

## Columbus Office

Vern Riffe Center  
77 S. High Street  
11th Floor  
Columbus, Ohio 43215-6111  
(614) 466-9078  
[Rep50@ohiohouse.gov](mailto:Rep50@ohiohouse.gov)  
[www.ohiohouse.gov](http://www.ohiohouse.gov)



## Committees

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Development

## Reggie Stoltzfus State Representative 50<sup>th</sup> Ohio House District

Chair Wiggam, Vice Chair Stephens, Ranking Member Kelly, and Members of the House State and Local Government Committee; thank you for the opportunity to testify today on HB 649.

As a state we have experienced an unprecedented challenge in facing the real life consequences of a medical crisis presented by a contagion. It isn't the first time our nation has had to respond to a new contagion and it probably won't be the last. But we, as the legislative branch, have a constitutional role that we have taken an oath to uphold. We appreciate the opportunity today to present a legislative strategy in HB 649 that would balance our duties with the administrative responsibilities of the executive branch.

Over the past few months, this pandemic has caused heightened attention on RC 3701.13 which unconstitutionally confers "ultimate authority" to a single executive officer to make, modify, and abolish policies which carry the enforceable weight of law - without limitations.

This legislative authority violates an expressed prohibition in Article II, Sec. 26 of the Ohio Constitution, which states, "All laws of a general nature shall have uniform application throughout the state; NOR shall any act, except such as relates to public schools, be passed to take effect upon the approval of any other authority than the General Assembly, except, as provided in this constitution."

This legislation will amend the concept of special orders or rules, and a plan for responding to an epidemic or pandemic. It will change the role of the ODH director from holding "ultimate" legislative authority to providing expertise and specific enforceable policies with oversight from this Assembly, as constitutionally charged.

The special orders or rules would be submitted to the legislature. Both chambers would be responsible for reviewing within 5 days. With a majority vote in both chambers we would either approve, modify, limit, or prior to it taking effect or deny the order. Once effective, the special order or rule would expire in 30 days. If more time is needed and/or the ODH needs to adjust the state's response the process can repeat itself.

Not only does this bring RC 3701.13 into compliance with the Ohio Constitution, but it also accomplishes a few additional objectives. The 30-day window is very similar to the order extensions we have experienced this year. Thirty days provides time to see what the intended and unintended effect of the rule provides. We believe it will also strengthen communication between the executive branch and the legislative branch.

This bill would place specific limitations on special orders or rules. We believe it is possible to confront a new contagion without compromising basic constitutional protections that are guaranteed to our citizens.

For example, HB 649 would prohibit any entity other than the General Assembly from postponing a state or local election. This is consistent with the U.S. Constitutional requirement described in Article I, Sec. 4, which states, “The Times, Places and Manner of holding Elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof...”

Property rights are one of our most basic inalienable rights. In our state constitution this protection is described in the first section of the first article. In the U.S. Constitution, it is embodied in both the 5th and 14th Amendments. In the 14th Amendment it states, “...nor shall any State deprive any person...of property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”

HB 649 prohibits the seizure of property, business closures, and restricted access to business without due process as is constitutionally required.

This bill will prohibit the general mandatory quarantine or isolation of people not exposed or medically diagnosed with the disease specified in the epidemic or pandemic. This experience with COVID-19 is the only time in our nation’s history that healthy people have been quarantined or isolated. With this change Ohioans will be free to make the best decisions for themselves and their families.

Finally, HB 649 will place certain limitations on the conducting of tests for the presence or absence of a life-threatening, communicable disease without the informed consent of the person tested. It will also protect the biometric record of a person’s DNA from being shared with any entity. This is an important protection of consent and privacy rights.

Thank you for the opportunity to testify today. We would be glad to answer any questions you may have.

Chair Wiggam, Vice Chair Stephens, Ranking Member Kelly, and Members of the House State and Local Government Committee; thank you for the opportunity to testify today. I’m happy to answer any questions you may have.