

Gongwer News Service - 96 Years of Legislative Reporting in Ohio*124th Ohio General Assembly***Ohio Report No. 221, Volume 71 - Tuesday, November 19, 2002****HORSE TRADING BEGINS FOR VOTES IN SENATE TO PASS VIDEO GAMING BILL**

Senate Republicans and Democrats began negotiations Tuesday aimed at producing sufficient votes to pass legislation (SB 313) to allow video gaming at Ohio's seven horse racing tracks. The negotiations were aimed at securing sufficient votes to pass the bill in the Senate and House with veto-proof majorities and as an emergency measure which would make it immune from a promised referendum effort by video gaming opponents.

The late-day discussions between Senate President Richard Finan (R-Evendale) and Senate Minority Leader Greg DiDonato (D-Dennison) were in their initial stages and both leaders said they needed to advise their respective caucuses of their talks when lawmakers return to Columbus Wednesday morning.

As drafted, the bill authorizes video gaming and specifies how the revenues - estimated at \$500 million a year - would be distributed. The distribution formula, as specified by the bill, states that: 37.5% of gross proceeds (defined as the amount wagered less the total payout in winnings) is retained by each lottery sales agent (horse racing track); another 10.5% is retained by the tracks for "damages" and maintenance. Of the 48% retained by the tracks, 10% of the total would go to increase purses for horse racing events. Another one-quarter of one percent would go to the host county in which the track is located, with an equal amount going to the host municipality or township in which the track is located. The remaining 52% of gross revenues would go to the state lottery commission, ultimately to be used to pay the state's share of elementary and secondary education funding.

All percentages are subject to further review, Senator Finan pointed out, particularly the 37.5% set aside for the tracks.

Senator Finan also said the provision allowing the tracks to operate nearly 21 hours a day is subject to further discussion.

Senator Finan said he has had some discussions with House Speaker Larry Householder (R-Glenford) regarding the bill, but had yet to speak with Governor Bob Taft, who has made it clear - and solidified that position during his re-election campaign - that he opposes an expansion of gambling without a vote of the people.

If passed by both houses with an emergency clause, however, the bill would not be subject to a referendum. That would force opponents of video gaming to undertake a constitutional amendment to effectively invalidate the law - and perhaps even the current state lottery.

To set the stage for possible Senate action, the measure will be assigned to the Senate Agriculture Committee for hearings; the committee was selected because the bill has a better chance of being approved by that committee, Senator Finan said. The committee is scheduled to hear the bill, sponsored by long-time video gaming advocate Senator Lou Blessing (R-Cincinnati), a first time on Thursday morning.

Although Senator Finan said he didn't anticipate a vote on the bill this week, he said a vote would be taken before the current legislative term ends next month. Mr. Finan, who spoke with reporters shortly after meeting with Senator DiDonato, said he plans to break with his long-standing tradition of not taking any bill to the floor unless he had enough votes from his own caucus to pass it.

Mr. Finan said he anticipated the bill would get the support of "some Democrats," a sentiment confirmed by Senator DiDonato, although Democratic support may be conditioned on a few concessions from Senate Republicans. Senator Finan said that at present, he is "not confident" there are sufficient votes in his caucus to pass the bill, but noted that he will "start counting Thursday."

Senator DiDonato said his discussions with Senator Finan involved a number of issues that Democrats would like to see addressed in the new legislative session that begins in January. Although Senator Finan is leaving the Senate due to term limits, Mr. DiDonato said he believes Senate President-elect Doug White (R-Manchester) would uphold any agreements made this year.

According to Senator DiDonato, preliminary discussions with Senator Finan regarding how the bill could win support among up to six Democrats include:

--an assurance that Republicans, who will control the Senate by a 22-11 margin in the new session, would give at least three hearings to a proposal providing relief from increasing prescription drug prices. The proposal may either be in the form of an initiated law (a petition drive is currently underway to achieve that goal) or a bill similar to one (SB 127) now pending before the Senate;

--freeze tuitions at community colleges at least through the next budget cycle (Fiscal Years 2004-2005), an item that would cost about \$30 million;

--continue at present levels funding for meals-on-wheels through the next biennium (cost estimated at \$2 million);

--restore funding in the Department of Health for services to hemophiliacs through the next biennium (cost estimated at about \$1.3 million);

--guarantee no further reductions of state shares of the income tax distributed through the local government and library funds through the next biennium;

--assurance that hearings will be held on legislation to require independent political committees disclose their contributors;

--review a college scholarship program similar to the federal HOPE scholarship tax credit program;

--allow local school districts to decide whether prevailing wages will be paid on projects funded by the Ohio School Facilities Commission.

Senator DiDonato said a complicating factor could be the possible absence of two Senate Democrats during the waning days of the current session. He noted that Senator Leigh Herington (D-Ravenna) will undergo hip surgery soon and may not be available for the remainder of the session. He said Senator Tim Ryan (D-Niles), who was elected to the Congress, hasn't attended any of the Senate's sessions this month nor has he returned Mr. Donato's phone calls regarding his plans on attending to Senate business before leaving Ohio.

HOUSE BEGINS HEARING BILL THAT CAPS JURY AWARDS FOR MEDICAL MALPRACTICE AT \$1 MILLION; SENATE PANEL MAY REVISE ITS \$300,000 LIMIT UPWARD

House Republicans opened hearings Tuesday on their legislative prescription (HB 665) to curb rising medical malpractice insurance premiums, a plan that proposes more generous caps on jury awards to injured patients than those in a pending Senate bill.

At the same time, Senate Republicans were privately weighing what changes they may make in their measure (SB 281) on the same subject prior to an expected vote Wednesday in the Insurance, Commerce and Labor Committee. Sponsoring Senator David Goodman (R-Bexley) said he would not object to "a reasonable increase" in the caps proposed in the bill, which now are set at \$300,000.

'Reasonable' was the word Rep. Timothy Grendell (R-Chesterland) used to describe his proposal at the first of three hearings this week before the House Civil and Commercial Law Committee. "If enacted, House Bill 665 would set reasonable non-economic damages standards that would balance reasonable potential claims by litigants, while protecting the insurability of Ohio's physicians," Rep. Grendell said. "More importantly, this bill will protect individual Ohioans and their access to an ample supply of qualified and properly insured physicians."

Mr. Grendell cited several states which have successfully implemented limits on non-economic damages, such as for pain and suffering, and which have withstood court tests. Indiana has imposed a cap of \$500,000; California, \$250,000; and Alaska \$400,000 to \$1 million. He said malpractice premiums in those states had not increased at the rates experienced in Ohio.

The House bill would limit jury awards for non-catastrophic injuries to \$250,000 or three times the economic damages, whichever was greater, up to a maximum of \$500,000. Damages for catastrophic injury, such as loss of the use of a limb,

would be limited to the greater of \$1 million or \$35,000 times the number of years left in the injured person's expected lifetime. No limits would be imposed on economic damages, wrongful death, or non-medical malpractice claims.

HB 665 also would limit contingency fees paid to plaintiffs' attorneys, as would the Senate bill. However, the House bill would allow a judge to approve additional contingency fees when warranted. HB 665 would attempt to discourage frivolous lawsuits by allowing defendants to recover attorney fees upon court approval, and would provide for a statute of repose in medical malpractice cases in which patients would have to file suit within four years from the time an injury occurred, as opposed to when an injury was discovered.

Rep. Grendell acknowledged there may be changes in the statute of repose and other sections of the bill. "We are open to revising this bill before it takes its final form. I recognize it's a work in progress," he said, pointing out the goal was to come up with legislation that would withstand a constitutional test as others before it have not.

One provision that drew repeated questions from the committee provides for a mandatory remittitur that would apply if a jury's award exceeded the caps for non-economic damages. A judge would have to give a plaintiff the opportunity to accept the maximum amount or have a new trial as to non-economic damages. Chairman John Willamowski (R-Lima) questioned whether any plaintiff with an award in excess of limits would ever ask for a new trial. Mr. Grendell conceded that they probably would not, but said the concept was incorporated in an attempt to ensure that limits survive constitutionally. Rep. Bill Seitz (R-Cincinnati) said there could be circumstances in which the provision might be applied to the benefit of plaintiffs.

Mr. Grendell, responding to a question from Rep. Ed Jerse (D-Euclid), agreed that judges already have the ability to reduce jury awards that are excessive, but said few appear willing to exercise that power. "If more judges would reign in jury awards we wouldn't have to do this," Rep. Grendell said, joking that making such a statement might imperil his license to practice law.

Rep. Grendell said the Nov. 5 election, press coverage and calls from constituents demonstrate that medical malpractice premiums and reform of the personal injury lawsuit system are of great public concern. "We owe it to the people of Ohio to move forward on this legislation, to do our part to ensure that we address excessive non-economic damages in malpractice cases in a way that is both constitutional and fair to legitimate victims of medical malpractice while protecting patient access to qualified and properly insured doctors in Ohio," he said.

The committee also heard proponent testimony from Brian Bachelder, MD, of Mount Gilead, president of the Ohio Academy of Family Physicians, who appeared in the Senate last week, and Timothy Maglione, representing the Ohio State Medical Association. Mr. Maglione said the physicians' organization supports the concepts of the caps contained in the House bill. "We would like to see a discussion about reducing them to the California type figures," he said, where the cap is \$250,000 and does not differentiate between catastrophic and non-catastrophic injuries. "It's been on the books since 1975, and it was signed into law, by the way, by Jerry Brown," he said.

The OSMA said there was enough time in the lame duck session to weigh competing claims and studies and produce a bill to meet an urgent need. "Every day we wait to address the problem is another day doctors must address the serious question of whether they can remain in practice," Mr. Maglione said.

Chairman Willamowski said additional hearings will be held Wednesday and Thursday. "We may go into next week," he said. However, Senator Goodman's bill, with changes, appears to be the vehicle legislators will use for enactment.

Separately, Senator Eric Fingerhut (D-Cleveland) blamed the Ohio Department of Insurance on Tuesday for much of the state's medical malpractice insurance crisis and urged Governor Bob Taft to fire Lee Covington as director of the agency.

"Director Covington has the power, according to the Ohio Revised Code, to stop insurance companies from gouging doctors with outrageous rate hikes," Senator Fingerhut said. "Unfortunately, Director Covington has not protected Ohio's doctors and so medical malpractice costs have skyrocketed in this state. It's time we remove Director Covington and appoint someone who will stand up for Ohio's doctors."

Mary Anne Sharkey, Mr. Taft's communications director, said in response there was no merit to Senator Fingerhut's claims. "None whatsoever," she said. "The governor supports Lee Covington and thinks he has done a very good job heading the Department of Insurance."

Mr. Fingerhut released copies of a letter sent to the governor based on testimony Mr. Covington delivered last week in the Senate. Senator Fingerhut said the insurance director testified that companies could not raise their rates to recoup losses because of pricing mistakes. However, an insurance company official testified that the recent rate increases were due to pricing mistakes. "It is clear from Director Covington's testimony that he is trying to blame the legal system for the malpractice insurance crisis in order to cover up for ODI's failure to police the insurance companies," Senator Fingerhut said.

STATE SHOULD BE ABLE TO SEEK RESTITUTION FOR DEFRAUDED INVESTORS, COMMITTEE REPORT SAYS

The state should specifically give the Ohio Department of Commerce the ability to pursue restitution on behalf of defrauded investors and should increase the penalty for obstructing justice, a special House committee reviewing the securities industry determined on Tuesday.

The suggestions, driven by the revelations about the activities of Cleveland stockbroker Frank Gruttadauria, who allegedly defrauded some of his clients of millions of dollars, also urge the legislature to require state public pension systems and the state treasurer to adopt principles to ensure taxpayer and pension funds are managed by companies that have the "highest possible corporate integrity." Several of the state pension funds already have adopted those guidelines and other measures in light of ongoing corporate governance problems.

The report, adopted unanimously, recommends:

--CEOs, CFOs or other control personnel certify that financial records are true;

--individuals serving as directors of public pension boards file financial disclosure statements with the Ohio Ethics Commission;

--broker-dealers determined to be acting in bad faith be prevented from doing business with the state;

--Congress should increase internal oversight responsibilities that broker-dealers have over their associates.

Shortly after the committee concluded its work, Rep. Jeff Manning (R-N. Ridgeville) outlined the terms of a securities industry bill (HB 664) that included many of the panel's recommendations. Senator Kevin Coughlin has introduced a similar measure (SB 310).

The provisions giving the Commerce Department the authority to seek restitution - which was suggested to the committee by State Auditor Jim Petro - drew comment from panel members.

Rep. Tom Lendrum (R-Huron) questioned whether the language would set a precedent that the state would provide legal assistance for Ohioans who become victims of illegal acts. Chairman Ron Young (R-Painesville) said the language of the report would specify that resulting legislative language would be narrowly drafted to prevent that from happening.

The language regarding the investment of state funds and pension funds suggests the adoption of New York-style regulations which, among other things, require management firms to disclose in research reports whether they have received or could receive compensation from a covered company.

The panel also agreed, at Rep. Dale Miller's (D-Cleveland) request, to include provisions clarifying that Ohioans should continue to be cautious about their investment activities. He said he does not want Ohio's investors to be lulled into a false sense of security simply because of the potential passage of the bills the report envisions.

The report indicates that the recommendations will be taken up in separate pieces of legislation, one dealing with corporate accountability and the other dealing with securities. It indicates that having two bills would help lawmakers examine all provisions while abiding by the Ohio Constitution's single-subject provisions.

The panel, created last spring, met several times to hear testimony from interested parties. Among them were state securities officials, a representative of the National Association of Securities Dealers, Mr. Petro and victims of Mr. Gruttadauria. It invited testimony officials from the U.S. Securities and Exchange Council, the New York Stock Exchange, the Securities Industry Association and representatives of Lehman Brothers and SG Cowen - Mr. Gruttadauria's former employers - all of

whom declined to appear.

The panel's former chairman, Rep. Bryan Williams (R-Akron), intended to subpoena some of those declining to testify, but he was removed, due to an unrelated development, from the committee post before that action could be taken.

STUDY COMMITTEE TOLD BY CITIES NOT TO IMPOSE UNIFORM INCOME TAX SYSTEM

Last week, business interests lined up before the Committee to Study State & Local Taxes to bemoan compliance headaches associated with Ohio's varied municipal income taxes. This week it was the municipalities' turn to share their views while urging the Legislature to maintain local collection of the taxes.

Several city groups testified Tuesday as the panel winds down its fact-finding efforts and prepares to compile draft recommendations next month. More than one city representative referred to a "proposal" to enact a central collection system run by the state with a 5% fee charged back to municipalities for the service. Panelists including Chairman Tom Zaino, the state tax commissioner, and Senator Bill Harris (R-Ashland), the vice chairman, said they hadn't heard of the plan.

Most witnesses agreed for the need to create uniformity through common filing dates and forms, but up to this point cities remain leery of the panel leaning toward imposing "simplicity" on the process.

"The Central Ohio Municipal Alliance has great concerns about the creation of a statewide uniform income tax base or other changes to the income tax structure to accomplish the committee's stated goals of simplicity, equity and fairness," Westerville City Manager David Lindimore said. Three major concerns are the constitutionality of such a plan, the impact on local revenue, and related challenges concerning job attraction, infrastructure needs and safety services.

The Ohio Municipal Task Force, a group of seven tax administration associations, expressed similar concerns through spokesman Thomas Moeller, city manager of Madiera. "The local income tax is as much a lifeblood to Ohio's cities and villages as the state income tax is a vital and sustaining force of revenue for the state," he said. "Our task force and this committee share the conviction that in the zeal to reform, we must be cautious not to jeopardize those precious local tax resources that enable our cities and villages to provide services to those who support the community with their tax dollars."

Pepper Pike Mayor Bruce Akers and other representatives of the Cuyahoga County Mayors and City Managers Association and the Northeast Ohio version of the same group told the panel that municipal taxes across Ohio are already fairly uniform. When asked then by Senator Harris what would be the problem with a central collection system, the mayors and city officials again said they wanted to retain collection even though regional groups often perform the duty for several municipalities. Also submitting testimony to that effect was the Northwest Ohio Income Tax Commissioners Association.

Former House Ways & Means Committee Chairman Don Mottley, an attorney with Taft, Stettinius & Hollister LLP and managing director of Focused Capitol Solutions, provided the panel an in-depth proposal that entailed, among other things, suggestions to: gradually reduce the top income tax rate to a more competitive level while implementing targeted property tax and income tax relief for the lowest income groups to preserve equity; elimination of the net worth tax and substitution of a revenue-based tax for businesses; and the elimination of the dealers-in-intangibles tax category while rolling such businesses into the corporate franchise tax.

On the latter topic, Zach Schiller, of Policy Matters Ohio, briefed the panel on the group's study of "Ohio's vanishing corporate franchise tax." Among the group's recommendations: requiring large corporations to disclose franchise tax returns; cutting back on "tax-shifting flim-flams" by mandating combined reporting for businesses; eliminate the \$150,000 net-worth cap; adding a throwback rule to ensure Ohio companies are taxed on income stemming from Ohio production but not taxed in other states; and imposing a moratorium on tax credits while creating stricter standards for existing breaks.

SENATE RACE MAY NOT BE FINALIZED UNTIL NEXT WEEK WHEN LORAIN COUNTY ADDS PROVISIONAL BALLOTS

Senator Jeffrey Armbruster (R-N. Ridgeville) and Democratic challenger Sue Morano will have to wait until as late as Monday for final results of the 13th Senate District race as the Lorain County Board of Elections announced it would not tally some 1,500 provisional ballots for a few days.

About 25 of the ballots will be discussed at a Thursday hearing of the board, which will determine their eligibility for inclusion into the final canvas. The Lorain board also discovered it had double-counted a precinct when tallying the

unofficial vote Nov. 5, although party observers said the correction wouldn't affect the Senate contest because both candidates received the same number of votes in the precinct.

In the meantime, more than 200 provisional ballots affecting the Senate race were reviewed Tuesday by election boards in Huron and Seneca counties, which also contain part of the district. Prior to the additional ballots, Senator Armbruster held a 524-vote advantage over Ms. Morano, a registered nurse. As of late Tuesday, the lead had increased by seven votes when the incumbent collected 19 more and the challenger 12 additional votes from Seneca County. The Huron County panel will certify its final canvas Wednesday morning.

CHANGES ON TAP FOR GOVERNOR'S CABINET IN SECOND TERM

Some changes which had been anticipated in the makeup of Governor Bob Taft's cabinet following the Nov. 5 election may be starting to take place.

The Ohio Turnpike Commission has scheduled a special meeting Thursday in Berea at which it may hire Director Gary Suhadolnik of the Ohio Department of Commerce as executive director of the toll road. Governor Taft has recommended the commission choose Mr. Suhadolnik to replace former director Gino Zomparelli, and the director confirmed last week that he had applied for the post. The commission agenda lists the purpose of the meeting only as "employment matters."

Mr. Zomparelli resigned last August at the governor's urging after an Inspector General's investigation uncovered a "culture of accepting gratuities" at the turnpike from companies doing business with the toll road. (*See Ohio Report 152, August 09, 2002*).

Mr. Suhadolnik was appointed to head the Commerce Department in January 1999 soon after Mr. Taft began his first term in office. Mr. Suhadolnik, a Republican from Parma Heights, previously had served in the Ohio Senate for 18 years. He holds a Bachelor of Science degree in Industrial Engineering and a Masters in Business Administration, both from Cleveland State University.

Another cabinet change in 2003 is expected to involve Director Lee Covington of the Ohio Department of Insurance. Sources said Mr. Covington informed the governor prior to the election that he did not wish to remain at the agency for another four years. Mr. Covington was appointed in March 1999. He previously was a deputy commissioner of the Arkansas Insurance Department.

BUSH APPROVES FEDERAL ASSISTANCE FOR STORM-DAMAGED COUNTIES

Ottawa, Paulding, Putnam, Seneca and Van Wert counties will receive federal assistance under a disaster declaration approved Monday by President George W. Bush. The counties were in the path of tornadoes and other severe weather that swept across the state Nov. 10.

The announcement makes victims eligible to apply for Small Business Administration loans and other federal assistance.

"I applaud the President for his speedy approval of my request," Governor Bob Taft said in a release issued late Monday. He requested the declaration Friday. "People in northwest Ohio have suffered greatly, and the aid that soon will become available in the region will help them greatly during the recovery process," he said.

A disaster field office manned by the Ohio and federal Emergency Management Agencies is to be set up in Findlay by the end of the week. The opening of disaster service centers, which will provide information on a variety of federal assistance, is expected shortly thereafter in Fostoria, Port Clinton and Van Wert. Victims may apply for assistance, beginning immediately, by contacting FEMA at 1-800-621-3362 between 8 a.m. and 6 p.m. Monday through Saturday.

In addition to SBA loans, FEMA individual assistance is available for those qualified. These federal programs include unemployment assistance, crisis counseling, disaster legal services or extraordinary agricultural expenses.

ODNR UNVEILS REDESIGNED SCENIC RIVERS LICENSE PLATE IN AN ATTEMPT TO BOOST SLUMPING SALES

A slump in sales of Ohio's scenic rivers license plate since its introduction in 1995 led to the unveiling Tuesday of a

redesigned vehicle tag with a scenic stream and leaping sport fish intended to hook nature lovers into making a purchase. The new plates will become available January 1st through the Ohio Bureau of Motor Vehicles and local deputy registrars at an additional \$25 cost beyond the standard annual license fee. Proceeds benefit the Ohio Scenic Rivers Protection Fund.

The extra \$25 is assessed at each annual renewal as well. The fund receives \$15 from each transaction. The Ohio Department of Natural Resources uses the money to, among other things, help protect and restore scenic river forest corridors and improve water quality and river habitat for endangered species. About 77,000 plates have been sold since 1995, generating \$1.2 million for the Scenic Rivers Protection Fund. The original plate design featured the image of a heron soaring above a stream. ODNR has designated 20 state scenic river segments in 29 counties.

MEETING NOTICE

The **Ohio Turnpike Commission** will hold a special meeting at 2 p.m., Thursday, November 21 at its Administration Building, 682 Prospect St., Berea. It is scheduled to discuss employment matters and the chief auditor's responsibilities.

MEETING CANCELLATION

The meeting of the **Tobacco Use Prevention and Control Foundation Executive Committee**, scheduled for Thursday, November 21, has been canceled. The next meeting is scheduled for 11:30 a.m., Thursday, Dec. 19.

INTRODUCED IN THE SENATE (Tuesday, November 19)

SB 311 MALPRACTICE INSURANCE (Fingerhut) En. 3929. Creates the Medical Malpractice Insurance Review Commission and provides for the assessment of insurance companies and health insuring corporations to cover the Commission's operating expenses.

SB 312 ATTORNEY CERTIFICATIONS (Fingerhut) En. 2309. Specifies an attorney's or party's certifications to the court upon the presentation of pleadings or papers and provides for sanctions for violations of those certifications.

SB 313 VIDEO LOTTERY ESTABLISHMENTS (Blessing) Am. & En. 1711, 3770 & 4301. Requires the State Lottery Commission to establish licensing procedures for electronic lottery sales agents that are live horse racing permit holders and conduct lotteries that provide immediate prize determinations for individual participants through the use of electronic gaming devices at the permit holders' tracks and declares an emergency.

ADOPTED IN THE SENATE (Tuesday, November 19)

SRs 2938-2945. Honorary resolutions.

THE SENATE ADJOURNED UNTIL 1:30 P.M. WEDNESDAY, NOVEMBER 20, 2002 (FULL SESSION)

ADDITION TO SENATE COMMITTEE MEETING SCHEDULE

THURSDAY, NOVEMBER 21

AGRICULTURE, 9:30 a.m., North Hearing Rm., Chr. Mumper, Phone: 466-8049.

Add the following bill:

SB 313 VIDEO LOTTERY ESTABLISHMENTS (Blessing) Requires the State Lottery Commission to establish licensing procedures for electronic lottery sales agents that are live horse racing permit holders and conduct lotteries that provide immediate prize determinations for individual participants through the use of electronic gaming devices at the permit holders' tracks and declares an emergency. *(1st Hearing - Sponsor, proponent & opponent)*

HOUSE ACTIVITIES OF TUESDAY, NOVEMBER 19, 2002

HOUSE CALENDAR FOR WEDNESDAY, NOVEMBER 20, 2002 (Session at 1:30 p.m.)

HB 497 OPTOMETRY RECIPROCITY (Wolpert) Permits the Ohio State Board of Optometry to license without examination optometrists licensed by another state or a Canadian province regardless of whether the other state or the province similarly licenses holders of Ohio licenses.

HB 513 TOWNSHIP AUTHORITY (Seitz) Authorizes taxing authorities to create multiple reserve balance accounts for rainy day funds; expands the authority of townships pertaining to the permanent endowment fund for their cemeteries; authorizes townships to sell real property under certain circumstances without a public auction or competitive bidding; authorizes townships to declare a road obstruction to be a nuisance and to order its removal; and permits authorized township officers and employees to incur obligations of up to \$2500 without prior approval.

HB 515 TOWNSHIP POWERS/EMPLOYMENT (Schmidt) Makes changes relating to the keeping of the board of township trustees' journal, the taking of minutes of board meetings, and the public of board resolutions in a home rule township; allows civil service townships that are urban townships to appoint any one of the three highest scorers on a police or fire department promotional exam; and places urban township employees in the same occupational classifications as municipal employees for workers' compensation purposes.

SB 217 PESTICIDES LAW (Mumper) Revises the Pesticides Law.

BILLS SCHEDULED FOR VOTES OF CONCURRENCE WITH SENATE AMENDMENTS

HB 221 PRESCRIPTION DRUGS (Schuring) Establishes under the direction of the State Board of Pharmacy a drug repository program to accept and dispense donated prescription drugs.

HB 415 COSMETOLOGY (Hollister) Revises the law governing the State Board of Cosmetology and the professions and facilities that the Board regulates.

HB 530 JUROR SELECTION/COUNTY COURTS (Peterson) Modifies the small county exception to the drawing, summoning, and service of jurors for a term or part of a term of a court of common pleas; creates the Brown County Municipal Court in Georgetown on February 9, 2003, establishes one full-time judgeship in that court, abolishes the Brown County County Court on that date, designates one of the part-time judges of the Brown County County Court to continue after that court is abolished as the full-time judge of the Brown County Municipal Court from February 9, 2003, until December 31, 2005, and continues the authority of the mayor of Georgetown to conduct a mayor's court; creates the Morrow County Municipal Court in Mount Gilead on January 1, 2003, establishes one full-time judgeship in that court, abolishes the Morrow County County Court on that date, designates the part-time judge of the Morrow County County Court to continue after that court is abolished as the full-time judge of the Morrow County Municipal Court from January 1, 2003, until December 31, 2005, and continue the authority of the mayor of Mount Gilead to conduct a mayor's court; and declares an emergency.

INTRODUCED IN THE HOUSE

HB 666 PHYSICIAN REFERRALS (Peterson) Am. 4731. Prohibits a physician or podiatrist from making certain referrals for inpatient hospital services and makes other revisions to the law prohibiting certain referrals for designated health services.

HOUSE COMMITTEE REPORTS

CIVIL & COMMERCIAL LAW

Bill Reported:

SB 250 CREDIT CARD NUMBERS (Spada) Prohibits the recording of more than the last five digits of a credit card account number, or recording the expiration date of a credit card, on an electronically printed receipt provided to a credit cardholder and provides civil remedies for a violation of the act and enforcement by the Attorney General.

The committee unanimously recommended the bill.

Bills Continued:

HB 597 JURY FEES (Jerse) Eliminates the four-day maximum on the amount of jury fees that are taxed as costs in a civil action.

Rep. Ed Jerse (D-Euclid) said litigants now pay jurors in civil cases only for the first four days of trial; taxpayers pick up the tab for excess days. The bill would provide for litigants to pay jury fees for the entire trial, whatever the length. "It's simple and straightforward and removes a burden on taxpayers," Rep. Jerse said. Janet Gross of the Ohio Judicial Conference endorsed the proposal. "The bill might encourage shorter trials," she said.

HB 628 PROBATE LAW (Hughes) Relative to the election by a surviving spouse, notice of admission of a will to probate, accounts of administrators and executors, distribution of estate assets, presentation of creditors' claims to distributees, and dispute resolution procedures in probate court.

Rep. Hughes' aide presented the bill on his behalf, explaining it was intended to simplify and expedite estate administrations.

HB 665 MEDICAL MALPRACTICE CLAIMS (Grendell) Relative to medical claims, dental claims, optometric claims, and chiropractic claims and a court's power to grant remittitur in certain tort actions. (*See separate story*).

COMMERCE & LABOR

Bill Reported:

HB 188 PRIVATE INVESTIGATORS (Schaffer) Makes changes in the licensing requirements concerning private investigators and security guards.

Greg Hollenbaugh, of the Ohio Association of Security and Investigation Services, spoke in support of the bill, saying his group has long sought legislation that would help keep unscrupulous investigators from taking advantage of people. He noted the latest version exempts peace officers from registration requirements and licensing as independent contractors. Reps. Tom Brinkman (R-Cincinnati) and Teresa Fedor (D-Toledo) voted against the report.

Bills Continued:

HB 659 CONTRACTOR LICENSING (Buehrer) Requires statewide licensing of residential contractors.

Sponsor Buehrer, in testimony delivered by legislative aide Lori Drummer, said the bill creates a "licensing scheme for builders of 1-2-3 family homes" and authorizes the creation of uniform construction standards for those types of buildings. The bill creates a committee of professionals and residential building experts who would devise the standards, which would be policed by the profession, according to the sponsor. Interested parties envision the building code being patterned after international norms.

Vince Squillace, executive vice president of the Ohio Home Builders Association, said the measure "streamlines the regulation process in Ohio without sacrificing safety in any way." He told Rep. Tom Lendrum (R-Huron) the bill deals with licensing for general contractors only and would not preclude or override the need for other licenses for multidimensional contractors who also perform electrical, plumbing or other work on homes.

In responding to Mr. Lendrum and Rep. Dale Miller (D-Cleveland), Mr. Squillace said the statewide standard sought by the industry would trump local ordinances in that cities could not allow or disallow components of the standards through legislation. He said, however, that bill crafters were careful not to infringe on zoning code issues and noted that entities could insist on stricter building guidelines when preparing contracts. Mr. Squillace said 20-25 states have adopted similar statewide standards laws.

HB 664 SECURITIES REGISTRATION (Manning) Modifies the Securities Law with respect to requirements for registration of securities.

Sponsor Manning said the bill aims to help prevent victimization, assist victims and improve enforcement of Ohio security laws. "We must have laws that ensure confidence in investors and maintain integrity in the marketplace," he said. The bill is a component of corporate accountability reform advocated by Governor Bob Taft and Auditor of State Jim Petro and was developed through the input of the Department of Commerce.

The sponsor testimony and subsequent support of the department delivered by Assistant Director Tom Geyer came just minutes after a special committee comprised of the same members wrapped up work on a report regarding Ohio's security laws and the Cleveland-area scandal that prompted their review. Nonetheless, Chairman Young said he didn't know to what extent the administration proposal tracked the legislative report, saying he would have to review Mr. Manning's bill in more detail. Messrs. Young and Manning said they assumed the department considered the panel's work while constructing the legislation.

Mr. Geyer said the bill, among other things, would align Ohio law with recent federal reforms while maintaining the balance needed to protect consumers and "avoiding undue burdens on legitimate capital formation." To that end, he said, the bill:

--establishes limits on and requires the disclosure of loans to insiders of companies that register with the Ohio Division of Securities;

--requires corporate officers to certify financial records at the time securities are registered with the division;

--prohibits improper influence on accountants who prepare financial statements regarding registered securities;

--improves corporate accountability by establishing liability for corporate officers who are aware of and fail to stop law violations by subordinates;

--allows the division to ask a court, through the attorney general's office, to impose restitution to victims of securities violations;

--extends by one year - from 4 to 5 years - the statute of limitations on suing for violations while maintaining a two-year limit from the time of discovery;

--increases to first-degree felonies certain violations; and,

--prohibits the destruction or alteration of documents and records once the division commences an investigation.

Mr. Miller questioned the first-degree felony change, saying he thought such harsh sentences were reserved for violent crimes. Mr. Manning disagreed, saying that victims who see their life savings stolen would not think three to ten years in prison was too long for such a crime.

Mr. Geyer said the bill compliments, but does not duplicate, reforms enacted by Congress this year in the Sarbanes-Oxley Act.

Scheduled But Not Heard:

HB 450 EQUAL PAY STUDY (Sykes) Creates the Equal Pay Study Committee and enhances penalties for violations of the equal pay law.

HCR 43 UNEMPLOYMENT BENEFITS (Flannery) Urges Congress to pass legislation extending unemployment benefits to laid off workers for an additional 13 weeks.

HCR 46 FOREIGN COKE (Latell) Urges the President to take all necessary measures to halt the injurious dumping of foreign coke in the United States.

STATE GOVERNMENT

Bills Reported:

HB 576 ORAL EXAMINATIONS (Reidelbach) Allows promotional examinations for firefighters to contain an oral component and creates a promotional board to conduct the oral component of a promotional examination.

The committee reported the measure - the committee vote was 6-2 at the time the tally was taken with the roll being kept

open until noon Wednesday - over objections voiced by a Cleveland area firefighter bargaining unit. Greg Schneider, governmental liaison for Northern Ohio Fire Fighters said his organization did not take exception to the original bill when a limit was placed on the oral examination portion at 25% of the total. However, said with the percentage now extended to 80% and with no standards in the legislation for the oral examination, the overall test becomes too subjective and the politics of promotions are re-introduced into the process. He said without testing standards, there is no assurance that each candidate will be asked the same questions thereby making a decision very subjective. He said such a high percentage of an oral exam increases the potential for the system to be abused.

Rep. Larry Flowers (R-Canal Winchester), a former fire chief, said the higher the rank, the more importance is placed on oral examinations. He said through orals, such things as technical knowledge and real life skills come out for review by interviewers.

HB 605 DISASTER RESPONSE (White) Establishes an intrastate mutual aid program for disaster response and recovery and declares an emergency. *AMENDED*

Bill sponsor Rep. John White (R-Kettering) said the amendment assures that units are covered from civil liability when responding to situations created by terrorist attacks. Appearing in the support for the bill was Michael Cockran of the Ohio Township Association. He declared the bill is needed so safety service personnel can respond to all emergency situations without a concern of whether or not they have the proper authority or have questions about civil immunity during such response actions. Mr. Cockran said this may now be done in some areas of the state, but the bill will make the authority uniform throughout the entire state.

Also providing proponent testimony was State Fire Marshal Robert Rielage. He said the legislation will facilitate the sharing of services, equipment and personnel between participating local governments. He added the bill will save lives by ensuring that qualified and proportional responses await.

Bills Continued:

SB 199 DEMOLITION DEBRIS DISPOSAL (Carnes) Replaces the construction and demolition debris facility license fee with a disposal fee, revises the siting criteria for a construction and demolition debris facility, requires background checks for the operation of such a facility, and requires post-closure bonding for certain construction and demolition debris facilities.

The panel heard from a handful of witnesses who offered several arguments about why the bill should be defeated.

Mike Cochran of the Ohio Township Association said the fee structure does not provide townships with adequate funds to deal with the issues construction and demolition debris (CDD) landfills bring, not the least of which is wear and tear on township roads. He urged the panel to increase the amount of the fee that is dedicated to host communities, saying there is no reason to have different fee structures for CDD facilities and solid waste disposal facilities.

David Thompson, owner of a CDD landfill in Xenia, said the proposed fees are too high, arguing that the change would result in the disposal of traditional CDD waste in sanitary landfills. He said he is not opposed to reviewing the fee structure, but said it should be done every five years through the Joint Committee on Agency Rule Review.

Dave Gubanc of the Central Ohio Contractors Association said increasing the associated fees will result in a reduction of facility value. He said the changes the bill proposes won't make a significant environmental difference, except that it may result in the state having fewer sites and less expansion.

Russ Murray, executive director of the Ohio Cast Metals Association, opposed the bill. He said his members - already facing tough times because of the state's economic conditions - question the need for new regulations that he said would increase compliance costs. He argued there is no compelling need for the bill.

Also testifying was Max Rayle, an attorney representing D-K Enterprises, which operates a CDD facility near Bowling Green. He said the bill would have a devastating impact on the family-run business. He argued that the measure is based on "magnified distortion" regarding "alleged unlawful activity" and is not truly needed. He said the bill is likely to bring about an increase in CDD disposal rates without providing a benefit to anyone other than competitors.

Kitt Cooper, a Columbus attorney representing Construction & Demolition Association of Ohio, appeared before the panel to respond to testimony presented last week. He pointed to a 1995 U.S. EPA report that found "the facilities, in general, do not

currently pose significant risks...." He asked lawmakers to consider the following question: "Are we now creating environmental laws simply because there is not enough work left for the 800 employees enforcing the current environmental laws?"

Mr. Cooper described the bill as Ohio EPA's "wish list" of tough standards that can be placed on facilities "without regard to the actual needs of the communities where these facilities operate." He urged the panel to leave discretion over the matter to local officials rather than the state.

SB 115 FIRE SERVICES (Hottinger) Revises the laws governing the state's waiver of immunity, provides certain limited civil immunity for the State Fire Marshal's Office and certain employees of the State Fire Marshal and makes other changes.

Senator Jay Hottinger (R-Newark) presented the bill saying it expands and increases the responsiveness of the state fire marshal's office. He said, in general, the bill will allow the state fire marshal's office and personnel to support local units with both equipment and personnel.

State Fire Marshal Robert Rielage also appeared in support of the measure noting the bill was introduced at the request of his office as a culmination of policy enhancements developed after a thorough review of services provided and some in direct response to needs discovered in light of the terrorist attacks of Sept. 11. After outlining all provisions of the bill, Mr. Rielage called the legislation a no non-sense good government bill that will enable the State Fire Marshal's office to increase the responsiveness and expand the services provided to local fire service, regulated industries and the citizens of the state.

SB 258 FIREFIGHTERS/PUBLIC RECORDS (Austria) Permits background checks on firefighters and EMT's and exempts from the Public Records Law specified residential and familial information of a member of a fire department. *AMENDED - technical (No testimony)*

ADDITIONS TO HOUSE COMMITTEE MEETING SCHEDULE

WEDNESDAY, NOVEMBER 20

HEALTH & FAMILY SERVICES, 9 a.m., Rm. 018, Chr. Jolivette, Phone: 644-6721.

Add the following bills:

HB 666 PHYSICIAN REFERRALS (Peterson) Prohibits a physician or podiatrist from making certain referrals for inpatient hospital services and makes other revisions to the law prohibiting certain referrals for designated health services. *(1st Hearing - Sponsor - Pending referral)*

SB 121 NEWBORN SCREENING (Blessing) Revises the law regarding required screening of newborn children for genetic, endocrine, and metabolic disorders. *(1st Hearing - Sponsor)*

THURSDAY, NOVEMBER 21

The meeting of the **House Energy & Environment Committee** has been **CANCELED**.

THE HOUSE ADJOURNED UNTIL 1:30 P.M., WEDNESDAY, NOVEMBER 20, 2002 (FULL SESSION)

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