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Legislative Update

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SECOND FIRM DROPS RATINGS ON OHIO BONDS; GROUP URGES REVIEW OF 'TAX EXPENDITURES' IN BUDGET CONTEXT

Ohio's bond rating was lowered by a second firm on Monday, as Moody's Investors Service followed Fitch's lead from last week.

Like Fitch's cut, Moody's reduced Ohio's rating by a notch while upgrading its "outlook" from negative to stable. Under Moody's scale, Ohio dropped from Aa1 to Aa2. In both instances, the rating update issued for debt slated for sale this month was dropped from the second- to third-highest.

Like the Fitch rating change, Moody's rating also applies to billions in outstanding general obligation debt.

"Given Fitch made a similar announcement last week, this is obviously unfortunate, but not unexpected, news," Gov. Ted Strickland's spokeswoman Amanda Wurst said.

"Last December, when another rating agency took action, we indicated that pending events in the auto industry, further actions were to be expected. The primary reason for the rating action is the national economic downturn, and the direct impact of the continued uncertainty in the auto industry, especially in regards to the bankruptcies of GM and Chrysler, on the state's economy."

The downgrades could end up costing the state more money to issue debt, but Office of Budget and Management Director Pari Sabetty told budget bill conferees last week that the state's debt service assumptions for the upcoming biennium shouldn't be significantly impacted as long as the current market conditions hold up.

Since hearing initial testimony on new revenue estimates last Thursday, the panel has yet to schedule a follow-up hearing.

Tax Expenditures: Separately, Policy Matters Ohio recently issued a review of Ohio's Tax Expenditure Report, which details the billions in tax exemptions and other breaks the state provides against its tax code.

The research group urged policymakers currently reviewing the biennium budget to "closely examine the tax expenditure report as part of its budget deliberations and limit or eliminate unnecessary credits and exemptions."

The budget conference committee "should reexamine new or expanded tax credits and exemptions approved by the House and the Senate in their versions of the budget bill," the group stated. "If the full General Assembly approves any such measures, it should include sunset provisions so they expire in two years unless renewed. The legislature should set a phase-out date for all existing tax expenditures, and create a committee to make recommendations on which should be renewed."

In a prior report, the research group listed "a dozen tax breaks Ohio can do without."

Democrats in control of the executive branch and House, and Republicans in control in the Senate have thus far agreed to deal with a \$3 billion shortfall in the plan with spending cuts rather than increased revenues.

UTILITY FUTURE GOING TO REQUIRE COOPERATION, COURAGE; AEP INKS SOLAR DEAL

Traverse City, Mich. - With coming changes in energy sources and costs, utilities and regulators are going to have to work together to ensure the new technology is implemented and customers are not buried by the costs, regulators and utility officials told the Mid-American Regulatory Conference on Monday.

The cost of generating power is increasing as fuel costs again begin to rise and utilities are having to invest in their current technology as well as bringing in some new technology, officials said. Those changes and the development of new technology are going to require some tough decisions both on increasing rates and on implementing projects that could ultimately fail.

"Customers in the future are going to see rising rates. I don't see any way we can avoid that," said Benjamin Fowke, executive vice president of Excel Energy. "So we need to help them manage their bill."

DTE Energy CEO Tony Earley said Michigan is not unusual in having much of its generating infrastructure due for replacement. Estimates currently show utilities will have to spend as much as \$2 trillion by 2030 replacing worn out infrastructure.

And he said it would be unreasonable to think all of that infrastructure could be replaced with renewable power. "Windmills and solar panels are never going to power a big auto assembly plant or a cold rolled steel mill," he said. "You need a big coal or nuclear baseload plant."

Federal Energy Regulatory Commissioner Mark Spitzer said handling those cost increases and coming technology needs is going to require members of the regulatory bodies working among themselves as well as with the utilities and customers.

"We're going to need that sense of collegiality, we're going to need that sense of good will and communication, not only in Washington but across the nation," Mr. Spitzer said. "This type of meeting is how we'll solve our energy problems."

He said in some states the desire to keep customer costs down has hampered the ability to set reasonable returns for utilities.

Regulators are also going to have to work with utilities to help them with placement of new infrastructure from transmission lines to wind turbines.

"NIMBY has gotten particular difficult, especially as the Internet has enhanced ability to communicate with elected officials," he said. "What I've seen in filings made with FERC is almost thoughtless, mindless opposition (to new facilities)."

Mr. Fowke said the cooperation between regulators and utilities will be particularly important because utilities are going to have to be able to take some more risks to bring in new technology. "The technology we're going to invest in is going to move us away from our sweet spot," he said, noting Xcel in the past has stuck with already-tested technology. "We're going to have to help (regulators) understand that these projects are going to have some successes and failures. We're all going to have to work together."

But he said the technology will have to include smart grid systems that will allow customers to watch, and control, their own power use.

Xcel is implementing a smart grid pilot project in Colorado to determine the interest in customer-based power management, but he admitted the project might not be a true test of interest in the system because of the larger environmental awareness in that community.

Mr. Spitzer said there would be interest in the systems, at least if his teenage son is an indication of the interest of the coming generations.

"We're told customers are not interested, they don't care where power comes from, they just want lights to go on," Mr. Spitzer said. "I reject these comments. I think the attitudes can change."

But regulators have to be sure they address only the costs and need for technology, not side with any particular solution. "Government should not act in a way that hampers any of these new technologies or mark any as nonstarters," he said.

And where the state regulators need to give utilities some flexibility to try different solutions, he said the FERC also needs to allow state commissions room to come up with their own solutions to the various issues.

Carbon Capture: Among the coming technologies that could help to control carbon emissions, capturing and storing it is possible and safe. The issue now is to make it cost-effective, speakers said.

While there is still much geologists do not know about land formations, there are safe layers for storing carbon dioxide, said Malcolm Wilson, director of energy and environment at the University of Regina in Saskatchewan, Canada.

The weakest link in the sequestration system is the injection well, Mr. Wilson said. "The oil industry's had 100 years of understanding those wells and mitigating the problems," he said.

But he also said that a leak in a full, sealed carbon injection site would not create unsafe carbon dioxide levels in a home built directly over the well head.

And he said there are now international efforts to set standards on the systems.

Sean Black, product manager at Alstom, a power plant development company, said there are also several methods of collecting the carbon dioxide and will be more over the next 15 years. "The challenge will be which is the most cost effective," he said.

AEP-Solar Power: AEP Ohio has signed a 20-year contract to purchase all of the solar power produced by a future solar generating plant in Wyandot County.

The power will be produced by Wyandot Solar LLC, a subsidiary of juwi solar Inc.

Under the agreement, the terms of which were not released, the utility will purchase all of the unit's 10.8 megawatts and renewable energy credits.

"This is our first agreement with a utility-scale solar facility, although we do have small solar installations on two of our buildings in Ohio," said Michael G. Morris, AEP's chairman, president and chief executive officer. "Our growing renewable portfolio has significantly diversified our fuel mix, helping us to meet our customers' energy needs while reducing our environmental impact."

The solar facility will be constructed on land near an AEP substation.

UTILITIES SEEING NEW STRUGGLING CUSTOMERS

Traverse City, Mich. - Utilities are seeing unpaid bills and disconnections increase, and they are seeing those delinquencies from more higher-income customers, utility officials told those gathered for the Mid-American Regulatory Conference. But, while utilities are covering some of the efforts to assist those customers now, those efforts will have to move back to the government at some point.

Where most delinquencies on utility bills in the past, at least those getting to point of disconnection, were from low-income customers, more of those delinquencies are among middle-income customers, said Rebecca Harsh, director of consumer retail policy for the Edison Electric Institute, an electric utility industry group. And she said many of those customers are not in any kind of assistance program.

"It's the first time they find themselves in this situation. Many of them are afraid to ask (for help)," she said. "They do not qualify for a lot of the federal programs that are out there, so they are kind of floating out there in the middle of nowhere and struggling to meet their bills."

She said several utilities have expanded budget programs and discounts to customers making more than 250 percent of federal poverty. But she said there has been little effort to help fund these programs.

"Everybody wants to do something about it but the funding isn't there," she said. "There hasn't been any kind of significant move from legislators to meet the need of these new individuals."

"The trend short term is utilities doing more social programs," said David Springe, consumer counsel to the Kansas Citizen's Utility Ratepayer Board. "But as you look long term is the utility going to be the social agency and how much can we expect of utilities? If utilities going to provide all this, we need to pay for it."

Ms. Harsh said a number of utilities are working to find other, particularly non-government, sources of funding for assistance programs to be able to expand them beyond the current limits. But she said utilities are also working with community organizations and others to make more people aware of the programs to encourage people to seek assistance.

Utilities are also seeking ways to head off the need for payment assistance. Many are pushing for building code changes that would reduce energy use, particularly for low-income residents. "We have to fix it on front end by having people live in homes they can actually afford to live in," said Jerry Norcia, president of Michigan Consolidated Gas Company. The next question is how do you move people into homes where they can afford the energy."

Mr. Springe said those codes also need to apply to rental homes as well as owner-occupied. "There needs to be a minimum level of efficiency that comes with being a landlord," he said. But he said it also would require both enforcement and assistance to achieve.

States also need to consider a low-income rate, Mr. Springe said. "We are going to have a group of people that we are simply going to have to pay for," he said. "Should we have a low-income rate that keeps these people on the system?"

He noted Kansas has answered that question no, arguing the proposed rate was discriminatory.

Mr. Springe said one option to address both low-income customers and coming rate increases by setting a low rate for some minimum amount of power and move the rate increases to those who use more. "We've got to get our rate design principals sorted out. We're not pricing things right," he said.

MAJORITY OF OHIO COLLEGE STUDENTS PLAN TO LEAVE STATE FOR BETTER JOBS ELSEWHERE, STUDY SAYS

A majority of college students plan to leave the state after they graduate, according to a poll released Monday, which also found significant support for ideas similar to pending legislation designed to reverse Ohio's "brain drain."

Although 88% of native Ohioans at seven well-known universities in the state say they are proud of Ohio, 51% plan to leave after graduation, according to the Thomas B. Fordham Institute survey. Among non-native college students, 79% believe their future lies outside the state.

"It's good news that you don't have a demoralized native population," said Steve Farkas, of the New York-based FDR Group, which conducted the poll. "They don't say, "I want to leave (Ohio) and I don't want to come back."

Career prospects were the deciding factor for most college students, with 89% saying landing a good job was very important in deciding where they will live after graduating, he said during a news conference. Only 11% of those surveyed rated Ohio's job market excellent.

The poll of 811 college students, which included 339 samples from an online social networking website, gauged support for ideas similar to bills pending before the General Assembly. Sixty-five percent said a state income tax credit for graduates who remain in Ohio for 10 years was appealing. The idea is similar to a bill pending in the House (HB 123).

Another 60% said they liked the idea of a grant to assist with a down payment on a house as an incentive to remain in Ohio, Mr. Farkas said. Senate priority legislation would create a "Grants for Grads" program (SB 5).

Meanwhile, 59% said they were very interested in participating in internships with local businesses and organizations and 53% showed support for co-op programs. The Senate recently eliminated a \$100 million appropriation for a co-op and internship program in its version of the biennial budget (HB 1).

MAYORS' GROUP SAYS OHIO CITIES LOSE OUT ON FEDERAL TRANSPORTATION STIMULUS FUNDING

Transportation infrastructure in Ohio's major metropolitan areas are getting shortchanged in competition for federal stimulus funding, according to a recent report from the U.S. Conference of Mayors.

Cleveland and Cincinnati together account for 40% of the state's economy, yet they received less than 5% of the total transportation funding allocated to Ohio through the American Recovery and Reinvestment Act, according to the report. Columbus comprises nearly 20% of Ohio's gross state product, but got less than 8% of the state's ARRA funds.

"This report indicates that the national economy will only recover when our metro areas recover. Yet in allocating stimulus transportation funds, states continue to underfund the very metros that drive the nation's economy," Miami Mayor Manny Diaz, president of the U.S. Conference of Mayors, said in a statement.

The nation's largest 85 metropolitan areas account for 73% of the country's gross domestic product and 63% of the population, but they garnered only 48.3% of the \$18.26 billion in surface transportation projects that state governments certified as of June 3, according to the report by HIS Global Insight, Inc.

The study shows the Columbus area received more than \$60 million in federal transportation stimulus funding, while Dayton, Akron, and Toledo got about \$27 million each. Cleveland got about \$24 million, Cincinnati got about \$12 million, and the rest of the state garnered more than \$593 million.

States also failed to appropriately target transportation funding to reduce traffic congestion, the study said. The largest 85 metropolitan areas account for 86.6% of traffic congestion costs, but receive again only 48.3% of state-approved funding.

"Our nation's metro economies rank high among world economies, but we are saddled with an outdated federal and state transportation system that prevents us from meeting the nations' needs," the group's CEO and Executive Director Tom Cochran said.

TUESDAY, JUNE 16 2009

BWC DEAL COULD RESOLVE CONSTRUCTION COMPANY RATING ISSUE; SENATE PANEL SHIELDS PUBLIC RECORDS

The Bureau of Workers' Compensation is working on an agreement with construction firms that say changes in the agency have precluded them from bidding on certain projects, the BWC chief said Tuesday.

The deal could stave off more intrusive legislative measures responding to concerns that recent revisions to bureau operations have negatively impacted construction companies and could cost Ohio more jobs.

An amendment designed to address the issue was one of several proposed changes to the BWC budget (HB 15) that the Senate Insurance, Commerce & Labor Committee put on hold until Wednesday morning. Several other revisions were adopted without objection.

Other riders that the bureau has opposed could resurface, such as proposals to require BWC to offer discounts associated with the Drug Free Workplace and Workplace Safety programs, which have recently been phased-out.

Sen. Stephen Buehrer (R-Delta), chairman of the panel, said the amendments were still undergoing revision and might be considered before reporting the bill out of committee. The full Senate could vote on the roughly \$328 million-a-year, non-GRF spending measure later in the day.

BWC Administrator Marsha Ryan said the bureau proposed an amendment to address the contractors' issue in temporary budget language that would set their experience modification rating at 0.99 with language on relevant bureau documents saying "pursuant to House Bill 15." Contractors say many owners won't consider bids from companies with an EM rating above 1.

Nonetheless, the 600 contractors affected by changes to the experience rating system will still have to pay the rate based on the risk they present to the workers' compensation system, she said in an interview.

"So none of the other employers will be subsidizing them. That's number one and from my perspective, the most important thing," she said. "They're going to be paying what they need to pay. How they will deal with representing themselves to those with whom they are trying to get a contract, will be up to them."

Ms. Ryan said she hoped the agreement would prevent other amendments that would have artificially reduced the contractors' rates. "We made it very, very clear that we are not going to compromise our ratemaking. I think the senators agree that we should not compromise it."

The committee adopted an amendment from Sen. Chris Widener (R-Springfield) that would require health care providers that offer employers enrolled in the \$15,000 Medical-Only Program to offer the same rates they charge BWC.

Sen. Joe Schiavoni (D-Youngstown) questioned whether the measure might prompt providers to collect the difference from injured workers. Sen. Widener said he believed there was a prohibition against going after worker for additional payments.

The panel adopted several other amendments that would:

- Require the bureau to provide new employers with a list of all groups participating in the group rating program and other premium discount options.
- Require BWC to provide written notice to group sponsors and third party administrators when changing the experience of an employer that settles handicap reimbursement activities.
- Allow the agency to consider whether an employer has sufficient insurance to grant them self-insured status for construction projects.
- Makes permissive the requirement for the Workers' Compensation Council to contract with an independent actuary, delays the deadline, and authorizes spending of up to \$650,000 for the study.
- Revises appointment authority for the WC Council.
- Expands membership of the Labor Management Government Advisory Council to include two representatives of vocational rehabilitative service providers.

BUDGET CONFERENCE PANEL LIKELY WON'T MEET AGAIN UNTIL NEXT WEEK; MASSIVE CUTS PONDERED; PA EYES TEMPORARY TAX HIKE

State leaders met in private Tuesday to set the stage for more endgame biennium budget negotiations, but the public process isn't expected to resume until next week, Senate President Bill Harris (R-Ashland) said.

Describing the discussions on the bill (HB 1) thus far with Gov. Ted Strickland and House Democratic leadership as preliminary, Sen. Harris said nothing has yet been decided except that the parties still plan on collaborating on a budget that can be passed by the June 30 deadline.

"The one thing we have agreed on is this is a responsibility that we'll all three need to work on," he said.

Sen. Harris said he expects the public portion of the process, when conferees will start working through a 766-page comparison document with the policy preferences of the executive, House and Senate version of the bill, will resume sometime around the mid-point of next week.

That schedule would leave the legislature with less than a week to produce and vote on a conference report that must shave some \$3.2 billion in spending from the \$53.6 billion plan for fiscal years 2010 and 2011.

Gloomy Scenarios: With Democratic and Republican leaders thus far holding fast to their intention to deal with the deficit with cuts rather than increased revenues of any kind, speculation was swirling around the Statehouse Tuesday regarding potential cut scenarios.

Administration officials reportedly met with legislative Democrats over the weekend to share some thoughts on how more than \$2 billion in cuts might pan out, but no documentation from the meeting was made available upon request.

A legislative source with some familiarity with the meeting said such a level of reductions could, not surprisingly, entail major reductions or eliminations to: TANF Title XX, child care, kinship care, the Early Learning Initiative, PASSPORT and PACE programs for seniors, Medicaid optional services, Medicaid provider rates, MR/DD services, the children's buy-in program, and other state-funded initiatives.

Kearny McCarthy, spokesman for House Speaker Armond Budish (D-Beachwood) would only confirm that "ongoing, informal discussions" have taken place between staff of the administration and the caucuses. He would not divulge specifics, he said, as that would be detrimental to conference committee negotiations.

Similarly, Strickland spokeswoman Amanda Wurst said that while ongoing discussions among the Big Three staff were "positive" and "moving forward" at this time, she would not release details of those talks.

"The administration does not intend to get into specifics outside of the context of the budget deliberations," she said.

Sen. Harris said Tuesday afternoon that his caucus had not been made privy to any suggested cuts from the administration.

Pennsylvania Budget: Meanwhile, Pennsylvania policymakers face a similarly daunting task in balancing their state budget, which coincidentally is also currently in deficit by \$3.2 billion.

While pressure continues to build in Ohio for some sort of temporary tax hike - the last such tack in this state entailed a sales tax increase - Pennsylvania Gov. Edward Rendell on Tuesday proposed a temporary personal income tax hike of a half percent, to 3.57%.

Under the governor's proposal, the state's rate - the second-lowest in the nation among 41 states with an income tax - would return to 3.07% in three years.

"The simple truth is, we have no good choices," Gov. Rendell said in a news release. Despite other proposals to hike taxes on tobacco, energy extraction and pharmaceutical firms, transfer money from the rainy day fund and significantly cut state programs, he said Pennsylvania would still face a \$1 billion shortfall to make up by the end of June.

"There are no shortcuts out of this crisis, no magic bullets, no painless path out of this morass," he said. "We can do the easy thing for the moment or the right thing for Pennsylvania's future. The fairest plan is to spread the pain across the board and let our economic recovery begin."

OHIO SUPREME COURT WEIGHS CAP ON DAMAGES IN LAWSUITS AGAINST LOCAL GOVERNMENT

The City of Cleveland asked the Ohio Supreme Court on Tuesday to uphold a \$250,000 limit on pain and suffering awards in personal injury lawsuits, arguing Ohioans have no fundamental right to sue local government.

At the same time, attorneys who represent injured persons said that if the General Assembly wanted to impose such restrictions, it should have offered evidence of need as it did in a separate law capping damages in private lawsuits.

Justices heard oral arguments in litigation that stems from an incident seven years ago at a Cleveland Indians baseball game.

Fans Donald Krieger and Clifton Oliver were taken into custody after detonation of "an explosive device." However, charges of aggravated arson and felonious assault were eventually dismissed.

The two filed suit against the city alleging false imprisonment, malicious prosecution, and intentional infliction of emotional distress.

A Cuyahoga County common pleas jury awarded each plaintiff \$400,000 in compensatory damages.

The 8th District Court of Appeals upheld the award. It struck down a state law that places a \$250,000 limit on non-economic damages against political subdivisions.

On Tuesday, Cleveland's appeal for protection from such damage awards took center stage at the Supreme Court.

Jerome Payne, assistant Cleveland law director, asked justices to find that the \$250,000 cap is constitutional.

"The appellate court wrongly decided that this provision was unconstitutional because it violated an individual's right to a jury trial, as well as violated equal protection guarantees," Mr. Payne said.

"This court ... in analyzing the general tort reform statute ... recognized that so long as the jury's fact finding process is not intruded upon the jury award as a matter of law may be altered," he said.

Justice Terrence O'Donnell: "Doesn't the constitution say that the right of the jury is inviolate?"

Mr. Payne: "Yes it does."

Justice O'Donnell: "And if the jury returned an award of \$400,000 how does the legislature invade that province of the jury to say that you don't get the extra \$150,000, you only get what we say you can have. Why doesn't that violate the constitution?"

Mr. Payne: "There is no fundamental right to sue a political subdivision. So there was no right to trial at that time in terms of suing a political subdivision. So I would argue that it does not apply."

Justice O'Donnell: "You're not asserting immunity here? You've waived immunity, right?"

Mr. Payne: "The appellate court indicated that the city had waived immunity. I would disagree with that statement."

David Lieberman, an assistant solicitor general, told justices the \$250,000 damages cap was constitutional.

"This court has said repeatedly that for a statute to be unconstitutional on its face it has to be unconstitutional in all its circumstances," Mr. Lieberman said.

"We know that after (a previous court ruling) that a damages cap that is applied to conventional injuries, non-catastrophic injuries, is constitutional and that covers many, the majority of all tort cases. Therefore by this court's definition of facial challenge, the statute passes muster," he said.

Mr. Lieberman said the Supreme Court previously has held that legislators could have extended sovereign immunity to all claims against political subdivisions.

"I would submit that what the legislature can do in full in can do in part," he said.

The Ohio Association for Justice told the court on behalf of plaintiffs that in adopting the caps for lawsuits against local government, legislators did not develop the kind of evidentiary record they did in a separate law protecting businesses.

Paul Flowers, the group's amicus curiae chairman, said juries are "very protective" of political subdivisions in litigation.

"It's not the same kind of concern that we supposedly had with the business community. So there is a complete void of any evidence of a rational basis," he said.

"The defendants have cited a law review article, they've brought up some anecdotes, they've speculated that there's a connection here and political subdivisions are being saved from onerous lawsuits, but that's not an evidentiary record," Mr. Flowers said.

"That's not the same as the General Assembly pointing out the evidence that they find persuasive that justifies this intrusion into the courtroom. And it is an intrusion," he said.

Chief Justice Thomas Moyer: "There are cases ... that recognize the ... right of the General Assembly to protect local funding authorities from large judgments. Could we take judicial notice of that even though there's nothing in the record?"

Mr. Flowers: "I'm not aware of those cases dealing with political subdivisions. There's lots of them dealing with business communities and certainly a lot of evidence going the other way as well."

Justice Judith Lanzinger: "Are you saying that you need to have it written in the statute itself in terms of findings and so on or you don't have a rational basis?"

Mr. Flowers: "I would use (a previous tort law) as an example. It's not in the text of the statute, it was in the uncodified portions. But the General Assembly spelled out what they found to be persuasive in justifying their finding that caps promoted a public objective."

Attorney John Spellacy of Cleveland, representing Mr. Krieger, said the Supreme Court already had shown legislators how to enact constitutionally valid caps on damages.

"If they would like to limit the damages ... you've given them the blueprint ... to do so. They haven't done that. And we would ask that the court of appeals be affirmed with respect to Mr. Krieger and Mr. Oliver," Mr. Spellacy said.

As the court convened, Chief Justice Moyer noted that while Justice Paul Pfeifer was not present for oral arguments he would participate in the case.

OFFSHORE WIND AN OPTION BUT STILL SOME UNKNOWNNS

Traverse City, Mich. - Ohio and Michigan have the opportunity to provide more power than they need just from offshore wind turbines, according to recent studies. And Ohio could have the first turbines on the lakes given the progress on projects and applications.

But there are still some questions on the cost and viability of such projects, panelists at the Mid-American Regulatory Conference said Tuesday.

While various studies have show substantial wind power coming across the Great Lakes, there is still some question about exactly where the best wind is and how constant it is, officials said.

"We concluded it is certainly worth pursuing to see what the capacity factors are out on Lake Michigan," said Wisconsin Public Service Commissioner Lauren Azar, whose commission just released a report on the idea and is working on joint efforts with Michigan.

But she said one of the findings of the report is there are no conclusive reports showing the best wind spots on the lakes, only some average wind information.

Part of the problem there is the current cost of testing wind speeds and volumes, said Charles Richey, vice president of OptoAtomospherics, a company developing a new system for conducting those tests.

"You're only getting a single point measurement and you're extrapolating that over miles," Mr. Richey said. "That's why many farms are under-performing expectations."

Overall there is still some question about the financial viability of wind energy absent new regulations, said William Whitehead, vice president of state and member services for PJM, an independent system operator that oversees wholesale electric markets from the East Coast through Illinois. "From a pure planning sense they may not make much sense but they fall into state policy," he said.

Mr. Whitehead said current onshore wind costs about \$2,000 per kilowatt to install. Offshore wind would be about double that.

There are also some unknowns about the maintenance on the turbines. The first of the installations have been in salt water, raising some concerns about the corrosive spray affecting the facilities.

"It's a potentially somewhat unknown area on these projects in terms of maintenance," Mr. Whitehead said, adding that has raised some concerns with potential financiers. "The first project is obviously going to get a lot of scrutiny."

He said overall the financing is tough for wind projects right now.

And Ms. Azar said development companies have assured her commission that one maintenance issue on the Great Lakes, ice flows, will not be a problem for the turbines.

Katherine Roek, an energy attorney with Stoel Rives, said there is also still some question what types of permits will be required for offshore turbines in the Great Lakes. She said Ohio is already developing its permits for proposals in Lake Erie and Michigan has the option of using a joint permit with the U.S. Army Corps of Engineers for other installations in the lakes, but she said it was still unclear what level of environmental permit the Corps will require.

Ms. Roek said there is some advantage in the Great Lakes in that the state's have ownership jurisdiction over their half of each of the lakes, as opposed to the oceans where some of the jurisdiction is state and some requires federal leases. Those federal leases are under development, though, she said.

There are also some remaining installation issues for the lakes, Ms. Roek said. Most of the current commercially produced turbines are designed for water no more than 30 meters deep. But she said Lake Michigan and Lake Huron drop off quickly to a much deeper depth.

There are turbines for deeper water under development, including one that floats and could be used at any depth, she said. That turbine has just seen a first test in Europe.

But Mr. Whitehead said the turbines will still have one advantage over traditional power sources: "Offshore wind is expensive. There's a lot more capital up front," he said. "Once you have it built, you pay exactly zero for energy."

He admitted, however, that there had not yet been a study to show how the cost of installation and maintenance on offshore turbines spreads out to a per megawatt hour cost to be compared to other energy sources. Those costs would become clearer as more offshore turbines are in operation, he said.

INTRODUCED IN THE HOUSE

HB 220 LOCAL GOVERNMENT NOTICES (Chandler) To implement the recommendations of the Local Government Public Notice Task Force by authorizing legal publication to be made in a newspaper of general circulation, eliminating certain publication and postal privilege requirements, reducing the number of times publication must be made, requiring newspapers to establish a government rate for publication, allowing publication of a summary of an ordinance rather than publishing it in its entirety, and allowing the costs of publishing delinquent property tax lists to be charged to delinquent taxpayers. Am. 7.10, 7.11, 7.12, 118.17, 131.23, 133.18, 133.55, 135.05, 301.02, 301.15, 301.28, 306.35, 306.43, 306.70, 307.022, 307.041, 307.10, 307.12, 307.676, 307.70, 307.79, 307.791, 307.81, 307.82, 307.83, 308.13, 317.20, 319.11, 321.18, 322.02, 322.021, 323.08, 324.02, 324.021, 343.08, 345.03, 349.03, 501.07, 503.05, 503.162, 503.41, 504.02, 504.03, 504.12, 504.21, 505.108, 505.17, 505.264, 505.28, 505.373, 505.55, 505.73, 511.23, 511.25, 511.28, 511.34, 513.14, 515.04, 517.12, 517.22, 521.03, 705.16, 711.35, 715.011, 715.47, 718.09, 718.10, 719.012, 719.05, 721.03, 721.15, 721.20, 723.07, 727.011, 727.012, 727.08, 727.14, 727.46, 729.08, 729.11, 731.141, 731.20, 731.21, 731.211, 731.22, 731.23, 731.24, 731.25, 735.05, 735.20, 737.32, 745.07, 747.05, 747.11, 747.12, 755.41, 755.42, 755.43, 759.47, 951.11, 1515.08, 1515.24, 1545.09, 1545.12, 1547.302, 1711.05, 1711.07, 1711.18, 1711.30, 1728.06, 2105.09, 2329.26, 2329.27, 3311.21, 3311.213, 3311.214, 3311.50, 3311.53, 3311.73, 3313.41, 3313.533, 3313.911, 3349.29, 3354.12, 3355.09, 3375.41, 3381.11, 3501.03, 3505.13, 3709.21, 3735.36, 3735.66, 4301.80, 4301.81, 4503.06, 4504.02, 4504.021, 4504.15, 4504.16, 4504.18, 4513.62, 4582.31, 4585.10, 4928.20, 4929.26, 4929.27, 4931.51, 4931.52, 4931.53, 5126.42, 5310.35, 5540.031, 5540.05, 5543.10, 5552.06, 5553.05, 5553.19, 5553.23, 5553.42, 5555.07, 5555.27, 5555.42, 5559.06, 5559.10, 5559.12, 5561.04, 5561.08, 5571.011, 5573.02, 5573.10, 5575.01, 5575.02, 5591.15, 5593.08, 5705.16, 5705.191, 5705.194, 5705.196, 5705.21, 5705.211, 5705.218, 5705.25, 5705.251, 5705.261, 5705.314, 5705.71, 5713.01, 5715.17, 5715.23, 5719.04, 5721.01, 5721.03, 5721.04, 5721.31, 5722.13, 5723.05, 5727.57, 5733.23, 5739.021, 5739.022, 5739.026, 5739.101, 5747.451, 5748.02, 5748.021, 5748.04, 5748.08, 6101.16, 6103.05, 6103.06, 6103.081, 6103.31, 6105.131, 6115.01, 6115.20, 6117.06, 6117.07, 6117.251, 6117.49, 6119.10, 6119.18, 6119.22, 6119.25, and 6119.58, to enact section 7.16, and to repeal sections 7.14 and 701.04

SENATE COMMITTEE HEARING

State & Local Government & Veterans Affairs

SB 128 PUBLIC DANCES (Strahorn) To permit townships to issue permits for public dances. (1st Hearing-Sponsor)

CONTINUED

Sen. Strahorn said the bill would give townships the same authority as municipalities in terms of issuing permits for public dances.

He said the bill sets age and criminal standards for those who can qualify to obtain permits, adding that the bill doesn't require townships to issue permits.

The change, he said, would equalize township and municipal authority to deal with dance-related disturbances, helping nearby residents maintain quiet enjoyment of their property.

WEDNESDAY, JUNE 17 2009

STRICKLAND RELEASES STATE CUT SCENARIOS; SPEAKER HOLDS FIRM ON REDUCTIONS VERSUS REVENUES TO FIX HOLE

A glimpse into what severely reduced state government would look like was released late Wednesday by the Strickland administration, however key players in the budget deliberations continued to maintain that cuts alone would be pursued to close a \$3.2 billion shortfall.

Released in spreadsheet formatting, the line item reports from state agencies were requested by the Office of Budget and Management based on the potential for additional cuts in the 10-30% range.

Each agency took different approaches to responding to the request, with some noting that such drastic reductions could violate state and federal laws, while some went into more details than others in terms of the number of employees who would have to be let go and the impacts of the cuts on Ohio citizens.

Gov. Ted Strickland's spokeswoman Amanda Wurst said the information, which the administration previously had declined to release, does not reflect final "decisions, choices or preferences, but rather are an initial impact analysis of what 10, 20 and 30 percent reductions might look like across agency line items."

The following are excerpts from what various agencies projected would occur if certain line items were cut in that range:

Alcohol and Drug Addiction Services: "Coupled together, the 30% GRF and the federal Block Grant reduction will result in 10,000 to 26,000 Ohioans being denied critical treatment services."

Aging: As a result of a 20% reduction to PASSPORT services for seniors, "The number of unduplicated consumers served would be about 34,740 in FY 2010 and about 32,450 in FY 2011. A waiting list would develop; Monthly new enrollment would be limited to 480 in FY 2010 and 500 in FY 2011. About 13,600 people would not be served during the biennium. Many of these people would have no alternative except to be admitted to a nursing home leading to an additional state share Medicaid (ODJFS 600-525) cost of about \$150 million. The reduction in eFMAP revenue to Aging would be about \$5.1 million."

Agriculture: "Failure to provide adequate funding and staff FTEs will result in permits being delayed or not issued. Such actions will cause harm to the agricultural economy in Ohio by not enabling the department to renew or issue new permits to install, to operate or for individuals to become certified livestock manager. Failure to have permitted operations presents a very potential and real health concern to the state and its citizens."

Administrative Services: Under a 20% cut scenario, "Custodial contract reduced by 35%; this would reduce the quality of building services to the tenants and negatively affect customer satisfaction. Plus 21% of all servers and systems would be shut down to reduce power and maintenance costs. This would have a major impact on statewide and agency applications used for critical programs and processes."

Development: Regarding a 20% reduction to grants and loans: "At this funding level, the Technology Division would eliminate funding for up to five Edison Incubators or two Edison Centers causing Edison activities to cease as well as eliminating support for activities such as State Science Day, BIO International Conference, and the Health Care Venture Forum."

Education: "A 20% reduction would mean that ODE would not meet its federal match and the state would lose federal school lunch and breakfast funding."

Job & Family Services: "The subsidized child care program will be underfunded and eligibility for the program will have to be lowered from 200% FPL."; The 20% reduction would eliminate the payments made to the counties for Post Adoption Special Services Subsidy (PASSS), Non-Recurring adoption, and the State Adoption Maintenance Subsidy (SAMS). The reduction would also mean a reduction of 2,706 recipients in the IV-E Adoption Assistance program.

Regarding Adult Protective Services cuts, ODJFS reported: "The amount provided in this line item is already much less than is needed to provide programs and supportive services to this population. Any reduction in this line item will further reduce county agencies' ability to provide much needed services to protect this population."

Regarding the Early Learning Initiative: "The available funds are to support up to 8,000, already reduced from 12,000, children participating in the ELI program. Cuts to this line will negatively impact the number of children who can be served under this program. The larger percentage of the cut, the fewer number of children can be served under this program."

Mental Health: Under a 20% cut, "60,000 people lose access to services" under community fund reductions; "Could lose \$13.8 million" in federal grants; Increased use of jails/prisons, ERs, hospitals, alcohol and other drugs; Increased Medicaid costs for emergency rooms, general hospitals and nursing homes."

MR/DD: "We believe any reductions would place agreed up statutory framework between county boards and state for sharing of waiver match obligations in jeopardy. No ability to respond to emergency situations with waivers." Under a 20% cut, "The department may need to reduce provider rates, and county boards would have the option to not fill waiver slots as they become vacant. It's possible that each step would violate ARRA.... If we don't have the funding for this and the county boards do not provide the funding, people will need to remain in the Developmental Centers at a time when we removed the funding for them in the DC line item."

Natural Resources: With a 20% reduction, "Ten of the 20 state forests will be closed. The Division's Forest Industry support program will be eliminated. The Division of Forestry Law Enforcement program will be eliminated. The four state-managed APV areas will be closed. The Division of Forestry Public Information, Education, and Outreach program will be eliminated."

Health: "Reduced staffing levels would impact the health, safety and welfare of Ohioans by increasing the time required for review of infectious diseases. This may cause outbreaks to be missed at an early stage where further progression of the outbreak could have been avoided."

Rehabilitation and Correction: "A 10% reduction would require DRC to cut the equivalent of 350 security positions. DRC would also eliminate 25% of non-security staff. A 20% reduction would include all of the cuts at the 10% level, as well as closure of 4 large prisons, affecting all areas of staffing. Significant increase in crowding percent. Social service programming will have longer lines, which raises other safety and security problems."

Youth Services: "Twenty percent reductions to services, supplies and equipment in the institutions would pose significant operational concerns regarding the basic health, safety and security of the youth and staff in the institutions. Because this agency operates a 24/7 residential operation for juveniles, a 20% reduction to the following services is not feasible, would result in an automatic plaintiff filing and would unquestionably throw the department into contempt of federal court."

Meanwhile, Speaker Armond Budish (D-Beachwood) said after session on Wednesday regarding the ongoing private negotiations over the biennium budget bill (HB 1) that he remains "hopeful" the legislature can finish up work on the bill by June 30 and that the estimated \$3.2 billion hole in the plan can be addressed with spending reductions and no additional revenues.

Asked about gambling proposals resurfacing, he said, "Given the financial situation that we face, I don't know if anything is totally off the table, but there's been no discussions that I've been involved in the last couple of days" on the subject.

Regarding the June 30 deadline, he said, "I'm very hopeful that we'll be able to meet the schedule. If we don't, obviously we have to go to continuing resolutions, which are not particularly favorable for anybody in the state."

Speaker Budish said of reports that the administration has provided scenarios for \$2 billion in cuts, "I'm not sure it's fair to say that the governor has made proposals. We have asked for information from the administration, from agencies. We're trying to determine for ourselves what would be the best...approaches to take given the serious financial problems that we have. And I think it's still too early to be speculating as to specific cuts that might have to be made. Clearly significant cuts will be made."

"I believe that can be done, yes," he added in regards to resolving the hole with cuts alone.

"It will be extremely painful for the people of Ohio" but "that would be my current preference," the speaker said.

Sen. President Bill Harris (R-Ashland) maintained Wednesday that all state spending line items were under consideration for cuts as budget negotiators continue to work through different scenarios.

"At this point I don't think we have any specific list," he said. "We've agreed that there's not anything that's not on the table."

Sen. Harris was asked about the possibility of cutting higher education funding and removing tuition caps.

"We made major commitments in our budget to SSI," he said. "We also made a major commitment in order to freeze tuition growth. They're all available for discussion. That's what we've got to do is to work it through and see what we can agree on."

SENATE ENDORSES BWC BUDGET PLAN, CONFERENCE COMMITTEE LIKELY

A Senate divided along party lines voted Wednesday to approve a two-year spending plan for the Bureau of Workers' Compensation, sending the bill back to the House that is likely to forward it to conference committee next week.

The 20-12 vote on the budget bill (HB 15) came after members focused primarily on a Senate amendment that would create a committee to study the possibility of opening the system to the private insurance industry.

Keary McCarthy, spokesman for House Speaker Armond Budish (D-Beachwood), said the House doesn't support the privatization committee, and wants to look more closely at provisions sought by the construction industry, making the conference committee process likely.

Sen. Stephen Buehrer (R-Delta) said the budget reduces the agency's spending, which is funded through premiums collected from employers.

The senator said the bureau needs to be cost-efficient and fair to Ohio businesses while also providing needed benefits for injured workers. Depending on how it is run, he said the agency can be a tool or an obstacle for economic development, he said.

The lawmaker said the Insurance, Commerce & Labor Committee adopted a series of amendments to enhance the bill, including language that addresses the "job-crushing consequences" of a BWC change that had the effect of disqualifying many Ohio construction firms from bidding on projects.

Sen. Buehrer also said the panel restored employers' ability to secure premium discounts for participating in drug-free workplace programs and a workplace safety programs.

He said the agency objects to policies that allow employers to "stack" premium discounts, but noted that discounts are common across all types of insurance.

But it was the Senate's inclusion of language creating the privatization study that drew most attention, and opposition, from minority Democrats.

Sen. Joe Schiavoni (D-Youngstown) said the language creating the panel is too vague and leaves it with too broad a charge. He said opponents of the proposal don't want employers to leave Ohio, but said the privatization debate never focuses on the impact it could have on injured workers.

Mr. Schiavoni said a private system in West Virginia leaves much to be desired, adding that the state has an appeals process that often requires workers to get costly depositions from physicians.

Sen. Tim Grendell (R-Chesterland) supported the study committee, saying workers' compensation rates are among business' top concerns in the state.

He said Ohio's "government-run, captive system" works against the state, arguing that adding a private sector influence would force the agency to be more competitive.

"How closed minded could we be that we won't even study" the possibility, he said. "It's not novel. It's simply being open minded."

Sen. Fred Strahorn (D-Dayton) said raised concerns that the Senate was looking to micromanage BWC operations, which lawmakers recently turned over to an independent board of directors. He said some of the Senate's amendments insert the legislature's judgment for the board's judgment.

Sen. Strahorn also noted that many factors besides workers' compensation are considered by businesses looking for a place to locate. "I don't think this is quite the impairment to economic development as it is made out to be," he said.

Similarly, Sen. Eric Kearney (D-Cincinnati) said many of the additions should have been debated more fully. He said the agency recently received a consultant's report that recommended agency changes, and suggested the board should be able to focus on that report.

Sen. Keith Faber (R-Celina) said he heard recently from a business owner in one of his border counties who said his premium rates would be cut in half by a move to Indiana.

Further, he noted that the majority hasn't raised the prospect of eliminating the Industrial Commission, which hears appeal in workers' compensation cases.

Earlier in the day, the committee adopted amendments that:

- Prohibit health care providers from collecting payment from injured workers under the \$15,000 Medical-Only Program.
- Create notification requirements for employers and the bureau when companies participating in the group rating system merge.
- Allow the transfer of funds for the Inspector General.
- Create timeframes for the bureau to notify group sponsors about rate revisions.
- Clarify regulation of multi-jurisdictional workers compensation issues.

SUPREME COURT RULING LIMITS APPLICATION OF OHIO'S PREVAILING WAGE LAW; DISSENT CLAIMS 'HOCUS POCUS'

The Ohio Supreme Court held Wednesday that the state's prevailing wage law applies only to persons whose work is performed directly on the site of a public improvement project, not to employees working on components elsewhere.

Justices also said in the 6-1 opinion that a union representing one employee of a contractor on a public project does not have standing as an interested party to pursue violations of prevailing wage on behalf of any other workers.

The litigation stemmed from construction of a fire station in Medina County, a project that was subject to prevailing wage.

Gene's Refrigeration, Heating and Air Conditioning was awarded a contract to install the HVAC system.

Gene's employee Elie Cherfan worked in a fabrication shop, not located at the station building site, turning sheet metal into duct work that was installed in the building.

Gene's paid employees at the off-site shop at hourly rates that were lower than the prevailing wage rates the company paid other of its employees for work performed at the fire station.

Mr. Cherfan signed a form in July 2005 authorizing Sheet Metal Workers' Union Local 33 to file a prevailing wage complaint and to enforce action on his behalf with the Ohio Department of Commerce.

The union complaint alleged that Gene's had committed multiple prevailing wage violations on the project.

Medina County common pleas court ruled in favor the company, but the 9th District Court of Appeals reversed.

It held that Mr. Cherfan's written authorization was enough to give the union standing to become involved on behalf of all the company's employees.

The Supreme Court on Wednesday overturned the appellate panel and reinstated a judgment in favor of Gene's.

Justice Evelyn Stratton, writing for the court, said Mr. Cherfan's authorization did not confer interested party status upon the union local to pursue prevailing wage violations on a project wide basis for employees other than him.

"Cherfan's authorization does not convey carte blanche authority to the union to pursue claims on behalf of persons who have not agreed to such actions," Justice Stratton said.

She said the law does not mandate that prevailing wages be paid to persons who work off-site, even if they are working on materials to be used on or in connection with the project.

Justice Stratton said the appeals court interpretation regarding off-site workers would overturn more than 70 years of industry custom and practice.

"Such a departure from current prevailing wage law, custom, and practice properly belong in the legislative domain as a matter of public policy," she said.

Concurring were Chief Justice Thomas Moyer and Justices Maureen O'Connor, Terrence O'Donnell, Judith Lanzinger, and Robert Cupp.

Justice Paul Pfeifer dissented, pointing out the majority's reliance on the words "on" and "upon a public improvement project" to limit application of the prevailing wage law.

He said plain language in the statute indicated that work on materials intended for use in a public project must be paid at a prevailing wage.

"Under the majority's unique application of prepositions, working 'on' a judicial opinion would require the writer to perch atop his or her computer screen while crafting an opinion," Justice Pfeifer said.

"The majority's locus focus is hocus pocus," he said.

Response: The Associated Builders and Contractors construction association, whose legal counsel argued on behalf of ABC member Gene's, welcomed the court's ruling.

"It is a complete victory in what is already being called the most substantial prevailing wage decision in the Ohio Supreme Court's history," said Ryan Martin, ABC chapter president.

ABC said Gov. Ted Strickland's administration had been enforcing a new prevailing wage for off-site fabrication in the four Northeast Ohio counties affected by the appeals court ruling, "even though an appeal was pending with the Ohio Supreme Court."

OHIO BUSINESS: HUNTINGTON, OTHER BANKS DOWNGRADED: SCOTTS MIRACLE-GRO SEES BRIGHTER OUTLOOK

Standard & Poor's dropped its rating of Huntington Bancshares Inc. stock to "junk" status Wednesday as it lowered its score for 22 banks nationwide, including others based in Ohio.

"The actions reflect our belief that operating conditions for the industry will become less favorable than they were in the past, characterized by greater volatility in financial markets during credit cycles, and tighter regulatory supervision," S&P stated.

Huntington Bancshares ratings were lowered to BB+ from BBB, with a "negative" outlook; Cincinnati-based Fifth Third Bancorp was dropped to BBB from A- with a negative outlook; and Cleveland-based KeyCorp's rating was lowered to BBB+ from A- with a negative outlook.

"We believe the banking industry is undergoing a structural transformation that may include radical changes with permanent repercussions, S&P credit analyst Rodrigo Quintanilla said in a news release.

"Financial institutions are now shedding balance-sheet risk and altering funding profiles and strategies for the marketplace's new reality. Such a transition period justifies lower ratings as industry players implement changes."

Scotts Update: The Scotts Miracle-Gro Company updated its financial outlook for fiscal 2009 on Wednesday based on strong continued demand for its products in the U.S.

Scotts said it expects adjusted earnings for FY 09 to be in a range of \$2.35 to \$2.45 per share. The company also increased its FY 09 outlook for free cash flow to a minimum of \$180 million.

Scotts previous guidance assumed adjusted earnings in a range of \$2.10 to \$2.30 per share, and free cash flow between \$150 million and \$170 million.

The company said consumer purchases of its products in the U.S., as measured by point-of-sale data from its largest retailers, were up 17% on a fiscal year-to-date basis through the end of May. Scotts said there was particular strength in gardening-related categories.

INTRODUCED IN THE HOUSE

HB 230 STATE REGULATION (Moran, Zehringer) To enact the Common Sense Regulation Act to improve state agency regulatory processes, especially as they relate to small businesses, to require state departments to develop customer

service training programs, and to require the director of environmental protection to provide environmental regulatory compliance assistance to small businesses. Am. 103.051, 103.0511, 121.24, 122.08, 122.081, and 127.18 and to enact sections 121.81, 121.811, 121.812, 121.813, 121.814, 121.815, 121.82, 122.084, and 3745.016

HOUSE COMMITTEE HEARING

Transportation & Infrastructure

HB 166 TRANSPORTATION AUTHORITIES (Carney, McGregor) To authorize the creation of transportation innovation authorities by specified governmental entities and to establish the powers and duties of such authorities. (2nd Hearing-All testimony-Possible amendment)

CONTINUED

ODOT Chief of Staff Steve Campbell relayed his agency's support for the bill, which he said "breaks ground on innovative efforts to invest in Ohio's transportation system."

"TIAs are, at their core, recognition that transportation projects create tremendous public value and at the same time create great private sector value as a spark for economic development and commercial activity. We must give our local transportation partners a way to capture that value - and at the same time assure that local planning and zoning is conducive to the transportation improvements," he said.

"The TIA would be a tool for local entities to create funding streams to invest in the construction and operation of a public transportation improvement. In this case, we are talking about intermodal efforts, roadway projects, transit-oriented development, light rail or intercity rail."

Mr. Campbell said TIAs would be a "voluntary tool" and only local entities interested in such agreements would participate following approval by the ODOT director. "The director would be responsible for assuring that the proposed membership of the authority and other provisions of the agreement meet the purposes of the legislation," he said.

"The TIA agreement will spell out member duties, responsibilities and procedures to join and leave," he added. "Further, the local entities within a TIA can only take action within the powers and authorities granted to them under Ohio law. No jurisdiction will suddenly have new powers or authority over another simply because it formed a TIA."

Recognizing the difficulties with regional cooperatives, Mr. Campbell said ODOT would "strive to direct planning and project development funds, favorable financing including loans through ODOT's State Infrastructure Bank and improved project scheduling to those communities who have a TIA in place."

ODOT Director Jolene Molitoris also spoke briefly to the panel, saying of the bill's aims to provide for regional government entity cooperation, "The ability to partner strongly with them is something important to us."

Responding to questions from the panel, Mr. Campbell said TIAs differ from Transportation Improvement Districts in that TIDs are set up within counties and TIAs can span counties and involve a variety of local government entities. He said ODOT would encourage counties, municipalities and townships to also partner with metropolitan planning organizations and port authorities in developing TIAs.

Daniel Van Epps, a student at West Virginia University, spoke in support of an amendment to the measure that would allow the Ohio Turnpike Commission to issue bonds for the development of "multiple modes of surface transportation." Chairman Hagan said the proposal would be considered while suggesting the witness discuss the amendment with the bill sponsor.

Gene Krebs, co-director of Greater Ohio, said that in order for TIAs to work they must compliment transit TIFs. "Because the primary purpose of a TIF is to revitalize commercial, industrial and/or residential areas a transit TIF can be a particularly useful tool," he said.

Mr. Krebs provided examples of similar policy initiatives in other states, urged the development of pilot projects and suggested caution in moving the legislation. "Don't pass this bill in a hurry. There is a lot of work to do on this topic," the former lawmaker said. "Personally, I have written at least a couple of bills that may have seemed perfect but when passed back in the mid-1990s, especially in tax incentives, never are implemented in the manner I or anyone else anticipated."

Environment & Brownfield Development

HB 141 HOUSEHOLD SEWAGE (Dodd) To revise the Household Sewage and Small Flow On-Site Sewage Treatment Systems Law, and to declare an emergency. (2nd Hearing-All testimony-Possible vote)

CONTINUED

A half dozen witnesses appeared to support the measure that is identical to companion SB 110. Both measures are the products of a mandated study of laws and regulations that involved numerous interests, most of whom agreed on the final version of the bill.

Christopher R. Schraff of Columbus, an energy and environmental law attorney who worked on the study, pointed out four significant changes that are proposed. They concern septic tank depths and wastewater requirements; provide homeowners a choice when installing a system; write a better definition of public nuisance as applied to septic systems; and deal with mandatory maintenance requirements that each county would establish.

The Ohio Department of Health had been the rule-making agency in another septic system law overhaul and the result was widespread controversy. Rep. Sears asked about the department's role under the new law and Mr. Schraff responded he believes the agency "has come a long way (and) will come out with a much more defensible set of regulations.

Mr. Schraff also noted that the legislation differs from S.B. 100 by Sen. Grendell, who has several concerns concerning costs and other differences.

One concern about such laws and regulations is mandated maintenance of septic systems.

Michael H. Cochran, executive director of the Ohio Township Association, said, "There will be some heartburn over this. In some areas, there will be a change of culture, in some areas it will be business as usual." When asked by Rep. Wagner about proof maintenance requirements, an issue he questioned repeatedly, Mr. Cochran said, "We want them to have them (septic systems) but we want them to work." Mr. Cochran stressed that the bill is a compromise among parties represented in the study group that drafted it. He briefly supported a small provision that township residents who must tie into a municipal sewer system cannot be forced to annex.

John Gotherman, representing the Ohio Municipal League, urged removing the requirement that echoes a long-standing difference between the associations.

Other witnesses included Wendy Hanna, environmental health director of Hocking County; Laura Kramer Kuns representing the Ohio Environmental Health Association; James A. Luken, Miami County health commissioner; and Willa J. Ebersole, representing the Ohio Onsite Wastewater Association and the Ohio Wastewater Haulers Association, who endorsed statewide bonding requirements.

Ways & Means

HB 218 UTILITY TAXES (Winburn) To modify the tax valuation of public utility tangible personal property used to generate electricity from renewable resources. (1st Hearing-Sponsor and all testimony (pending referral))
CONTINUED (Earlier referred to committee)

Rep. Winburn said the measure would be the next phase in attracting the renewable energy development in Ohio following last year's adoption of the renewable energy standard (SB22).

"As wind developers started looking to Ohio to make investments following the energy bill, it became apparent that Ohio's public utility tangible personal property tax puts the state at a competitive disadvantage," he said, noting the wind turbines and solar panels are subject to the classified as electric companies and are subject to the tax, which, unlike other TPP, was not phased-out by revisions to the tax code.

The measure would reduce by half the PUTPP tax on wind and solar generation machinery and equipment by cutting the 24% listing percentage to 12%, he said. It would also eliminate depreciation allowances to maintain equity with traditional electric generation.

The proposal represents a compromise among renewable energy producers, school districts, and local governments, he said, noting the latter receives funding from the PUTPP tax.

Eric Thumma, director of institutional relations for Iberdrola Renewables, Inc., said Ohio scores well in several areas, but it's treatment of independent wind energy producers under the personal property tax structure "remains the significant stumbling block to investment in Ohio."

The state's tax burden is as much as eight times higher than some nearby states, such as Michigan and Pennsylvania, he said, calling the measure "a welcome step to address the problem." Nonetheless, it would still make Ohio's tax rate four times higher than Pennsylvania.

"Ultimately achieving a wind energy project tax rate that encourages investment in Ohio will result in greater local tax revenues, more affordable renewable energy, and economic multiplier effects from local investment and related manufacturing and construction services," he said.

Testifying as an interested party on behalf of the American Wind Energy Association, Dayna Baird said wind producers' tax liability in Ohio is about \$40,000 per installed megawatt.

"In order to be competitive with its neighbors or similar wind resource, Ohio's total state tax liability should be approximately \$5,000 to \$6,000 per installed megawatt," she said. The organization proposed a production-based tax to replace the PUTPP tax.

The bill's proposed 12% listing percentage is could also be workable, but "does not go far enough to make Ohio competitive," she said, noting the tax burden would be about \$19,000 to \$23,000 per MW.

The federal stimulus bill allows wind farm developers to convert a 30% investment tax credit into a direct grant from the U.S. Treasury Department, but must begin by the end of 2010, Ms. Baird said. "In order for developers to focus investment capital on Ohio in the short-term, it is essential to address the personal property tax issue."

Speaking as an opponent, Tom Stacy of Save Western Ohio, questioned whether the measure would generate any economic development.

"If reducing property tax for rent seeking industries is the right move for Ohio, then it would seem the right thing to do for industries across the board, including those providing meaningful services without subsidy and market manipulation," he said.

"Given an already precarious state balance sheet, why shall you further entice heavily subsidized businesses at the expense of a tax pool which supports vital education and community programs?" he said.

Tom Cook, project manager for the Ansco Machine Company, spoke as an interested party, saying early investment in renewable energy is critical to become a key player in the industry.

The Ohio Township Association, in conjunction with the counties and school groups, submitted a letter to committee members expressing concerns with any proposal that would reduce local government revenue, especially during in this economy.

SENATE COMMITTEE HEARING

Ways & Means & Economic Development

SB 90 VACANT HOMES (Kearney, Seitz) To authorize local governments to exempt homes that have been vacant for at least twelve months from non-school district property taxation for up to three years when purchased by an owner-occupant. (3rd Hearing-All testimony)

CONTINUED

Brad Cole, senior policy analyst for the County Commissioners Association of Ohio, testified in opposition of the bill noting the well-intentioned legislation to address the serious problem of increasing vacant homes would reduce county property tax revenues at a time of unprecedented financial difficulty for all Ohio counties. He noted that over half of the non-school property tax revenues are distributed to county levy-funded agencies and the county general fund.

Mr. Cole said the CCAO believes counties should be notified and given an opportunity to comment on and approve property tax exemptions before they are allowed to take effect. Another option suggested would be to authorize each jurisdiction to exempt eligible properties only from the property taxes levied by that political subdivision.

Asked by Chairman Gibbs if the group would change its stance on the bill if its provisions were to be made permissive and allow county commissioners to approve any exemptions, Mr. Cole allowed that this has not been formally discussed adding that "we would look more favorably on it."

Sen. Kearney suggested the bill was trying to accomplish a "balancing act" of having homes occupied with future tax revenue potential rather than having them vacant. Mr. Cole said of course they want to see homes occupied and see economic activity but they were very sensitive to a loss of revenues especially under current economic circumstances.

Testifying as an interested party, Nick Nelson, Warren County Auditor and past president of the County Auditors' Association of Ohio, urged caution in taking actions to deal with the state's current economic situation so as to not create other unintended consequences or unworkable situations. Pointing to the property taxation by uniform rule provision of the Ohio Constitution, Mr. Nelson said it appears that the provision in the bill to authorize some taxing authorities, but not others, to exempt their taxes on a property may have some uniformity concerns and, therefore, have possible constitutional problems.

Besides the constitutional question, Mr. Nelson maintained that provisions in the bill might not be achievable as county auditors currently do not have the ability to levy one tax without all taxes that apply to a property or a mechanism to remit or refund a portion but not all of the previously-levied taxes, nor does the tax commissioner. This does not necessarily mean this can't be done, he noted, but it would take time and programming to achieve coupled with a danger that other areas of the Revised Code could be unwittingly impacted.

He continued that County Board of Revision property complaints serve as an example when determining local government fund formula distributions and shifting of the tax burden to other property tax payers on emergency levies and bond retirement fund levies to produce a specified amount of dollars. "For those levies, any exemption that reduces property values shifts the burden of taxation to other properties," he said.

Also testifying as an interested party and making a suggestion for an amendment was Dustin McKee, policy analyst for the Ohio Association of County Boards of MR/DD. He said that in addition to providing many local services, a majority of county boards directly or indirectly operate schools and preschools for children with various types of developmental disabilities. Based on their involvement in providing educational services, Mr. McKee asked the bill be amended to include non-County Board of DD property taxation to allow the bill to more fully accomplish its goal of holding harmless entities that provide educational services while continuing to make strides towards reducing the blight of abandoned homes and deteriorating property values.

SB 109 PROPERTY TAXES (Gibbs) To exempt from real property taxation the value of single-family residential property owned by a developer or builder until the developer or builder transfers possession or title. (3rd Hearing-All testimony)

CONTINUED

CCAO's Brad Cole expressed concerns on the bill on behalf of consortium comprised of the Buckeye Association of School Administrators, the Ohio Association of School Business Officials, the Ohio School Boards Association, the Ohio Municipal League and the Ohio Townships Association.

Mr. Cole warned the proposed change could mean a loss of "10's of millions of dollars" to counties, municipalities, school districts and townships all of which are currently facing budgetary issues and struggling to find enough revenue to support the infrastructure and services they provide. Additionally, Mr. Cole said the groups were concerned with a precedent the bill could set opening the door for other businesses that own unused or underutilized facilities to request a similar tax exemption.

The Auditors' Mr. Nelson, testified again as an interested party, noting an exemption granted to the target group will reduce their real property taxes, however, there will be unintended consequences of increasing everybody else's taxes on school emergency tax levies, bond levies and any tax that is levied to produce a certain amount of money. He continued that the bill would give builders/developers a substantial advantage over typical homeowners attempting to sell their properties. "With the carrying costs reduced (taxes), builders/developers are in a position to offer their houses at a lower price, conceivably lower than homeowners attempting to sell their houses without the tax benefits...Again, we may have created a situation that economically disadvantages all other sales of property and landlords."

William Sanderson, vice president of joint ventures for Forest City Land Group in Cleveland, reported that the Rockport Square project in Lakewood has been rendered economically unviable partially due to the assessment of real estate taxes at stepped up valuations on raw property and partially developed units. He said that by paying the tax, the current policy is robbing the development partnership of scarce resources intended to offset the risk and complexity of redevelopment and forcing sale prices to increase, resulting in less affordable products and a further deterioration in prices.

Mr. Sanderson said a prohibition taxing on the stepped up value of land and homes held in inventory until sold or transferred to the next user is not inconsistent with current law regarding business inventory. This, he added, should be enacted and applied retroactively to the 2006 tax year.

Written testimony from Mr. McKee was presented on behalf of the County Boards of MR/DD. He reiterated that due to difficult and uncertain economic circumstances, the boards cannot afford to lose more of their local revenues. Based on the fact that enactment of the bill would reduce county MR/DD property tax yields, Mr. McKee asked the bill be amended to include an exemption for county boards.

THURSDAY, JUNE 18 2009

GROUPS CRINGE AT SPECTER OF MAJOR BUDGET CUTS AS PREVIOUSLY UNTOUCHED AREAS HEAD TO CHOPPING BLOCK

Its website compares cuts to higher education during tough times to eating seed corn, but the group representing presidents of the state's four-year universities can see some cracks developing in the silos.

Gov. Ted Strickland and legislative leaders haven't broached the subject publicly, but K-12 education groups and advocates for Medicaid-funded programs are also expecting significant reductions in light of a \$3.2 billion shortfall in the \$53.6 billion spending plan (HB 1).

Inter-University Council President Bruce Johnson, a former lawmaker and lieutenant governor, said Thursday that he has heard of numerous possibilities but no definitive proposals yet in terms of reductions to the Board of Regents budget.

"Clearly there's been some scenarios run - \$100 million, \$500 million in cuts. But I think they're gathering information; they're not making decisions yet," he said.

Nevertheless, he allowed, "I think there will be large cuts in a majority of departments in the budget."

With state revenues fairly stable, policymakers in recent years have tried to reverse a trend of higher education being flat-funded or the first in line for reductions. However, with \$5.43 billion currently budgeted for the next biennium, the Regents allotment remains one of the largest pots of discretionary spending in a spending blueprint that must be lowered considerably absent additional new revenues, which policymakers have all but ruled out to this point.

"I've heard scores of scenarios. Right now I would say that leadership continues to be committed to low tuition," Mr. Johnson said. "We're hopeful on behalf of students and families that they maintain that commitment, but every day it seems to get more difficult."

In freezing tuition rates over the last two years, the legislature and Gov. Ted Strickland agreed to a roughly \$100 million annual boost in GRF to the state's colleges and universities.

With cuts to higher education becoming more likely as budget crafters delve deeper into the revision process, the institutions, which equate a 3% tuition hike to about \$150 million a year, may be in line for reductions coupled with a tuition cap depending on how negotiations proceed between the Democratic governor and the split legislature.

Medicaid and K-12 education, the two largest areas of the budget that have escaped relatively unscathed thus far in deliberations, also face likely cuts given the size of the deficit fueled by sinking state revenues. The Medicaid entitlement, including federal match, accounts for nearly 40% of the state's GRF budget and K-12 education is about 30%.

Reductions to those areas will be tricky given "maintenance of effort" requirements tied to the massive infusion of federal stimulus money deployed in the state's budget plan, but analysts say they are likely unavoidable.

Under the restrictions for education, states may not reduce spending below 2006 levels, according to Barb Shaner, associate executive director of the Ohio Association of School Business Officials.

That guideline would appear to give policymakers some room to cut primary and secondary education, although Ms. Shaner said the federal formula is complicated and also tied to higher education allotments.

"We are pleased that there's been so much emphasis on education and that all three versions of the budget bill have included a priority for education and we think that's important and needs to continue," she said.

"But in light of the current situation we have been advising our members that the situation is so dire that we probably could expect some cuts. So we're trying to help our members be prepared for that if it should happen."

Meanwhile, the usual infighting among Medicaid-funded groups has elevated considerably with the release of administration scenarios for 10-30% state agency reductions.

Word that early childhood programs, adult protection line items and numerous other welfare initiatives and programs for the poor face elimination or huge cuts prompted outrage among the various advocacy groups.

Col Owens, co-chair of the Ohio Family Coverage Coalition, decried a lack of leadership among chief policymakers in the state in again arguing for the need to increase revenues as part of a balanced approach to the problem.

"These are not ordinary times, and we need extraordinary leadership from the Governor and lawmakers to find an equitable solution to the budget crisis," he said. "The solution must be one of shared responsibility, where everyone contributes, with a balance of cuts and revenue."

The fuming stakeholder groups have turned some of their ire toward the nursing home industry, which relatively speaking was one of the biggest winners in the House and Senate versions of the bill.

The latest bottom-line analysis of nursing facility show that the combined effects of changes by the House, which shifted capital funds and added GRF money, and the Senate, which increased franchise fees for the facilities, combined to add nearly \$380 million in Medicaid spending for nursing homes over the biennium compared to Gov. Strickland's original proposal.

The Skilled Nursing Care Coalition has countered that much of the franchise fee increase included in the bill would go toward other Medicaid program areas and that the state hasn't kept up with inflation with its service reimbursements to the facilities.

"While inflation has jumped more than 19% in the last five years, Medicaid reimbursement has increased only 5% - resulting in more than 1,000 job losses," the coalition stated. "More people in skilled nursing care facilities need more care, but the State is actually reducing overall Medicaid reimbursement."

GOP Still Irked: The administration's release of the aforementioned agency cut scenarios, which included worst-case but unlikely options such as closing six prisons, irked budget conferee Rep. Ron Amstutz (R-Wooster).

Noting that legislators have been bombarded with calls regarding potentially huge cuts to such programs as PASSPORT, the lawmaker said in an interview Thursday that policymakers need a little less shock-and-awe and more substantive proposals from the governor's office.

"We really need more practical, helpful leadership" instead of "we'll show you cuts if you want cuts," he said.

"It's just much more difficult because we're not getting the strong leadership from the executive. Getting people to call in from all over the state to say don't cut PASSPORT is not helpful."

The administration released the agency budget cut scenarios at the request of the media while stressing that they did not reflect final "decisions, choices or preferences."

SUPREME COURT REJECTS BID TO BLOCK UTILITIES FROM 'RETROACTIVE' COLLECTION OF RATE INCREASE

The Ohio Supreme Court has dismissed a request from the state Consumers' Counsel to block American Electric Power from collecting an estimated \$66 million retroactive portion of a rate increase being charged to customers.

Justices voted 6-1 to grant motions of Columbus Southern Power, Ohio Power, and the Public Utilities Commission of Ohio to dismiss the complaint. Justice Paul Pfeifer dissented.

The court said in a brief entry that the Consumers' Counsel and other parties could raise the same issues later in a possible appeal of final PUCO action.

Still pending before utility regulators is a request from representatives of major energy users and residential consumers to reconsider a March 18 order that establishes long-term rates that American Electric Power's Ohio operating companies can charge.

The PUCO said its order would limit rate increases to 6% or 8% per year.

Opponents, however, estimate the order would mean Columbus Southern customers could pay 20% more in 2011, while Ohio Power customers could pay 25% more than they previously did.

In April, the OCC, Ohio Manufacturers Association, Ohio Hospital Association, and the Kroger Co. asked the court to immediately block AEP from collecting the retroactive part of the increase.

The Consumers' Counsel had previously asked the PUCO to prohibit retroactive collections, but the request was denied.

"While we are disappointed customers will continue to pay retroactive rates, we hope the Public Utilities Commission of Ohio will nevertheless quickly reconsider many aspects of its decision granting AEP rate increases," Consumers' Counsel Janine Migden-Ostrander said. "Overall, residential customers of AEP have seen double-digit rate increases that should be scaled back based on our office's sound legal arguments. We renew our request for the PUCO to take a second look at its original decision."

The groups sought a court order to prohibit the collections until a final legal decision can be reached regarding retroactive ratemaking. The OCC contends prior legal decisions in Ohio prohibit such a procedure.

"Under Ohio law, it is highly unlikely that these unreasonable and unlawful retroactive rate increase will be refunded in the event of a successful appeal, and the companies can be expected to strenuously object to any refunds to customers," the Consumers' Counsel previously told the court.

The AEP companies said in their motion to dismiss the case last month that the underlying issues being raised involve application of the state's new electric restructuring law, and noted it has not yet been fully applied by the PUCO or interpreted by the court.

"(Complainants) have an adequate and appropriate remedy in the ordinary course of the law: to pursue a direct appeal before this court and seek a stay of execution - after a final order is issued by the commission," the utilities said.

"In the mean time, there is no legally-recognizable harm to (complainants), while granting the relief sought in the complaint would clearly inflict harm upon Columbus Southern Power Company and Ohio Power Company," they said.

The Supreme Court granted the utility motions to dismiss Wednesday.

REDISTRICTING CONTEST YIELDS FAIRER PLANS THAN CURRENT PROCESS, PROPONENTS SAY

Even the losing entry of a public competition to improve the Congressional redistricting process was fairer than the current plan, Secretary of State Jennifer Brunner's office said Thursday.

Three of the 14 entries for the Ohio Redistricting Competition were tied for first place based on their scores for the following criteria: compactness; communities of interest; competitiveness; and representational fairness. Three others were disqualified because they failed to meet certain basic requirements.

Secretary Brunner's office said she agreed to host the online contest after being approached by a partnership of organizations and individuals, including the League of Women Voters of Ohio, Ohio Citizen Action, Common Cause Ohio, Rep. Dan Stewart (D-Columbus) former Rep. Joan Lawrence, and Richard Gunther, a political science professor and Ohio State University.

"Even though I have worked on these concepts for years, I am amazed at how well they work in actual practice. The competition has demonstrated that our districting system can be far fairer for voters and candidates," Ms. Lawrence said in a statement.

The three winners were: Tim Clarke of Avon, Stuart Wright of Columbus, and Illinois Republican state Rep. Mike Fortner. Detail on their proposals are available on the secretary of state's website.

"The competition shows that it is possible to have an open process to bring in a number of outside groups to participate in redistricting. A public process like this can help improve confidence in the political system," Mr. Fortner said.

FRIDAY, JUNE 19 2009

STRICKLAND PROPOSES RAISING REVENUES THROUGH SLOTS, SUGGESTS CUTS ACROSS STATE GOVERNMENT

Ohio's pending budget would be balanced with revenue from state-run slot machines and imposing major cuts in varying state programs, under provisions of a \$3.2 billion repair framework Gov. Ted Strickland outlined Friday.

The governor detailed the proposals at a late-afternoon news conference as lawmakers continued to work toward resolving a huge tax revenue hole in two-year plan they still hope to enact by June 30.

Mr. Strickland acknowledged that his new support for the so-called "video lottery terminals," which he said would produce an estimated \$933 million over the biennium, is one of the last things he thought he would do as governor, but that current circumstances all but demand it. (*See separate story*)

Even with those revenues, Mr. Strickland said government would be cut by about \$2.4 billion more, and some of those savings would be achieved by implementing an unspecified number state employee layoffs.

"There will be significant job loss," he said, noting that the downsizing would depend on how individual agencies look to make ends meet.

Mr. Strickland said his plan, which avoids any kind of tax increase, was being made as the state deals with its most difficult economic circumstances in 80 years. He said individuals are facing "extraordinary challenges" and businesses are trying to deal with "unprecedented limitations."

The governor's plan also calls for:

- Cutting general revenue fund transfers to the Public Library Fund by \$227 million over the two years.
- Reducing state employee retirement contributions from 14% to 8% of salary, saving \$94 million over the biennium in the non-GRF portion.
- Waiving the fiscal year-ending balance requirement, which saves \$130 million over the biennium.

The governor's plan, which he said protects main K-12 funding lines and preserves a one-year tuition freeze for higher education, also accounts for \$213 million in tangible personal property tax reimbursements to schools and local governments and \$406 million in reduced federal Medicaid reimbursements.

On the spending side, the governor proposed "painful cuts" and other budgetary maneuvers including:

- A \$1.3 billion appropriation reduction for agencies, boards and commissions.
- A \$770 million cut in state GRF share of Medicaid.
- A \$162 million GRF pick-up from the retirement contribution reduction.
- A net \$201 million in "cash management" moves.

Mr. Strickland said state government is facing another restructuring under his framework, noting that efforts were made to protect services for Ohio's most vulnerable people, including children, the elderly and the disabled.

The governor argued, however, the state can't delay updating its education system, as the administration protected primary and secondary education foundation funding from reductions. "Postponing education reform will only hold Ohio back," he said, adding that a move to a revised funding system is the key to the state's economic revival.

Other Ohio Department of Education winners were the Closing the Achievement Gap Initiative and a match for Perkins and school lunch programs.

While the plan also continues the university and community college tuition freezes for one year, several other Ohio Board of Regents line items would face reductions.

In the Department of Health budget, the framework protects funding for breast and cervical cancer screenings, Help Me Grow and the Bureau of Children with Medical Handicaps.

In the Department of Job & Family Services, \$30 million in Title XX money under the Temporary Assistance for Needy Families program was retained, as were 5% hospital rate increases and children's hospital supplemental funding.

State parks would remain open and free of charge, while cuts would be made in access to some campgrounds and state forests, as well as stream and ground water monitoring and natural areas and preserves.

The governor also proposed some reductions to administration at the Department of Rehabilitation and Correction, but noted that he viewed the impact of even a 10% spending cut on the state prison department as "intolerable."

GOVERNOR SAYS SLOT MACHINES NECESSARY TO AVOID TAX HIKES

Given the need to raise revenue quickly to shore up the \$3.2 billion budget hole, racetrack slot machines can and should be authorized legislatively, rather than through a ballot initiative, Gov. Ted Strickland said Friday.

The governor, who has said expanded gambling would be detrimental for Ohio, said the decision to support the installation of thousands of video lottery terminals at the state's seven horseracing tracks was difficult, but necessary to balance the budget (HB 1) without raising taxes. (*See separate story*)

"It is contrary to what I ever thought I would do. Still, after looking at an array of choices before me and the state legislature, I have concluded this is the best course of action to meet our balanced budget obligations," he said.

The plan would yield an estimated \$933 million for the state in licensing fees and gambling revenues, but that would drop to about \$765 million after that was "netted out against other revenue changes."

While Gov. Strickland didn't say how similar his plan was to a similar proposal from the Ohio Racing Commission, his revenue projections are about \$260 million higher. The commission estimated slot machines would generate an estimated \$195 million in fiscal year 2010 and \$310 million in FY 2011 for K-12 and higher education.

As for the inevitable legal challenges to any effort to expand gambling without a vote of the people, Gov. Strickland said, "We believe we are on firm legal ground with what we are proposing and we will approach any challenge from that point of view."

Gambling opponents were quick to issue a statement questioning the constitutionality of the proposal. The plan to install slot machines at Ohio racetracks was the least objectionable among the several gambling proposals that different interests have pushed for in recent months, the governor said.

"These are existing facilities, they're in communities where gambling is already taking place. They are discreet facilities that will be in limited locations," he said. "They are appropriate venues."

SPEAKER SUPPORTS, SENATE PRESIDENT HAS 'SERIOUS CONCERNS' ABOUT EXPANDED GAMBLING

Gov. Ted Strickland got immediate backing from his fellow Democrat in control of the House but opposition from the GOP Senate leader Friday in the wake of his proposals for expanded gambling and cuts to state government to balance the pending budget.

Speaker Armond Budish (D-Beachwood), who along with Senate President Bill Harris (R-Ashland) is leading conference committee negotiations for the biennium spending bill (HB 1), lauded the governor for avoiding tax hike proposals with his plan.

"We have limited options to address the state's weakened budgetary situation. Yet, we must do all we can to avoid raising taxes on hard-working Ohio families, while protecting those who have been affected by this tough economy," the speaker said in a prepared statement.

"The cuts outlined today are indeed painful, but I am pleased with Gov. Strickland's willingness to consider offsetting some of this pain through an additional, non-tax revenue source. While I look forward to reviewing the details of this proposal, I do believe that allowing video lottery terminals at Ohio's seven racetracks will help save Ohio jobs and avoid detrimental tax increases on Ohio families.

Sen. Harris, however, said in a statement issued several hours after the governor's announcement that he continues to be leery of gambling revenues as a budget solution.

"I have been very open in my skepticism of using gambling to solve our state's revenue problems," he said. "While I understand why this option was the most attractive to the Governor, until today, he himself had made convincing arguments as to why expanded gambling was a bad idea for Ohio. In the short time I have had to look at his new proposal, I have yet to be convinced otherwise."

"To serve the best interests of the people of Ohio, I have always approached my job as President of the Senate with an open mind and a willingness to listen. In the days ahead, I will continue to review the details of the Governor's proposal. Today, I have serious concerns."

Senate Minority Leader Capri Cafaro (D-Hubbard) said, "We appreciate the Governor's leadership in making these suggestions to move the budget process forward at this crucial juncture. We need more details, but we will thoroughly review his proposals to identify the severity and implications of the cuts."

"While the idea of video lottery terminals may be difficult for some to accept, it is a better alternative than raising taxes or making more severe cuts," she added. "To put it simply, difficult times require difficult decisions."

Just as predictable as the support for slots from the speaker, a longtime advocate of expanded gambling in the state, was the firm opposition of the Ohio Roundtable, which has taken the lead in opposing casino gambling ballot issues that have been repeatedly declined by Ohio voters over the years.

"The Legislature should reject this proposal immediately and move toward balancing the state budget through fiscal responsibility," the group said in a statement.

"Today's action defies common sense and constitutional law. The Ohio Lottery proceeds by law can only be spent on educational funding. Therefore expanding the Lottery will do nothing to help the larger budget crisis. In fact, it will create a revenue stream to only assist the Governor's allies in the education establishment.

"The Ohio voters did not approve a casino-style slot scheme in the vote to amend the Constitution and legalize the Lottery in 1973. Difficult economic times do not give the Governor a free pass to trash the Constitution and the results of four statewide elections."

Ohio Republican Party Chairman Kevin DeWine said Gov. Strickland was going back on his word and "using the gambling issue as a political crutch to avoid making deeper cuts to Ohio's budget.

"This is another pathetic display of weak leadership by Gov. Strickland," he said. "The governor has already said gambling isn't the solution to Ohio's economic problems, and the lottery expansions he's already proposed have fallen dramatically short of projections. This so-called budget fix rings about as hollow as the elaborate economic development stunt he pulled in Piketon."

Sen. Bill Seitz (R-Cincinnati), a longtime proponent of slots at horse tracks, applauded the governor for "making the tough decision that Ohio cannot afford to remain an anti-gambling oasis surrounded by other states taking Ohioans' money, particularly not with the magnitude of the budget calamity that we currently face."

"This long overdue move is welcome and will go a long way towards saving the Ohio equine industry, providing badly needed funds in a time of grave fiscal challenges, and helping Ohio stay competitive with its neighboring states," Sen. Seitz said.

OHIO JOBLESS RATE RISES TO 10.8% IN MAY

The number of jobless Ohioans continued to increase in May, when the state's unemployment rate reached 10.8%, up from 10.2% one month earlier, state officials said Friday.

As usual, Ohio's unemployment rate topped national numbers, which were 9.4% in May and 8.9% in April, according to the Department of Job & Family Services. The total number of unemployed workers in May was 646,000, up from 609,000 in the previous month.

"Gains in service-providing industries were mostly offset by continued losses in manufacturing," ODJFS Director Douglas Lumpkin said in a statement. "The unemployment rate increased to 10.8% as workers reentered the labor market and many were unable to find employment."

The figures were released the same day a separate report showed a rebound in Ohio employee confidence.

Over the past year the number of unemployed workers has increased by 268,000 from 378,000 a year ago. Ohio's unemployment rate was 6.3% in May 2008.

The manufacturing sector saw the steepest decline last month with a loss of 16,100 jobs to 816,000, according to ODJFS. Meanwhile, service-providing industries added 15,400 for a total of 4,316,700. The construction industry workforce advanced slightly by 400. Government employment was down by 600.

The National Conference of State Legislatures said unemployment figures in May increased in 48 states after some positive signs the previous month.

North Dakota and Nebraska were tied at 4.4% for the lowest jobless figures in the country, according to NCSL.

GILLMOR, CAFARO BEGIN BIPARTISAN CAMPAIGN FOR 'BUY BIO-OHIO' LEGISLATION

Advocates of the state's fledgling bio-products industry joined Sen. Karen Gillmor (R-Tiffin) on Friday in support of legislation she said was part of an "attempt to drag Ohio kicking and screaming into the 21st Century."

The proposal (SB 131) would require the Department of Administrative Services to create a bio-products preferred purchasing program affecting state agencies and state-supported colleges and universities.

"During this time of economic stress we need creative solutions to help our state's economy," Sen. Gillmor said at a Statehouse news conference.

"The combined purchasing power of the state and of public colleges and universities is enormous. This bill will help capture those dollars ... which the state is already spending - so this is revenue neutral - and will channel them directly back into Ohio's economy," she said.

Bio-based products are those composed entirely, or in significant part, of renewable agriculture materials.

If enacted, the state would be required to give preference to such products unless they are not available within a reasonable time period, fail to meet performance standards, or are available only at unreasonable prices.

The bill would not apply to fuel, heating oil, or electricity.

Eligible products would be those that have been tested, certified and listed through the existing U.S. Department of Agriculture BioPreferred program.

"The major difference between the federal program and the one that I'm proposing is that Ohio would simply incorporate the federal program and preferred labeling system for state government purchasing," Sen. Gillmor said.

"Rather than having Ohio spend time and money testing and certifying the products, (the bill) simply directs the state to purchase from the federally approved list of products that have already been tested and approved," she said.

Sen. Gillmor displayed biodegradable name tag holders, DVD sleeves, and office materials that a company in her district - Univenture Inc., Marysville - produces. The products are made from a cornstarch plastic.

Ross Youngs, the founder and CEO, said there is an array of products that can be made from renewable resources.

"Building the awareness is critically important," Mr. Youngs said.

"We as a manufacturer have opportunities every day to compete. And a lot of times we've got to find those niches and those differences that help us stand out," he said.

Senate Minority Leader Capri Cafaro (D-Hubbard), who has agreed to be joint sponsor of the legislation, said the best way to reduce unemployment in the state is to create economic opportunity.

"I really am extraordinarily confident and believe that bio-product development is the single most effective way for us to stimulate every aspect of our local economy," Sen. Cafaro said.

President Mark Watkins of the Ohio Soybean Association said the legislation would provide a long-term positive benefit for the state from both an environmental and economic standpoint.

Jack Fisher, executive vice president of the Ohio Farm Bureau Federation, said the bill would preserve and create jobs by capitalizing on the strength of the agriculture and polymer industries. The OFBF has identified the measure as a key vote for the 128th General Assembly.

"The real winner for the increased development and use of bio-products is the Ohio economy and our environment," Mr. Fisher said.

Sen. Gillmor said creation of such a program was consistent with a pledge Gov. Ted Strickland made in 2007. The governor joined in signing a compact with other members of the Midwest Governors' Association to support state implementation of the federal BioPreferred program.

Among others at Friday's briefing: the Ohio Corn Growers Association, and the Ohio BioProducts Innovation Center.

A member of the Senate Agriculture Committee, Sen. Gillmor also is involved in farming on a personal level as well.

"The Gillmor family has farmed in Seneca and Sandusky counties for generations," the senator said.

Sen. Gillmor inherited five farms from her late husband, U.S. Rep. and former Senate President Paul Gillmor (R-Port Clinton). A cousin and his sons operate Gillmor Farms and recently purchased two of the properties.

AGENCY BRIEFS: STIMULUS FUNDS NOTED FOR WEATHERIZATION, ODOT, INFRASTRUCTURE

Weatherization Stimulus: Gov. Ted Strickland joined U.S. Department of Energy Secretary Steven Chu this week in announcing the agency's approval of Ohio's Home Weatherization Assistance Program plan and related funding.

The announcement paves the way for spending \$106 million of the state's \$266 million in program allotments provided through the federal stimulus measure.

"I am grateful to Secretary Chu and President Obama for providing these stimulus funds, which will allow us to expand the state's program through the weatherization of more than 32,000 homes," Mr. Strickland said in a news release. "The program expansion will help low-income Ohioans save money on energy costs, promote energy efficiency across the state and create new jobs in Ohio's growing green energy sector."

More information on the American Recovery and Investment Act and home weatherization program and guidelines is available on the state's ARRA website.

Transportation: ODOT announced it is investing federal stimulus funds into 29 roadway and bridges contracts around the state after awarding more than \$36.9 million in construction contracts this week.

Combined with funds from the American Recovery and Reinvestment Act, ODOT has awarded more than \$83.9 million on 52 projects across the state.

They will continue to invest in more construction-related jobs, connect to Ohio workers, spread their investments around the state and meet federal deadlines, the department said in a news release.

Development: Interim Director Lisa Patt-McDaniel said the agency would distribute about \$11.6 million in stimulus funds under the Community Development Block Grant Program and through the Water and Sanitary Sewer Program.

Eligible applicants must submit an expression of interest for funding on the state's ARRA website and submit a Water and Sanitary Sewer Program application with DOD, the agency said.

"Water and wastewater services are among the most indispensable benefits that a community can provide to its residents," Ms. Patt-McDaniel said. "These funds for Water and Sanitary Sewer Program projects will help increase economic efficiency by improving critical infrastructure systems throughout Ohio."

Separately, the agency announced it is accepting nominations for the 2009 Keys to Success Awards. Nominees must be female majority owners of companies with annual revenues in excess of \$250,000, except the Service category [minimum \$200,000 in annual revenue] and Rising Star category [minimum \$150,000 in annual revenue]. Social and youth entrepreneurs do not need to provide annual revenue. Nomination packages must be submitted by August 31 and the awards ceremony will be held on November 19, 2009.

COMMITTEE SCHEDULE FOR WEEK OF JUNE 22 **WEDNESDAY, JUNE 24**

House Housing & Urban Revitalization, (Chr. Foley, 466-3350), Rm. 116, 10 a.m.

HB 167 TENANT DISCRIMINATION (Murray) To prohibit an employer or a landlord from discriminating against a victim of domestic violence, to allow a victim of domestic violence to take unpaid leave for court proceedings relating to the incident of domestic violence, to allow a tenant who is a victim of domestic violence to change or have changed the locks to the tenant's dwelling unit, and to allow such a tenant to terminate a lease. (4th Hearing-All testimony-Possible substitute)

House Judiciary, (Chr. Harwood, 466-3488), Rm. 115, 10 a.m.

HB 184 EMPLOYMENT VERIFICATION (Combs) To require employers to register and participate in a status verification system to verify the work eligibility status of all new employees and to affirm their participation on their state income tax returns, to specify that an employer's failure to affirm their participation in the status verification system on their state income tax returns constitutes falsification or dereliction of duty, to require public agencies to cancel contracts with private employers who do not participate in a status verification system, to require jail officials to make a reasonable effort to verify the citizenship of confined persons, to collect electronic fingerprints of illegal aliens, and to notify the United States Department of Homeland Security in certain circumstances, to prohibit political subdivisions from restricting communication and cooperation with federal officials regarding a person's citizenship status, to require judges and magistrates to consider immigration status and other factors in determining a defendant's bail, and to declare an emergency. (2nd Hearing-Proponent)

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

SB 110 HOUSEHOLD SEWAGE (Niehaus) To revise the Household Sewage and Small Flow On-Site Sewage Treatment Systems Law, and to declare an emergency. (5th Hearing-All testimony-Possible amendments & vote)

House Ways & Means, (Chr. Letson, 466-5358), Rm. 114, 3 p.m.

HB 224 TAX CREDIT (Snitchler, Jordan) To authorize a nonrefundable tax credit for hiring and employing previously unemployed individuals. (1st Hearing-Sponsor)

HB 218 UTILITY TAXES (Winburn) To modify the tax valuation of public utility tangible personal property used to generate electricity from renewable resources. (2nd Hearing-All testimony-Possible amendments & vote)