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H.B. 90
(1_134_0628-5)
134th General Assembly

Fiscal Note & Local Impact Statement

[Click here for H.B. 90's Bill Analysis](#)

Version: In House State and Local Government

Primary Sponsors: Reps. Wiggam and Edwards

Local Impact Statement Procedure Required: No

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Highlights

- The General Assembly may experience an increase in administrative costs if any order, rule, or emergency declaration is rescinded by concurrent resolution.
- The Ohio Department of Health (ODH) and Governor's Office may incur some administrative costs to report actions taken in response to a public health state of emergency.
- The Joint Medicaid Oversight Committee may realize an increase in costs to provide staff and services to the Ohio Health Oversight and Advisory Committee.

Detailed Analysis

Orders, rules, and public health emergency limits

The bill allows the General Assembly to rescind, by passing a concurrent resolution, the following: executive orders or emergency declarations issued by the Governor, any order, rule, or regulation issued by the Ohio Department of Health (ODH) or a local board of health related to a public health state of emergency. The bill also includes orders or rules issued or adopted by a statewide elected officer, an administrative department or department head, or state agency. The bill limits the adoption, amendment, or rescission of a rule or order in response to a public health state of emergency to 30 days unless it is extended by the General Assembly by adopting a concurrent resolution. The bill allows the General Assembly to invalidate certain emergency rules adopted or amended by an agency or authorize certain rules rescinded by an agency to be reinstated. After the General Assembly makes such a rescission, invalidation, or reinstatement, the Governor, ODH, local boards of health, and/or the agency is prohibited from reissuing or readopting the order, rule, or declaration (or a restriction contained in a previously rescinded order, rule, or declaration) for 90 days. However, upon request of the Governor or statewide

elected officer showing a significant unforeseen change in circumstances to justify overcoming a previous rescission or restriction issued in response to a public health state of emergency, the General Assembly may adopt a concurrent resolution to reissue a rescinded order or rule. The bill provides that any executive order or emergency declaration issued by the Governor, any state and local orders, rules, and regulations issued by a statewide elected officer, administrative department, department head, or state agency, or any order, rule, or regulation issued by ODH or a local board of health related to a public health state of emergency, that is in effect on the bill's effective date, is subject to review and rescission by the General Assembly and by the Ohio Health Oversight and Advisory Committee, which is created by the bill and discussed in more detail below. In addition, any of executive order, order, rule, regulation adopted, rescinded, or amendment in response to a public health emergency in effect on the effective date of the bill terminates 30 days after the effective date, unless extended by the General Assembly. As a result, the General Assembly may experience an increase in administrative costs depending on the number of orders, regulations, or rules reviewed. These costs would likely be absorbed with existing staff and budget. ODH, relevant state agencies, local boards of health, and the Governor's Office may have costs if they have to prepare any documents, address questions, etc. during this process. There could also be other direct or indirect state and local impacts. However, the impacts would depend on the number and scope of the orders or rules in place and whether or not the orders or rules are rescinded or extended.

The bill limits the duration of a "public health state of emergency" to 30 days unless the General Assembly passes a concurrent resolution to extend the emergency. There is no limit to the number of extensions the General Assembly may provide, but each extension cannot exceed 60 days. During a public health state of emergency, the Governor and ODH are required to report to the President of the Senate and Speaker of the House of Representatives every action the Governor or ODH take in response to the emergency. As a result, ODH and the Governor's Office may experience an increase in administrative costs to report this information. The cost will depend on what information is necessary to provide. In addition, the General Assembly could have costs if it chooses to extend a public health state of emergency. Any other impacts depend on the circumstances of the public health state of emergency itself and whether or not the duration is extended.

The bill also permits a person who challenges an order or rule issued in response to a public health state of emergency to do so in the county where the person's residence or business is located. The bill requires the state to pay reasonable attorney's fees and court costs on behalf of a person who successfully challenges an order or rule. There may be costs to local courts if any additional cases are filed as a result of the bill's provisions. Additionally, involved state agencies may experience an increase in costs for attorney's fees if any person successfully challenges an order or rule. These costs will depend on the number of cases filed and the number/scope of successful challenges.

Ohio Health Oversight and Advisory Committee

The bill establishes the Ohio Health Oversight and Advisory Committee and outlines its membership (five members from the Senate and five members from the House). The bill also outlines the Committee's duties, including overseeing actions taken by the Governor or ODH during a public health state of emergency or actions ODH or a local board takes during such a state of emergency. Under the bill, the Committee may, by a vote of the majority of its members,

beginning on the 11th day of a public health state of emergency, rescind an executive order issued by the Governor in response to the public health state of emergency. Following the issuance of an executive order in response to a public health state of emergency, the Committee, by majority vote, may invalidate or authorize a rule and may rescind any order, rule, or regulation related to a public health state of emergency issued by ODH or a local board. The Governor may submit a request to the General Assembly to reissue an order, or a restriction contained in an order or declaration that has been rescinded if there are significant unforeseen changes to justify such action. To assist the Committee in performing its duties, the bill permits the Committee chairperson to issue subpoenas. Before issuing subpoenas, the Committee chairperson must receive authorization from the Committee, the President of the Senate, and the Speaker of the House. The bill requires the Executive Director and staff of the Joint Medicaid Oversight Committee (JMOC) to serve the Committee to enable it to successfully and efficiently perform its duties.

There would be costs for the Ohio Health Oversight and Advisory Committee to review actions taken by the Governor, ODH, and local boards of health and to consult and provide advice regarding necessary and appropriate actions. Additionally, JMOC may experience an increase in costs to provide staffing and services to the Committee. These costs will depend on a number of factors including the number and scope of actions, orders, or rules reviewed. Additionally, since the bill allows the Committee to issue subpoenas, there could be costs to the sergeant-at-arms of either chamber or the county sheriff if any subpoenas are delivered. If any persons issued a subpoena fail to appear, there could be court and enforcement costs. However, it is anticipated that this would rarely occur, so any impacts would be minimal. There could also be other direct or indirect state and local impacts. However, the impacts would depend on the number and scope of the orders or rules in place and whether or not the orders or rules are rescinded or invalidated.

Synopsis of Fiscal Effect Changes

The substitute bill, L_133_0628-5, adds any order, rule, or regulation issued by a local board of health related to a public health state of emergency, and orders or rules issued or adopted by a statewide elected officer, an administrative department or department head, or state agency, as being subject to review by the General Assembly and the Ohio Health Oversight and Advisory Committee under the bill. This may increase costs for the General Assembly, compared to the previous substitute bill, L_133_0628-3, as more rules or orders may be subject to review. There may also be additional costs for state agencies or local boards of health to provide any necessary information to the General Assembly during the process. There could also be other direct or indirect state and local impacts. However, the impacts would depend on the number and scope of the orders or rules in place and whether or not the orders or rules are rescinded.

The substitute bill also permits, upon request of the Governor showing a significant unforeseen change in circumstances to justify overcoming a previous rescission, the General Assembly to adopt a concurrent resolution to reissue a rescinded order or rule. This provision was not included in the previous substitute bill, L_133_0628-3; thus, there could be additional costs for the Governor's Office and the General Assembly for an order or rule to be reissued. There could be other direct or indirect state and local impacts depending on the order or rules that are reissued by concurrent resolution.

Additionally, the substitute bill permits a person who challenges an order or rule issued in response to a public health state of emergency to do so in the county where the person's residence or business is located. The substitute bill requires the state to pay reasonable attorney's fees and court costs on behalf of a person who successfully challenges an order or rule. These provisions were not included in the previous substitute bill, L_133_0628-3. There may be costs to local courts if any additional cases are filed as a result of the substitute bill's provisions. Additionally, involved state agencies may experience an increase in costs for attorney's fees if any person successfully challenges an order or rule. These costs will depend on the number of cases filed and the number/scope of successful challenges.