

Ohio General Assembly Passes Legislation in Response to COVID Pandemic

By Sherri Warner

The Ohio General Assembly has passed emergency legislation in response to the COVID pandemic. The legislation has been sent to the Governor for his signature which is expected sometime today. The following issues were addressed, please click on a topic to see more information:

[Water Disconnect Orders](#)

[Child Day Care](#)

[Education](#)

[Deadline Extensions for Publicly Issued Licenses](#)

[Rehiring of Retired State Employees](#)

[DAS Capitol Projects](#)

[Medicaid Payments](#)

[Open Meetings](#)

[Budget Stabilization Transfer](#)

[45-Day Extension to Fill a County Central Committee Vacancy](#)

[Unemployment Changes](#)

[Tax Compliance](#)

[Retirement Systems Board Elections](#)

[State Audit Flexibility](#)

[Tolling on Statutes of Limitations for Civil, Criminal and Administrative Matters](#)

[County Office Requirements](#)

[Waiver of Fees for Public Works, Water Development and EPA](#)

[Temporary Nursing License](#)

[Expansion of Scope of Practice for CRNAs \(Permanent Law\)](#)

[Primary Extension](#)

Water Disconnect Orders

Requires public water systems to restore service to customers whose service was disconnected due to nonpayment of fees. It also requires that the systems waive all fees associated with the reconnection and prohibits them from disconnecting anyone for non-payment of fees for the duration of the emergency.

Child Day Care

- During the state of emergency suspends the child/staff ratios.
- Authorizes JFS to continue to pay providers during the COVID-19 emergency.
- Extends to September 1, 2020 from July 1, 2020 the date by which publicly funded day care providers must be rated in the Step Up to Quality Program.

Education

Food Processing Regulations: Allows the Director of Agriculture to exempt schools from provisions found under ORC 3715.021 IF they have been issued a license under ORC 3717 and are transporting for the Seamless Summer Option Program or the Summer Food Service Program administered by the US Dept of Agriculture. This will allow schools to continue to operate their school lunch/breakfast programs without having to have inspections typically required.

Distance Learning: ORC 3313.482 allows schools to adopt plans by August 1st of each year outlining how distance learning will be used should schools be out of session due to temporary circumstances such as weather or emergency. The plans may allow for distance learning to occur for up to a 3-day period. This language allows districts to amend those plans to encompass the time frame which falls under the Governor's Order issued on March 14th closing the schools and allows those district that did not have a plan to adopt a distance learning plan for this time frame.

State Assessments, Reports & Ratings:

- Districts will not have to administer assessments required by ORC 3301.0710 & 3301.0711 (Ohio Achievement Tests), 3301.0712 (College & Work Ready Assessment), 3313.903(Measures of Skill Attainment) and 3314.017(Academic Performance Rating Community schools), English Language Proficiency Assessments or Alternative Assessments for Students with Cognitive Disabilities.
- Prohibits ODE from subtracting from a district's state aid account students who did not complete required assessments.
- Prohibits e-schools from disenrolling students who did not complete assessments.
- Maintains eligibility for students who are receiving scholarships under Ed Choice, Jon Peterson Specials Needs or Cleveland Pilot Project for school year 20/21 if they did not complete assessments during 19/20.
- Prohibits ODE from issuing report cards, ratings or measures for schools for the 19/20 school year.
- Provides a safe harbor from penalties and sanctions for schools and districts based on the absence of state report cards for the 19/20 school year. The safe harbor includes:
 - Restructuring requirements based on poor performance,
 - The Columbus City School Pilot Project,
 - Academic distress commissions and progressive consequences from existing commissions (maintaining the CEOs powers prior to 20/21 school year)
 - Buildings becoming subject to the Ed Choice Scholarships,
 - Determinations of challenged school districts,
 - Community school closures,
 - Identification of districts and buildings for federal and state targeted support and
 - Improvement and conditions for community schools to change sponsors.
- Allows principals and reading teachers to determine if a student should be retained under the Third-Grade Reading Guarantee.
- Permits schools to issue diplomas to students who the principal, in consultation with teachers and counselors, determines has successfully completed the high school curriculum or IEP. Permits schools who's graduation requirements exceed current law to elect to require only the minimum requirements under current law when determining eligibility for high school graduation.
- Prohibits the use of the value-added progress to measure student learning attributable to teachers for their performance evaluations.
- Prohibits ODE from issuing a rating to c or finding a sponsor out of compliance with applicable laws.
- The Superintendent may waive requirements to complete reports based on data from assessment tests.
- It also allows ODE to issue one-year, nonrenewable, provisional licenses to educators that have met all other requirements for the requested license except for the requirement to pass a subject area exam.

- Gives authority to the State superintendent to adjust deadlines for teacher evaluations, intent to reemploy notifications, school safety drills, emergency management tests, requirements to fill a vacancy on a board of education, updating teacher evaluation policies and gifted screening requirements.
- Gives the Chancellor of Higher Education, in consultation with the State Superintendent, authority to extend, waive or modify requirements of the College Credit Plus Program.
- Provides the State Superintendent to waive or extend deadlines to grant flexibility to providers and students for completion of adult education program requirements.
- Waives the requirement that the parents of homeschooled students must submit assessment data to a resident school district as a condition of the district allowing the student to continue to receive home instruction in the 20/21 school year.
- Allows the local board of education to elect not to conduct evaluations of district employees and should the district not evaluate the employee shall not be penalized for the purpose of reemployment. The district may collaborate with the bargaining organization in determining whether to complete evaluations for the 19/20 year. The language specifically allows the district to use an evaluation completed prior to the Director of Health's order in employment decisions.
- The intent of the General Assembly is that districts and other schools continue to find ways to keep students engaged in learning opportunities for the remainder of the school year.

Delivery of Services to Special Needs Students: Allows professionals licensed by the Ohio Speech and Hearing Board, the Ohio Occupational Therapy, Physical Therapy and Athletic Trainers Board, the State Board of Psychology, Counselor, Social Worker and Marriage and Family Therapist Board and the Department of Education licensed intervention specialists to provide services to students electronically or via telehealth communication.

Educational Choice Scholarships: Prohibits ODE from using the criteria contained in HB 166 of the 133rd General Assembly when awarding these scholarships. Children who were eligible for the scholarship prior to HB 166 becoming law will remain eligible. Additionally, their siblings, kindergartners or others currently living in or relocating to the building or districts on the list for the 19/20 school year will be eligible.

Deadline Extensions for Publicly Issued Licenses

Extends deadlines for license renewals if the license is issued by a state agency until 90 days after the end of the state of emergency or December 1, 2020 whichever comes first. It also extends the time licensees have to comply with requirements to maintain a license. This extension does not prohibit an agency, board or commission from taking disciplinary action against a licensee except because of compliance with renewals. It also does not delay any duty an individual has to register as a violent offender, arson offender or sex offender.

Rehiring of Retired State Employees

Under current law a state employee who is reinstated within 2 months of retirement must forfeit their retirement allowance for that 2-month period. This removes that requirement for employees who have recently retired from the Departments of Rehabilitation and Corrections, Youth Services, Mental Health and Addiction Services, Veterans Services or the Department of Developmental Disabilities.

DAS Capitol Projects

Requires that the Director of DAS request a transfer from OBM of up to \$20 million from the Building Improvement Fund to the Administrative Building Fund.

Medicaid Payments

Authorizes the Director of Medicaid to classify certain providers as COVID-19 community providers and to request that the Director of OBM designate additional funds to provide for enhanced payments to these providers. ODM will share these funds with the Departments of Developmental Disabilities and Mental Health and Addiction Services who will provide enhanced payments to their COVID-19 community providers.

Open Meetings

Allows members of a public body to hold and attend meetings and may conduct and attend hearings by means of teleconference, video conference or other electronic technology. Any resolution, rule or formal action shall have the same effect as if it had occurred in an open public meeting. Members of the public body who attend using technology are considered present and permitted to vote and shall have their presence counted for purposes of determining a quorum. The language requires public bodies provide 24-hour notice to the public and the media unless an emergency arises and provides that the public and media have access to the hearing or meeting commensurate with the method in which the meeting is being conducted. The public shall have the right to observe and hear the discussions and deliberations of all members participating in the public body. When conducting a hearing the body must establish a way, through the use of widely available electronic equipment, to communicate with witnesses and to receive testimony or evidence.

Budget Stabilization Transfer

Provides a mechanism for the Governor to request from Controlling Board, a transfer from the Budget Stabilization Fund to ensure that the FY 2020 budget remains balanced. The language further requires that at least 2 members from each the House and the Senate approve the transfer.

45-Day Extension to Fill a County Central Committee Vacancy

Grants county central committees of a political party an extra 45 days to fill a vacancy.

Unemployment Changes

Eliminates the waiting period individuals normally must serve under ORC 4141.29. Provides the Director of Jobs & Family Services the ability to waive the requirement that a recipient be actively seeking work found under ORC 4141.29 (A)(4)(a). The language allows individuals to receive benefits if the individual is unable to return to work because of an order, including a quarantine order issued by the employer, Governor, local board of health or Director of Health. Clarifies that benefits paid to employees because of an isolation or quarantine order shall be charged to the mutualized account created under ORC 4141.25(B) unless they can be charged to the employer under ORC 4141.24(D)(2).

Tax Compliance

The bill authorizes the Tax Commissioner to extend the state tax filing and payment deadlines for the duration of the emergency declaration and to waive interest and penalties. It aligns the state income tax filings to the federal filing date of July 15th. This also applies to school district income taxes, municipal incomes taxes administered by the state and other fees. Specifies that for municipal income tax purposes, employees working at a temporary work site, including their homes, during an emergency period are considered to be working at their principal place of work.

Retirement Systems Board Elections

Allows these systems to delay an election of members to the board if the election is to take place during the emergency declared by the Governor. Requires the current board members to remain in office until their successor is elected and takes office.

State Audit Flexibility

Provides the Auditor of State with the authority to waive a standard financial audit after conducting an agreed upon procedure audit in two consecutive audit periods and waive criteria a public office is required to satisfy in order for the Auditor to conduct an agreed upon procedure audit rather than a standard financial audit.

Tolling of Statutes of Limitations for Civil, Criminal and Administrative Matters

Requires the criminal statutes of limitations, civil statutes of limitations and the administrative statute of limitations and other court time limitations and deadlines that are set to expire between March 9, 2020 and July 30, 2020 be tolled. These provisions end on the date the period of emergency ends or July 30, 2020, whichever is sooner.

County Office Requirements

Requires that the offices of county recorder, county auditor and the title office of the clerk of court of common pleas and a county map office remain open and operating in order to allow land professionals physical access to the office as necessary to search records not available online, digital or by other means, so long as all necessary public land records are available. Requires that all essential services to effectuate a property transfer must remain open and available. Requires that the title office of a clerk of court shall remain open and operational to allow land professionals, automobile, watercraft, outboard motor, all-terrain vehicles and mobile home dealers access to the office to process titles not available online. The language allows the offices to have limited hours and may subject searchers to requirements and restrictions in the interest of public health. The offices may allow other persons access to the office at their office's discretion.

Waiver of Fees for Public Works, Water Development and EPA

Allows the Ohio Public Works Commission to automatically extend project schedules and waive penalties and late fees owed from the issuance of outstanding loans. Allows the Ohio Water Development Authority to waive penalties and late fees owed from the issuance of outstanding loans and the Ohio EPA to waive penalties or late fees owed from the issuance of outstanding loans or permits and to suspend reporting requirements from water research recovery facilities or solid waste facilities.

Temporary Nursing License

Suspends the requirement that a candidate applying for a license to practice as a registered nurse or a licensed practical nurse pass their licensure examination prior to being licensed if the individual has met all of the other requirements including the criminal background check and completion of a nursing education program. Individuals meeting these requirements will be issued a temporary nursing license which will be valid until 90 days after December 1, 2020 or the 90 days after the end of the COVID-19 emergency whichever comes first.

Expansion of Scope of Practice for CRNAs

THIS IS THE ONLY PROVISION THAT IS PERMANENT. This language expands the scope of practice for CRNAs granting them the authority to select, order and administer drugs, treatments, and intravenous fluids for conditions related to the administration of anesthesia and under certain circumstances to direct nurses and respiratory therapists to perform specified tasks. Authorizes the CRNA to order and evaluate diagnostic tests. These expanded duties must be in accordance with the health care facility's required policy. A supervising practitioner or facility may prohibit a CRNA from performing these activities if it determines that it is not in the patient's best interest.

2020 Primary Election

Clarifies that the 2020 primary was not cancelled and extends the date by which a person can vote by mail until April 28, 2020. Requires the Secretary of State to send post cards to all registered voters (registered by the February 18, 2020 deadline) who have not yet voted during the 2020 primary informing them of their ability to still vote via mail and how to obtain an absentee ballot. Extends the date for those required to file a post-primary campaign finance report to June 5, 2020 at 4 pm.

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