

HB90 Proponent Testimony

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Representing Equal Protection for Posterity

House State and Local Government Committee

February 17, 2021

Chairman Wiggam, Vice-Chair John, Ranking Member Kelly, and Members of the House State and Local Government Committee,

Thank you so much for this opportunity to provide written testimony regarding HB90. I am the Ohio Chairperson for Equal Protection for Posterity, but perhaps more notably for this bill, my primary position and career is as an infectious disease epidemiologist. I have a tenured faculty position at a well-respected university in Ohio, have studied infectious diseases since 2000, and I have a PhD in epidemiology. I teach an undergraduate course in epidemiology. **My views are my own.** I hope you will find this expertise valuable in my written testimony.

I am a **proponent of HB90** because the state's response in 2020 to the COVID-19 pandemic demonstrates that a single elected official plus a single, unelected official appointed by that aforementioned elected official, should not hold unfettered power over the economic and psychosocial well-being of an entire state. Before I elaborate on that point, I would like to briefly summarize what this bill does and does not do in that vein, because in previous hearings on similar bills, I have noted some confusion on these matters.

HB90 reinstates the balance of 3 equal branches of government that is the design of a constitutional republic. By creating a small, bipartisan committee that oversees decisions made by the governor and ODH director, and then extending the ability to extend or rescind orders to the General Assembly, the legislative branch regains the ability to represent their constituents. This is critical, since representatives and senators are directly accountable to their districts. HB90 does not take away the ability of the governor and ODH director to declare a state of

emergency, or to initially put emergency orders in place. HB90 does however limit the duration of those orders, and puts oversight in place, so that “2 weeks to flatten the curve” doesn’t turn into “9 months and counting to make sure no one ever gets sick”.

Now, please allow me to state how, in my view as an epidemiologist, not having legislative oversight in place, and having all decisions made by two individuals, is something we must avoid in the future. First, let’s recall the “models” that were used to lead the state into a spiral of business and school closures. As outlined in a white paper released by Health Freedom Ohio¹, which I helped prepare, the models used by the state were flawed from the very beginning. As stated in the online seminar given by the modeler at Ohio State², the projections were highly susceptible to changes in model assumptions, and it was “too early to tell” what the epidemic would look like in Ohio. Additional significant limitations of this model as well as other models used by the state are described within the white paper cited above. And yet, these models were used as the primary motivation behind 8 weeks of orders from the Director of the Ohio Department of Health.

Interestingly, models have not been used since those initial months, but business closures, mask mandates, school closures, curfews, etc. continue to be “ordered” with no solid data or model justification. While the governor cites data, media reports³ described in detail through reporter Jack Windsor’s testimony on HB624 last year illustrate how these data are faulty. And yes, I, as an epidemiologist have examined these data myself on multiple occasions and can confirm what Mr. Windsor has said about the significant issues in data reporting. These issues have actually gotten worse. First, individuals are reported as “COVID hospitalizations” if they ever were indicated as a “COVID case” (which could be false positives, which is yet another issue) and were hospitalized at any time for any reason. For example, a person could have tested positive in March, and was hospitalized in November – that counts (and it shouldn’t if we are only truly interested in public health impact of COVID19). Second, often the dates of case report,

¹ https://healthfreedomohio.org/News-Views/8962174?fbclid=IwAR1AvhIOWHEWjy_nObbRGedr2b3-XSfMdbY5-kHUzMOhOJBaF44yVihQ7s

² <https://video.mbi.ohio-state.edu/video/player/?id=4888&title=Mathematical%20Models%20of%20Epidemics%3A%20Tracking%20Corona%20virus%20using%20Dynamic%20Survival%20Analysis>

³ <https://www.wmfd.com/article/governor-dewine-suppresses-data-disproving-covid-19-policies/3899>

hospitalization, and death do not line up. People have dates of death in January 2020... which pre-date the pandemic. There are countless irregularities in the data that are frankly medically impossible – I won't belabor this point in an attempt to keep this document at a manageable length, but I can provide the committee with more detail if requested. You might say, well, messy data happens, it's just a mistake. But these mistakes perpetuate a false narrative. Hospitalization numbers are blown out of proportion. Hospitalizations were used by the governor in a recent tweet to justify the curfew... again, that is not based on anything scientific, and frankly those hospitalization numbers are inaccurately reported. The state had an opportunity to use state-wide survey data to strengthen their case; as we show in another paper that I helped prepare ⁴, the validity of this study is questionable. **I strongly encourage you to read that paper (reference #4)**, since tax dollars were used to conduct the study.

It is also concerning that the governor and ODH director often use words like 'the science is irrefutable' and 'all experts agree'. Science is never without debate and no, not all the experts agree. Just the mere existence of the Great Barrington Declaration ⁵, signed by over 13,000 medical and public health scientists and over 40,000 medical practitioners, is evidence of this. Several infectious disease experts have been outspoken on this matter and their voices have been silenced. In addition, the literature suggests that a minority of transmission occurs via asymptomatic individuals ⁶. Mask mandates are based on this concept of asymptomatic transmission, and a wealth of scientific literature suggests that masks do not work to prevent infection or transmission ⁷. I have yet to see any scientific justification for curfews. There needs to be a solid justification for these policies, and it is lacking currently. **I want to stress this point because this same committee raised this point in hearings last year – there is no transparency regarding the data, models, analyses, etc. that motivate the governor and ODH's various orders.** If I, as an infectious disease epidemiologist, do not see a connection between the actual data and these orders, there should be concern.

⁴ <https://healthfreedomohio.org/News-Views/9354321>

⁵ <https://gbdeclaration.org/>

⁶ <https://healthfreedomohio.org/News-Views/9354321>

⁷ https://healthfreedomohio.org/all_about_masks

There was a lot of discussion by legislators on the topic of masks in the hearings of SB22, the parallel bill in the senate. Because some of the orders have focused on masks, it is important to address this briefly but clearly. **The extant scientific literature, at the beginning of the pandemic, did not support a role of face coverings in preventing viral transmission.** Dr. Anthony Fauci was quoted many times saying that masks provided a sense of security, and nothing more ⁸. Studies conducted in 2020 have supported those earlier studies, showing that masks do not prevent COVID19 transmission either. Studies before 2020 and in 2020 also show adverse medical reactions to wearing masks. Recently the CDC published a study supporting a role for double masks and/or tighter fitting masks, but note this study was conducted on dummies in a controlled environment, not on human beings out and about in the world that touch and readjust their masks regularly, which promotes infection and contamination. The repetitive mantra is “trust the science” – I encourage you to take some time to read **reference #7**, which actually summarizes the published papers with peer-reviewed publication links. This point is worth emphasizing because there are valid medical and psychological reasons why some people cannot wear masks, and these individuals have been prevented from accessing services and have been berated in public. While the governor’s orders do include exemptions for these people, businesses and the public disregard those exemptions, because in the words of a business owner I have spoken with, “their [media/ODH/governor] megaphone is louder than ours”. The fear narrative pushed by the executive branch and ODH has ostracized an entire segment of the population, all over an issue that is **not supported by the science.**

When decisions affecting the economy and well-being of an entire state are being made, they cannot be made by only a single unelected individual or that individual in collaboration with the governor. That is not how a constitutional republic form of government is set up. More importantly, it cannot be reasonably expected that a public health official can also have the expertise to consider economic and other implications. This was well-stated by an internationally-renowned epidemiologist, whose paper was one of the first to describe how initial projections on the potential case fatality rate for COVID-19 were overblown, and there would be

⁸ <https://thenewamerican.com/magazine/tna3620/page/91715>.

wide-ranging other implications of a shutdown ⁹. That paper was published in March 2020, and it was honestly prophetic. A short emergency order, with oversight by the committee established by HB90, would alleviate this concern. Since science is purported to be the basis of policy development in response to a pandemic like COVID-19, this committee would serve as a “peer-review” board of sorts, which is one of the foundations of science. Such peer-review may have identified the flaws in the original model projections.

Please recall your oath of office, that your job is to uphold and defend the Constitution. The Declaration of Independence asserts,

“We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty and the pursuit of happiness. That to secure these rights, governments are instituted among men... “

The state-wide shutdown over COVID-19 has violated that central premise of this nation’s foundation. Those rights have been violated. The government has determined which jobs are “essential”, which feels a lot like communism. Churches have closed, which is a violation of the 1st amendment. Countless lives have been affected through job loss, delay in health care, and school closures. As clearly summarized in the Health Freedom Ohio white paper (reference #1), the epidemiology of this “pandemic” does not justify the immeasurable effect on Ohioans. But to be clear, these decisions have been driven by two people. Not the legislature that is directly accountable to their constituents, literally two people, one of whom is appointed and not elected. HB90 will remedy that imbalance of power.

Thank you for this opportunity provide testimony. I would have loved to testify in person so that I could answer any of your questions, and I would welcome any opportunity to discuss these issues further.

Cathy Stein, Ph.D.

⁹ <https://www.statnews.com/2020/03/17/a-fiasco-in-the-making-as-the-coronavirus-pandemic-takes-hold-we-are-making-decisions-without-reliable-data/>

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