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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

H.B. 606  
133<sup>rd</sup> General Assembly

## Fiscal Note & Local Impact Statement

[Click here for H.B. 606's Bill Analysis](#)

**Version:** As Passed by the House

**Primary Sponsor:** Rep. Grendell

**Local Impact Statement Procedure Required:** No

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### Highlights

- The bill's temporary civil immunity provisions may create an expenditure savings effect for local trial courts by reducing the time and effort that otherwise may have been expended to adjudicate civil actions resulting from a disaster or emergency.
- The bill's extension of the state of Ohio's statutory sovereign state immunity to include a governmental function or duty related to the COVID-19 pandemic may reduce or expedite the adjudication of cases handled by the state's Court of Claims, and potentially reduce or eliminate costs that the state otherwise may have incurred to litigate and settle such matters.
- The bill's expansion of political subdivision tort liability law potentially reduces or eliminates costs that a political subdivision otherwise may have incurred to litigate and settle disputes resulting from compliance with an order resulting from the COVID-19 or certain other conduct related to public or public health emergency.
- The bill may decrease investigation or disciplinary costs for certain state occupational licensing boards due to the expansion of immunity from professional discipline resulting from or in response to an emergency.
- The bill's additional occupational disease coverage is likely to increase the cost of claims to the State Insurance Fund, managed by the Bureau of Workers' Compensation (BWC) by an undetermined amount in both FY 2020 and FY 2021.
- The bill may also increase future workers' compensation premiums for certain public employers with eligible employees. A significant portion of the additional workers' compensation benefits paid under the bill would be from taxing districts with peace officers, firefighters, emergency medical workers, and corrections officers who generally

receive coverage under the State Insurance Fund. The remaining costs for other types of employees would be paid by self-insured public and private employers.

## **Detailed Analysis**

The bill makes temporary changes related to qualified civil immunity for health care and emergency services provided during a government-declared disaster or emergency and for exposure to or transmission or contraction of certain coronaviruses, expands the definition of “governmental function” regarding political subdivision tort liability in relation to emergency declarations, expands state immunity to include actions undertaken under a duty during the COVID-19 pandemic, and declares an emergency.

### **Civil immunity for health care providers**

The bill establishes a new temporary immunity for certain health care providers and emergency medical technicians who provide emergency services as a result or in response to a disaster as follows: applies the immunity to emergencies, extends the immunity to professional discipline, extends the immunity to health care services, extends immunity to a person who provides health care services under the direction of a health care professional, grants immunity to additional health care providers and facilities, grants immunity for certain additional actions and omissions, and modifies an exception to immunity for conduct in reckless disregard of the consequences to instead exclude from immunity conduct that constitutes willful or wanton misconduct. Beginning January 1, 2021, the immunity does not apply to a tort action for conduct that constitutes a reckless disregard for the consequences so as to affect the life or health of the patient. The frequency with which these civil immunity provisions may apply is unpredictable; therefore, the timeframe and number of civil actions that may be affected is indeterminate.

### **Civil immunity for transmission of coronavirus infection**

Subject to exceptions based on certain conduct or misconduct, the bill generally precludes bringing a civil action for damages for injury, death, or loss to person or property if the cause of action is based on injury, death, or loss caused by the exposure to, or the transmission or contraction of, MERS-CoV, SARS-CoV, or SARS-CoV-2, or any mutation thereof and applies this provision from the date of the state of emergency due to COVID-19, Executive Order 2020-01D, issued on March 9, 2020, and extends through December 31, 2020. The potential number of civil actions affected by this provision is indeterminate.

The bill defines “person” as in continuing law, i.e., an individual, corporation, business trust, estate, trust, partnership, and association, and also includes a school; a for-profit, nonprofit, governmental, or religious entity; or a “state institution of higher education,” defined as any of the 13 “state universities” under continuing law, and the Northeast Ohio Medical University, a community college, state community college, university branch established under R.C. Chapter 3355, or technical college.

The bill provides that a government order, recommendation, or guideline neither creates nor is to be construed as creating a duty of care upon any person and a presumption exists that any such government order, recommendation, or guideline is not admissible as evidence that a duty of care, a new cause of action, or a substantive legal right has been established.

## **State immunity**

Under the bill, the state is immune from liability in any civil action or proceeding existing on or after the bill's effective date (1) involving the performance or nonperformance of a governmental function or public duty as a result of a state agency's response to the COVID-19 pandemic or (2) that, as a result of the performance or nonperformance of a function or duty, an officer or employee becomes infected with COVID-19. This provision creates a savings effect by: (1) reducing or expediting the adjudication of COVID-19 cases handled by the state's Court of Claims, and (2) potentially reducing or eliminating costs that the state otherwise may have incurred to litigate and settle such matters.

## **Political subdivision tort liability law**

The bill expands the definition of "governmental function" regarding political subdivision general immunity to include: (1) compliance with an order resulting from the COVID-19 pandemic issued by the state, a political subdivision, or specified entities thereof, and (2) any operation to abate the effects of an emergency or public health emergency declaration, or the provision or nonprovision of a local government function during an emergency declaration, issued by certain specified governmental entities. This change potentially reduces or eliminates costs that a political subdivision otherwise may have incurred to litigate and settle such matters.

## **Local trial courts**

The bill may affect the local trial courts, most likely the common pleas courts, by: (1) preventing certain civil actions from being filed, or (2) expediting their resolution subsequent to the finding of the court that such persons or entities in the circumstances at hand are protected from being sued for damages. The timing, frequency, and complexity of such cases being filed in any given local trial court is unpredictable. If the bill prevents the filing, or expedites the resolution, of certain civil actions, local trial courts generally may realize an expenditure savings relative to what their adjudication costs otherwise might have been under current law. If there is in fact a savings, its magnitude is unknown, and not likely to be easily measured in terms of dollars and cents.

## **State occupational licensing boards**

The bill may affect certain occupational licensing boards, particularly those related to the health field, including the State Medical Board, the Dental Board, and the Board of Nursing. These boards may realize a decrease in the number of cases that require investigation or disciplinary action due to the expansion of civil immunity and immunity from professional discipline for health care providers during a declared emergency. As a result, impacted licensing boards may experience a decrease in related costs. The bill specifies that immunity does not apply in a professional disciplinary action if the health care provider's conduct constitutes gross negligence.

## **COVID-19 and workers' compensation benefits**

The bill modifies the list of compensable occupational diseases. Under existing law, the Bureau of Workers' Compensation (BWC) provides benefits and compensation for occupational diseases contracted by certain employees. The bill creates a presumption that COVID-19 is an occupational disease under the Workers' Compensation Law for certain employees if the

employee contracts COVID-19 during the emergency declared on March 9, 2020, by the Governor, but not later than December 31, 2020.

The following types of employees who contracted COVID-19 during that period would be covered under the Workers' Compensation Law: (1) an employee of a retail food establishment, (2) an employee of a food processing establishment, (3) a peace officer, (4) a firefighter, (5) an emergency medical worker, and (6) a corrections officer.

The additional occupational disease coverage under the bill is likely to increase the cost of claims to the State Insurance Fund, managed by the Bureau of Workers' Compensation (BWC) beginning in FY 2020. However, the additional cost is undetermined due to limited information related to the number of eligible employees who may contract COVID-19 between March 9, 2020 and December 31, 2020. A significant portion of the additional workers' compensation benefits paid under the bill would be from taxing districts with peace officers, firefighters, emergency medical workers, and corrections officers who generally receive coverage under the State Insurance Fund. The remaining costs for other type of employees would be paid by self-insured employers. The bill may also increase future workers' compensation premiums for certain public and private employers with such eligible employees.