

Chairman Wiggam, Vice Chairman Stephens, Ranking Member Kelly and members of the State and Local Government Committee, thank you for allowing me to come before you today in support of Senate Bill 311.

SB311, similarly to HB 618, is a bill to restore oversight of the actions of the Executive branch in dealing with a health emergency to the elected lawmakers in Ohio.

Senate Bill 311 does a number of necessary things:

1. the bill prohibits any health orders from being applied to or enforced against anyone not either directly exposed to or medically diagnosed with the disease that is the subject of the order (3701.13A1)
2. The Ohio Department of Health would be prohibited from making any special or standing order or rule that has effect of being a general statewide or regional quarantine (think our current county color-code map) that would affect those not directly exposed or medically diagnosed with the disease that is subject of the order or rule (3701.13B2)
3. Reasserts that the Assembly has power to use a concurrent resolution vote to rescind any special or standing order or rule issued by ODH (3710.13B3)
4. Prohibits any action taken by the Director of the Department of Health from being applied as in point 1 above (3701.14A2)

Essentially, the bill keeps the ODH powers under 3701.13ff from being utilized in a broad sweeping sense and requires that such orders or ODH actions stay focused upon the disease and those directly affected (directly exposed or medically diagnosed). The bill is silent as to who determines someone has been directly exposed or who or what entity makes such medical diagnosis. This leaves the door wide open for the Governor's contact tracing program to continue or to be ramped up in order to "comply" with the provisions of the bill. This is something that this committee should consider revising.

SB 311 does nothing, unfortunately, to limit the initial duration of such orders or actions, nor does it require specific approval of the Assembly, as does HB 618, for such actions to be undertaken.

It does give the Assembly express authority to bring such orders to an end by concurrent resolution vote, which means simple majority votes in both chambers. It is silent as to whether or not the Executive would be prohibited from, in response to such Assembly action, issuing a new order substantially identical to the order subject to the concurrent resolution revocation. That may be a mechanism that would need to be explored in any concurrent resolution offered on the topic.

Nothing in the bill requires ODH, the Governor, etc. to work in collaboration with the elected Assembly regarding the determination of health emergencies nor requires the Executive branch to seek supplemental approval of the Assembly to extend such orders once issued. Since this is a

key failure of the state's original response to this pandemic, it would follow that adding provisions to this effect would be a necessary step to ensure a truly collaborative process.

Essentially, SB 311 is a welcome response to the over-reaching nature of the unilateral pandemic response by the Administration. It would stand to be made more effective if this body would consider a hybridizing of this bill with the provisions of HB 618, especially since this bill is also silent to the authority over our elections as well.

We would respectfully urge this body to favorably consider this important safeguard to Ohio's separation of powers, and move quickly and in bipartisan fashion to place this into our statutes. Thank you for your kind attention to these comments, and I would be happy to take any questions of the committee.