student to receive an EdChoice voucher starting in the coming academic year. The legislation also would expand the tax deduction for home schooling expenses. Troy McIntosh, representing the Ohio Christian Education Network, said the legislation highlights the contrast between advocating for funding students versus systems. "I stand in support of funding students knowing that we need a full array of systems, pedagogies, approaches and philosophies to meet the many different needs of Ohio's students," he said.

The House Primary and Secondary Education Committee had its first hearing on the ODE overhaul legislation Tuesday, with Reps. Don Jones (R-Freeport) and David Dobos (R-Columbus) giving sponsor testimony on HB12, a companion to SB1 (Reineke). The two sponsors, both with backgrounds in public education, said the current education structure is "failing our children" in both academic achievement and by "not adequately" connecting students to their purpose. Not enough attention is given to career-technical education, Dobos said. A "systemic change" is needed to refocus the system on Ohio's students, he added. Jones noted there are some changes from 134-SB178, as it aims to guarantee homeschooling families "the ability to home educate their child by exempting a child from compulsory school attendance when that child is receiving instruction in core subject areas from their parents."

Members of the Ohio Facilities Construction Commission (OFCC) heard an update on the K-12 School Safety Grant Program during their monthly meeting Thursday. The program, which launched in 2021 and is administered in a partnership between OFCC and the Ohio School Safety Center, has seen five rounds of funding, including one that is ongoing. Using both federal and state dollars, the program provides grants to schools for physical safety and security upgrades. Some of the most common uses of the funding have been to purchase security cameras, public address systems, automatic door locks, visitor badging systems, exterior lighting and emergency communication systems.

## **ELECTIONS**

The Ohio Elections Commission Thursday told former Republican gubernatorial candidate Joe Blystone that it expects to receive full payment of a more than \$100,000 fine it levied against the campaign after Blystone had paid only \$39,000 and included a profanity directed at the commission on the check. The commission had approved a settlement last month that saw Blystone admit to violating campaign finance laws in exchange for a fine and a prohibition on running for office for five years. As part of the settlement, the commission did not refer the matter for prosecution after receiving a referral from the secretary of state's office as well as multiple complaints filed against the campaign including by a former staffer.

Lt. Gov. Jon Husted said Wednesday that he has filed paperwork designating a treasurer for a run for a future statewide executive office. While he did not state which office he would seek, he is likely preparing for a 2026 gubernatorial run. "Our family and faith have led Tina and me on our journey of service to others," said Husted. "We have done that in our community, through nonprofit organizations, our church, and in public office. I am proud of what we have accomplished and of the direction Ohio is now heading, but there is more work to be done. After thought and prayer, Tina and I have agreed: We will continue serving this state and its people -- working toward a more prosperous future for everyone, and we will do so as long as the people of Ohio will have us." In addition to filing the designation, Husted also launched JonHusted.com.

## **ENERGY/UTILITIES**

The House Public Utilities Committee presented a lesson in contrasts Wednesday as it heard testimony from American Electric Power (AEP) of Ohio which revealed plans to more-than double the megawatt output of the state-regulated, investor-owned monopoly in 10 years. The committee then heard from Ohio Electric Cooperatives (OEC) which described a unique business model at the self-regulated, member-owned nonprofit that refunds surplus rates to consumers -- an issue yet to be resolved in Ohio for electric distribution utilities (EDU) like AEP.

## **ETHICS**

Rep. Derek Merrin's (R-Maumee) ethics reform bill was the first bill heard by the House Government Oversight Committee during this General Assembly. Committee Chair Rep. Bob Peterson (R-Sabina) praised Merrin for his work on HB16, saying he's "done a great job" on the bill so far, and looks forward to working with him on it. Merrin said the bill includes the following provisions, among others:

- Changes the timeline for disclosing when debts are to be disclosed.
- Codifies guidance on how rental income is reported on the financial disclosure statement (FDS).
- Allows a lobbyist to refrain from reporting items if their employer reports the items.
- Eliminates a law that prohibited a former member or employee of the General Assembly from lobbying for one year after leaving office, as the law has been ruled unconstitutional.

## **FEDERAL**

Ohio State University (OSU) announced that former Ohio Congressmen Bob Gibbs (R-Ashland) and Anthony Gonzalez (R-Canton) have each donated their congressional papers to the university. Both of the congressional collections include materials related to the former representatives' terms in the U.S. House of Representatives and contain legislative files, correspondence and audiovisual materials. Both sets of papers will become part of the Ohio Public Policy Archives (OPPA), a special collection of the Ohio State University Libraries. OPPA compiles, preserves and makes accessible the unique historical materials documenting the immediate and long-term impact of Ohio members of the U.S. Congress. The Gibbs collection will be open to students, faculty and the general public for research in 2028 after the papers have been sorted and arranged by archivists. The Gonzalez collection will be open in 2024, after the papers have been sorted by archivists.

## **GAMING/GAMBLING**

Two major sports betting operators will pay significant fines after reaching settlement agreements with the Ohio Casino Control Commission (OCCC). Crown OH Gaming LLC, better known as "DraftKings," will pay a total of \$500,000 in fines after OCCC found it had mailed more than 2,500 advertisements addressed directly to individuals younger than 21, encouraging them to download the sportsbook app and it had run sports gaming advertisements without "clear and conspicuous" information on how to access problem gambling services. In addition, Penn Sports Interactive (PSI) LLC, better known as "Barstool," will pay a \$250,000 fine for promoting pre-registration for its sportsbook on the University of Toledo campus, where individuals younger than 21 were likely present. The advertising occurred during the "Barstool College Football Show."

OCCC and the Ohio Lottery Commission (OLC) both need increases in appropriation authority to pay for the additional staff necessary to oversee the new sports gambling industry, agency leaders said Tuesday. During testimony on HB33 (Edwards) before the House Finance Primary and Secondary Education Subcommittee, OCCC Executive Director Matt Schuler said the commission plans to hire seven more sports gaming employees in the next biennium.

## **GENERAL ASSEMBLY**

The Senate Community Revitalization Committee held its first meeting of the 135th General Assembly Tuesday, hearing presentations on the work of Alcohol, Drug Addiction and Mental Health (ADAMH) boards in Ohio and on physical and social effects of addiction. Sen. Louis Blessing (R-Cincinnati) gave sponsor testimony on his SB36 as well. Chair Sen. Terry Johnson (R-McDermott) noted the committee had previously been the Senate Addiction and Community Revitalization Committee, saying the name was shortened to "broaden the scope" of their work and that members will gather information from around the state during its hearings.

The Senate Wednesday passed an updated version of legislation that would allow Ohioans to appeal state agency orders in their local courts of common pleas instead of Franklin County, after a bill passed in lame duck was vetoed by Gov. Mike DeWine. SB21 (Reynolds-McColley) is similar to the vetoed 134-HB286 (Seitz). In his veto message, DeWine said the language of that bill was "simply too broad." The bill generally allowed Ohioans to challenge state actions in any common pleas court, among other provisions. On the floor, bill sponsor Sen. Michelle Reynolds (R-Columbus) argued that the current system gives Franklin County an outsized authority and is burdensome to Ohio businesses, especially if that business has no relationship to Franklin County. The bill also allows the



House speaker and the Senate president to retain their own legal counsel in lawsuits challenging state laws or constitutional claims, as well as giving the power to retain counsel to the governor, she said. The bill passed along party lines 24-7.

Huffman told reporters he plans to hold a Senate hearing next week and will invite witnesses to discuss the East Palestine train derailment. He said there are limited areas the state can regulate on rail as interstate commerce is controlled by the federal government, but he wants to have a discussion with relevant state officials, including from the Ohio EPA, during a public hearing so everyone can get the facts. "I know that sometimes things get said on a national scale which may or may not be correct," Huffman said. "If we have that open public hearing, ... I think it'd be beneficial to everybody."

The House's new Homeland Security Committee opened hearings Wednesday with remarks from a top state safety official and a rail union representative on the East Palestine derailment, with lawmakers looking for areas where state action could make a difference without running into federal preemption. Karen Huey, assistant director of the Ohio Department of Public Safety (ODPS), addressed the state's response to the train wreck as part of broader testimony on state public safety and homeland security efforts. John Esterly, chair of the Ohio State Legislative Board for the Brotherhood of Locomotive Engineers and Trainmen, spoke about the various federal agencies that oversee elements of rail transportation and safety.

## **GOVERNOR**

Gov. Mike DeWine announced Friday the appointment of Mark Majer to the Cleveland Municipal Court, replacing Pinkey Carr, who was suspended from the bench by the Ohio Supreme Court, accused of fostering a "game show" atmosphere in her courtroom. Majer took office Friday, Feb. 24 and must run this fall to retain the seat.

## **HIGHER EDUCATION**

Ohio Department of Higher Education (ODHE) Chancellor Randy Gardner helped kick off the first House Higher Education Committee of the year Wednesday, delivering testimony on the state budget proposal and department initiatives. Gardner's remarks largely mirrored the testimony he earlier gave before the House Finance Committee. He stressed the governor's "all of the above" approach to higher education, whether that means an industry certificate, community college, military service, or a four-year degree. Gardner said the governor is seeking again to add FAFSA (the Free Application for Federal Student Aid) completion as a graduation requirement.

The state announced plans to provide emergency naloxone access cabinets for installation on public college and university campuses around Ohio as part of a collaboration between RecoveryOhio, ODHE, and the Ohio Department of Health (ODH). Naloxone, also known by the brand name Narcan, is a medication that can reverse an overdose caused by an opioid drug, including heroin, fentanyl, or prescription pain medications. When administered during an overdose, naloxone blocks the effects of opioids on the brain and quickly restores breathing. The wall-mounted emergency access cabinet, similar to an automated external defibrillator (AED) machine, is an effective and easy way to provide the public with access to life-saving naloxone, the agencies said.

## **MARIJUANA/HEMP**

Sober individuals are regularly convicted of driving under the influence of marijuana in Ohio, attorney Tim Huey of the Ohio State Bar Association (OSBA) told the Senate Judiciary Committee during proponent testimony on SB26 (Manning). "There is not a scientist, toxicologist or expert in this state or country that would assert that the scientific procedures and theories underlying our current law are designed to punish those who drive while under the influence of marijuana and free those who drive soberly and responsibly," Huey said, noting the state of Ohio only tests for "Carboxy-THC," which is inactive and does not show impairment.

## **PENSIONS**

Trustees of the State Teachers Retirement System (STRS) split down the middle on a recent vote expressing their sentiments about Executive Director William Neville's leadership, amid escalating retiree criticism of system management. However, the board chair later expressed "complete confidence" in Neville, citing overall strong funding, the return of inflationary increases and new health care policies. Julie Sellers, a recently elected trustee who's been critical of the approval of investment staff performance bonuses, moved the vote of confidence in Neville's leadership. The motion failed on a tie vote. Voting yes to express confidence in Neville were the board chair, Carol Correthers, vice chair, Dale Price, and members Claudia Herrington, Scott Hunt and Arthur Lard. Voting no in addition to Sellers were members Rudy Fichtenbaum, Steven Foreman, Elizabeth Jones and Wade Steen.

State pension systems joined investors generally in suffering through a largely rough 2022 that included atypical dynamics making it rougher still, but the experience proved the value of going beyond "plain vanilla" stock and bond holdings, an investment expert told the Ohio Retirement Study Council (ORSC) Thursday. Thursday's meeting opened with the election of Sen. Kirk Schuring (R-Canton) as chair and Rep. Phil Plummer (R-Dayton) as vice chair, flipping their roles from last year. Jim Voytko of RVK, the contracted investment consultant for the council, gave a presentation on the first-half performance for the pension funds in 2022 and on general market performance for the entirety of 2022. That year was unusual in seeing both stocks and bonds fall, departing from the usual trend where stock market dives send investors fleeing to fixed-income assets, which then rise. "This was an unusual year, and that counterbalancing effect disappeared," he said. The dual drop also matters because stocks and bonds are typically the largest asset allocations.

## **PUBLIC SAFETY**

The DeWine administration wants Ohio to join 35 other states overseeing full accreditation programs for law enforcement -- with one important distinction. Ohio's program, which seeks to expand existing community-police standards and require each for voluntary accreditation, will be entirely state-funded so that agencies large and small will embrace best practices developed by a new Standards Review Committee with approval from the Ohio Community-Police Collaborative Advisory Board. Under its current program, the board approved a 12th statewide standard Wednesday. It addresses crisis intervention, though only the first three standards completed in 2015 - - use of force, including deadly force, and agency recruitment and hiring -- are required for certification. Participating jurisdictions have now surpassed 600 out of 965 law enforcement agencies at the local, county and state level, leaving 15 sheriffs' offices, many smaller departments, and some entire counties without certified agencies. Assistant Director Karen Huey of the Ohio Department of Public Safety (DPS), who chairs the board, told members. "What we'd like to propose



to the community and to the board members is that we move the collaborative into a statewide law enforcement agency accreditation program." In addition to a final draft of the new crisis intervention standard approved by the board, members also got a first read of a draft standard for property and evidence custody by law enforcement agencies.

## **SECRETARY OF STATE**

Secretary of State Frank LaRose announced 17,006 new business filings in January 2023, the highest January number of business filings in Ohio history.

## **TRANSPORTATION/INFRASTRUCTURE**

The House Finance Committee Tuesday adopted a substitute version of HB23 (Edwards), the transportation budget, and heard proponent testimony from transit agencies and railroad unions in support of a number of the changes. The transit agencies also reiterated their testimony later in the day to the House Finance Transportation Subcommittee.

Substitute HB23 includes several changes to increase railroad safety. It would also create the Rural Highway Fund and transfer \$1 billion into that fund, with 80 percent used to finance projects on rural state highways and 20 percent for local governments to use as matching funds for Transportation Review Advisory Council (TRAC) eligibility. House Finance Committee Chair and bill sponsor Rep. Jay Edwards (R-Nelsonville) had released the list of changes Sunday, Feb. 19.

The Ohio Department of Transportation (ODOT) and Kentucky Transportation Cabinet (KYTC) Tuesday officially put out a request for proposals (RFP) to provide construction and design services for the Brent Spence Bridge Corridor -- a more than \$3 billion project that will include \$1.635 billion in federal funds. According to the agencies, the contract addresses six of the eight miles of the total corridor; five miles of the I-71/75 corridor in Kentucky and one mile of I-75 in Ohio. It includes improvements to the Brent Spence Bridge and a companion bridge to the west. Work on the two northernmost sections of the corridor in Ohio will be done under separate contracts.

Wednesday morning's hearing of the House Finance Committee on transportation budget HB23 (Edwards) saw the executive director of the Ohio Railroad Association field questions for over an hour from committee members over the East Palestine train derailment. Meanwhile, Rep. Tom Patton (R-Strongsville) withdrew an amendment addressing bicycle lanes.

Senate Transportation Committee members Wednesday urged Ohio Department of Development (DOD) Director Lydia Mihalik to keep rural and Appalachian areas of the state in mind when supporting economic development projects, and she expressed her willingness to do so. In an informal hearing, Mihalik testified to the committee on the as-introduced version of the transportation budget, HB23 (Edwards). Her remarks reflected those given to the House Finance Transportation Subcommittee and included that DOD's Roadwork Development Grant program receives \$15.2 million for each year of the biennium under the governor's proposal. Members of the committee focused on roadway and railroad safety in questions to ODOT Director Jack Marchbanks, who also testified Wednesday on the as-introduced version of the transportation budget, HB23. Much of his remarks reflected testimony to the House Finance Committee, as well. Marchbanks added a statement on the work of ODOT employees who have responded to "infrastructure emergencies," including the East Palestine train derailment, and noted the budget would give Cincinnati City Council permission to seek voter approval for sale of the Cincinnati Southern Railroad.

## TREASURER OF STATE

Treasurer of State Robert Sprague hinted at a forthcoming program to address home ownership, telling the House Finance Public Safety Subcommittee that his office, in conjunction with the governor's office and the Ohio Department of Taxation, is "developing specialized, tax-advantaged savings accounts to encourage and promote homeownership throughout the state. While the program is in its very early stages of development, we are optimistic about its potential. To purchase a home in Ohio is to invest in Ohio, and I look forward to doing our part in helping more Ohioans realize the dream of homeownership." This revelation followed his opening salvo telling the subcommittee that the proposed FY24-25 budget for his office includes a reduction of 34 percent in its General Revenue Fund (GRF) allocation in FY24 and an additional 14 percent reduction in FY25, "drawing instead upon ample balances in the office's dedicated purpose funds."

## LEGISLATIVE ACTIVITY

### SENATE

#### PASSED BY SENATE

- SB21** APPEAL PROCESSES, LEGISLATIVE ACTION (Sen. Robert McColley, Sen. Michele Reynolds) To generally change the venue in which appeal from an agency order is proper to the local court of common pleas and provide special rules regarding consideration of such cases, to revise the law governing claim preclusion in zoning appeals, to revise the law governing the referral of cases to the Hamilton County Drug Court, to transfer Perry Township in Wood County and Washington Township in Hancock County from the territorial jurisdiction of the Tiffin-Fostoria Municipal Court to the territorial jurisdiction of, respectively, the Bowling Green Municipal Court and the Findlay Municipal Court, to allow the General Assembly to intervene in certain actions, and to allow the General Assembly and the Governor to retain special counsel.

*Vote 24-7*