

Ohio Senate Judiciary Committee

HB606

Written Testimony

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Chairman Eklund, Vice-Chair Manning, Ranking Member Thomas and members of the Senate Judiciary Committee, thank you for the opportunity to provide testimony on House Bill 606.

My name is Christopher Mabe, President of the Ohio Civil Service Employees Association. OCSEA represents over 27,000 members whose jobs are all crucial to the State of Ohio and the general public. We call all of them HEROES. Some of our heroes are and will always be on the frontlines regardless of whether there is a pandemic or not. Their jobs are that crucial to Ohio. Some of our frontline heroes are still in the hotspots at DRC & DYS facilities, they are manning the unemployment crisis, taking care of residence at DODD facilities and protecting our Veterans at our Ohio Veterans' homes. Those are just a few of the frontline heroes we list as examples.

House Bill 606 addresses several issues that the State of Ohio, businesses, and healthcare providers are facing as a result of the COVID19 pandemic. As the representative of more than 27,000 State of Ohio workers, we wish to highlight serious concerns regarding the effects of HB 606 on the State of Ohio specifically as an employer of essential workers, and a provider of essential services during the COVID19 pandemic crisis. OCSEA is alarmed that some of the provisions of this bill will make State essential workers less safe and legally liable for litigation even in cases where they have conducted official State business and committed no wrong.

First, the bill proposes changes to indemnification of State employees in section 9.87. The new language will dictate that “the State shall not indemnify an officer or employee ... for any portion of a judgment where a cause of action exists on or after the effective date of this amendment that involves 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.” Even as the State of Ohio extends legal immunity to itself for actions taken by the State to respond to the pandemic, the State is breaking with past precedent by now exposing individual officers to legal liability for following orders. In plain language the State is giving itself immunity and putting officers on the hook.

Second, sections **9.87** and **2743.02** preclude legal relief for any State employee who is clearly endangered and harmed by their employer’s unwillingness to enact basic standards of safety against COVID19 transmission, even in cases of clear negligence. In fact, we fear the provisions of this bill go so far as to prevent relief for any employee who suffers retaliation from the employer in cases where the employee highlights unsafe conditions for staff or citizens of the State to which the State has a statutorily defined public duty. This creates a moral hazard wherein the State has no incentive to appropriately prioritize the safety of employees or the public because it can suffer no consequences. This is the opposite of transparency and accountability.

These provisions are both unconscionable and impractical. Dozens of staff have fallen ill with the virus and exposed their own families. Some have lost their lives because they continued to punch the clock and do the work Ohio needed them to do. By taking this action, the State is obfuscating its legal and moral responsibility and as a result harming the essential, frontline workers who have been at the forefront of this crisis for months.

And HB 606 is impractical because it will make staffing the correctional facilities even more dangerous, thankless, and untenable. Ohio’s prison system has remained fully functional during the COVID19 crisis even as the system has been one of two hubs of Ohio’s outbreaks (along with

nursing homes,) and Marion Correctional Institution was recognized as a national hotspot by the national media. The strain on staff and staffing levels is becoming apparent. Now under HB 606, officers will have no sane reason to expose themselves and their families to COVID19, while also carrying a new legal burden mandated by the State. Working for the State of Ohio will become synonymous with COVID19, legal liability, and low pay.

HB 606 in its current form puts officers on the hook for litigation even when they are conducting their regular state duties, and gives the state broad, unprecedented immunity from litigation that will make employees and the public less safe. This crisis has called for courage and sacrifice from Ohio's frontline workers, and they have answered that call. We urge the Committee to reject these troubling provisions and work with us on language that make essential staff safer, not more under threat. Thank you for allowing OCSEA the opportunity to provide testimony.