



Government Affairs Committee

November 30, 2011

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2012 Government Affairs Committee Calendar

Wednesday, March 14, 2012
 Wednesday, June 6, 2012
 Thursday, September 20, 2012
 Wednesday, November 14, 2012

OMA Government Affairs
 Committee Meeting Sponsor:



OMA Government Affairs Committee

November 30, 2011



AGENDA

Welcome & Self-Introductions

Caroline Ramsey
Honda of America Manufacturing
Committee Chair

Federal Highlights

Barry Doggett
Eaton Corporation
NAM Regional Vice Chair

OMA Counsel's Report

Kurt Tunnell
Bricker & Eckler, LLP

Staff Reports

Ryan Augsburger
The Ohio Manufacturers' Association

Kevin Schmidt
The Ohio Manufacturers' Association

Guest Panel

Sen. Bill Seitz
Taft Stettinius & Hollister LLP

Matt Borges
Roetzel & Andress

Kurt Tunnell
Bricker & Eckler, LLP

Committee Chair Rotation

Caroline Ramsey
Honda of America Manufacturing

Jeff Fritz
Dupont

SAVE THE DATE 2012 Meeting Schedule:

Wednesday, March 14, 2012
Wednesday, June 6, 2012
Thursday, September 20, 2012
Wednesday, November 14, 2012

Additional committee meetings or teleconferences, if needed, will be scheduled at the call of the Chair.

Thanks to Today's Meeting Sponsor:



Committee Meetings begin at 10:00 a.m. and conclude by 1:00 p.m. Lunch will be served. Please RSVP to attend meetings by contacting Judy: jthompson@ohiomfg.com or (614) 224-5111 or toll free at (800) 662-4463. Indicate if you will be participating in-person or by phone.

William J. Seitz III

Partner

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BILL SEITZ graduated summa cum laude from the University of Cincinnati in 1975 and from the University of Cincinnati School of Law in 1978, where he was Order of the Coif and a member of the Law Review. He is a partner in the Litigation Department of Taft Stettinius & Hollister LLP. He is experienced in antitrust matters, including criminal and civil proceedings under federal and state antitrust, franchise and dealer relationship laws and Hart-Scott-Rodino Act premerger notification compliance; general commercial contract; zoning and real property litigation and administrative proceedings; RICO; public law; and business tort litigation. Mr. Seitz serves in the Ohio Senate, currently as Chair of the Judiciary-Civil Justice Committee and as a member of the Judiciary-Criminal Justice; Finance and Financial Institutions; Insurance, Commerce and Labor; State and Local Government and Veterans Affairs Committees; NCSL Standing Committee on Law and Criminal Justice; Ohio Cultural Facilities Commission; Physician Loan Repayment Advisory Board; RECLAIM Advisory Committee; Joint Commission on Most Favored Nation Clauses in Healthcare Contracts; Interagency Council on Homelessness and Affordable Housing; and the newly-formed Senate Committee on Government Oversight. From 2001-2007, Mr. Seitz served in the Ohio House of Representatives. While in the Ohio House, he served as Majority Whip, Assistant Majority Whip, and as Chair of the Majority Policy Committee. He also served on the House Civil and Commercial Law Committee (former chair); and as a member of the House Criminal Justice; Judiciary; State Government; Health and Human Services; Public Utilities; Banking Pensions and Securities; Ways & Means; Commerce & Labor; and Municipal Government Committees. He has been a legislative member of the Legislative Service Commission, the Clean Ohio Council, the House Rules Advisory Committee, and the Joint Select Committee on Volume Cap Allocation. Before that, Mr. Seitz served for seven years as a Green Township Trustee and for four years as a member of the Cincinnati Public School Board. Mr. Seitz is listed in the *Best Lawyers in America*.



Practice Groups:

Antitrust, Public Law, Franchise and Distribution, Litigation

Bar/Court Admissions:

Federal

6th Circuit Court of Appeals, Southern District of Ohio

State

Ohio

Year First Admitted to Practice Law:

1978

Education:

University of Cincinnati College of Law (1978), University of Cincinnati (1975)

Professional Affiliations / Recognitions:

AV Peer Review Rating (LexisNexis/Martindale-Hubbell), Best Lawyers in America, Cincinnati Bar Association, Ohio Cultural Facilities Commission, Ohio State Bar Association, Ohio Super Lawyers, Top 50 in Cincinnati



Matthew J. Borges

Government Relations Director *

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Mr. Borges brings 20 years of experience in the political arena to Roetzel's Government Relations group of professionals. As a veteran participant in and advisor to many successful political campaigns at the local, state, federal and national levels, he has built a strong political network throughout Ohio and the United States. Mr. Borges served as Executive Director for the Kasich-Taylor New Day Inaugural Committee and managed Dave Yost's successful campaign for Ohio Auditor of State. Previously he served as Chief of Staff and Campaign Manager for Treasurer of State Joseph Deters. He was also a lead representative for Senator John McCain and Sarah Palin's Presidential Bid in 2008, and worked with the Office of the Vice President, Dick Cheney, where he acted as Lead Advance Representative from 2001 to 2007. Mr. Borges also ran the successful 2010 primary bid for Bob Gibbs for Congress and consulted for the National Republican Congressional Committee (NRCC) in 1992, 2000, and 2010.

Education

- 1994 B.A., The Ohio State University, Political Science



Kurtis A. Tunnell

Kurt Tunnell is the managing partner of Bricker & Eckler LLP. He also chairs the Manufacturing and Transportation & Logistics groups. Kurt has unique expertise in the development and operation of legislative coalitions to advocate public policy goals through the Ohio General Assembly, including service as legislative and legal counsel to the over 200-member Ohio Alliance for Civil Justice which has advocated dramatic and comprehensive tort reform initiatives including medical criteria for asbestos, silica and mixed dust cases. He has significant experience before the Ohio General Assembly and the Administration in representing trade associations and business coalitions in complex and technical public policy debates to develop and implement strategies for the successful enactment of legislation.

Kurt led the legislative initiatives which have reduced and broadened the insurance premium tax, applied Ohio's tax abatement law to all electric generation facilities and eliminated the tax on prescription pharmaceutical samples. He assisted in the development of a coalition of advanced energy companies, including solar, wind and biomass business, to advocate adoption of a renewable energy portfolio standard in Ohio.

He has extensive experience in and a practical understanding of the executive branch of State government, including the Governor's office, all major departments and agencies, and the significant Ohio boards and commissions. His practice emphasizes Ohio governmental ethics and election laws, petition and ballot issues, formation and development of corporate political action committees, utilization of alternative dispute resolution in a governmental context, and he is an active appellate advocate for trade associations filing numerous *amicus briefs* in federal and state courts on behalf of insurance, manufacturing and other business interests.

Kurt serves as legislative Counsel to the Association of Ohio Life Insurance Companies, as general counsel and Parliamentarian to the Ohio Republican Party, as general counsel to the Ohio Manufacturers' Association, as counsel for the American Insurance Association in Ohio, as special Ohio counsel to the National Federation of Independent Business and as special Ohio counsel to the Ohio Farm Bureau Federation. He served as Chief Legal Counsel to Ohio Governor Voinovich from 1991 to 1994 and was responsible for providing counsel on legal and policy matters to the Governor, chief of staff, and other members of the governor's office, as well as directors of the administrative departments of state government.

Public & Community Service

- Member, Board of Trustees, Marburn Academy
- Treasurer, Ohio Public Expenditure Council
- Leadership Columbus Program, 1989 Participant
- The Executive Order of the Ohio Commodore
- Eagle Scout
- Member, Simon Kenton Council of the Boy Scouts of America Board Nominating Committee

Bar Admissions & Activities



Contact Info

| | |
|---------|----------------------|
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Services

- Banking & Financial Services
- Corporate Governance
- Government Relations
- Green Strategies
- Insurance
- Manufacturing
- Transportation & Logistics
- Appellate Advocacy
- Campaign Finance Compliance
- Elections & Ballot Issues Compliance
- Energy Efficiency
- Energy Policy & Regulatory
- Higher Education Services
- Insurance Litigation
- Insurance Regulatory Compliance
- Lobbying Compliance & Support
- Project Finance
- Stimulus Funding (ARRA)
- Stranger-Originated Life Insurance (STOLI)
- Sustainable Energy Solutions
- Public Records and Open Meetings Act
- Shale, Oil and Gas
- Health Care

Recent Bricker Publications

- Public Utilities Commission of Ohio Releases Alternative Energy Portfolio Standard Rules
May 04, 2009
- Ohio's Anti-STOLI Legislation
June 03, 2008

- Member, American, Ohio State and Columbus Bar Associations

- Ohio Supreme Court Holds Statute of Repose and Subrogation Statutes Facially Constitutional
February 22, 2008

Awards & Recognition

- Listed, *Best Lawyers in America* (government relations) 2011-2012
- Recipient, National Diversity Council's "Champion of Diversity Legal Award," 2011
- Recipient, Ten Outstanding Young Citizens Award, The Columbus Jaycees, 1997
- Recipient, Distinguished Service Award, The Columbus Jaycees, 1997
- First recipient of the Ohio State University College of Law's Outstanding Young Alumni Award, 1996
- Recipient, Ohio Lobbying Association's Outstanding Lobbyist Award, 1995, 2006
- Selected as one of *Business First's* Forty Under 40, 1995
- Recipient, Columbus Bar Association Community Service Award Under Age 36, 1994
- Robert A. Taft Award for Outstanding Young Republican, 1990
- John M. Ashbrook Award for Community Activities, 1990
- John W. Bricker Man of the Year Award, 1988
- Who's Who in American Law



Education

- Hastings College (B.A., *magna cum laude*, high distinction in political science, 1983); Harry S. Truman Scholar; Who's Who at Hastings College
- University of Toronto (M.A., 1985); Rotary International Scholar
- The Ohio State University (J.D., with honors, 1987); President, Society of International Law OSU Graduate and Professional Academic Board

PUBLIC POLICY SERVICES REPORT November 2011

Overview

Following completion of the state budget on June 30, the legislature has only sporadically been in session. Political developments took center stage over the past quarter. The hotly contested defeat of state issue 2 (and other state ballot issues) will shape public policy activity for the remainder of 2011 and into 2012.

State house and state senate district boundaries were redrawn in the August / September timeframe. Congressional seat boundaries were also revised but an air of uncertainty hangs over the congressional redistricting due to pending litigation.

OMA policy activity since has been dominated by various energy-related opportunities and threats. Significant electric rate design issues have occurred. The Governor held an Energy Summit in Columbus September 21-22; OMA has supported development of programming and subject matter experts and is supporting the student program portion of the event

State Ballot Issues

- **Issue 1** was a constitutional amendment to revise the maximum age for elected judges to serve. Voters rejected the amendment.
- **Issue 2** was a referendum initiated by petition to affirm or reject Senate Bill 5, legislation that revises collective bargaining terms for public employees. Voters rejected the legislation with over 60% margin.
- **Issue 3** was a constitutional amendment to preclude Ohioans from being required to purchase health insurance (individual mandate). Voters approved the amendment with over 60% of the vote.

Issue 2 Ramifications

The OMA Board voted to endorse Issue 2 to uphold SB 5. Since the defeat of Issue 2, state leaders have taken a step back from some previously discussed reform efforts, such as workers' compensation legislative reforms. Prior to the election, state leaders had tied passage of SB 5 to potential state enactment of card check, increase in CAT rates to bailout public pension systems and a halt to any possible workers' comp reforms.

In the weeks since the election, local governments have sounded alarms due to the additional costs stemming from labor contracts. Governor Kasich and legislative leaders have clearly signaled back that the state will not be providing local governments with a "bailout."

The large margin of victory and high turnout portends disenfranchised voters. Ohio will again be a key swing state in the 2012 presidential campaign. Any policy reform that generates controversy could influence voter option in approach to November 2012.

Redistricting / Reapportionment

Following the decennial census of 2010, authorized state policymakers are required to review and make changes to both congressional districts, known as “redistricting,” and to state general assembly legislative districts, known as “reapportionment.” The General Assembly redistricts Congressional districts via legislation.

Maps of the proposed boundaries have been released for comment and are included in meeting materials. Both processes have been completed however the Congressional Redistricting is the subject of pending litigation.

Electric Utility Rate Cases – Moving Towards Deregulation

- **Duke Energy Ohio Rate Case Approved**

The PUCO recently approved Duke Energy Ohio’s (Duke) rate case paving the way for Duke to sell its generating assets and become a fully deregulated utility. This transition to a deregulated utility will have lasting effects on customers in Duke’s service territory.

- **AEP-Ohio Rate Case**

AEP-Ohio’s rate case continues to drive controversy at the PUCO. FirstEnergy Solutions and the IEU-Ohio continue to strongly oppose the settlement. They did not oppose Duke’s settlement which is strikingly similar. A decision by the PUCO is expected by December 14. There are lingering concerns of what this may mean in 4 or 5 years when power prices are expected to rise.

Governor’s Energy Summit

Following the Governor’s world class “energy and economic development summit” held in late September, the OMA submitted to the Governor’s office a white paper detailing several policy recommendations related to energy. The full memo is in your meeting materials for today. Since Ohio is moving its electric utilities to a deregulated model that will result in more volatility in electricity pricing the OMA recommended several policy changes meant to reduce manufacturing’s exposure to the marketplace. Energy efficiency, specific manufacturing rates, and improvements for on-site generation are all topics covered in the memo.

Electricity Restructuring Legislation / SB 221 Revisit?

The House and Senate Public Utility Committees continue to hold joint hearings on electricity and utility regulations. While these hearings have been informative they have not provided any specific policy recommendations. Neither panel seems poised at this time to introduce sweeping changes to Ohio’s utility regulatory framework.

Ohio EPA -- Storm Water Permits

Ohio EPA has been considering revisions to its current storm water permit. This is in response to U.S. EPA making motions that it will ratchet up regulations on total dissolved solids (TDS) in waterways. The major contributor to TDS is agricultural and road run-off; however, Ohio EPA does not regulate either of those. The revisions being contemplated will add thousands of dollars in regulatory expenses to those companies that have storm water

permits. The OMA is working with a business coalition to keep Ohio EPA from instituting the proposed permit and revisit the need for the enhanced program.

Civil Justice

Threats and opportunities are evident. The top opportunity is HB 170 to revise the statute of limitations for actions to be brought against breach of business contracts from 15 years down to 6 years. The top threat comes from SB 143, legislation to adopt a state false claims act which creates a new cause of action, exposing government contractors to more frivolous lawsuits. Legislation to reduce exposure in asbestos claims made against bankruptcy trusts is also of interest and is pending.

Tax Exemption for Business Allowed

House and Senate committees have been holding study committee meetings over the quarter. The OMA facilitated witness testimony in support of the broad-based, low-rate package of business tax reforms enacted in 2005. Dozens of parties told the panel that their business or industry is unduly harmed by the tax code and lobbied for exemption. There is no indication of legislation so far. Perhaps more likely are rumored legislative amendments to consolidate the collection of municipal income tax. Such a proposal has been unpopular with the powerful local government lobby.

JobsOhio – Economic Development

Governor Kasich's top priority has been to restructure state economic development functions. Over the quarter the umbrella corporation, JobsOhio, was launched with a rollout intended to describe the new roles. The remaining elements of the state development department are to be renamed the Development Services Agency. Regional partners, such as Columbus 2020 and TeamNEO, will serve as the front door to companies for attraction and retention. Funding criteria for the popular Third Frontier economic development grant program should remove some of the need for candidates to recruit a public sector (research) partner.

Workers' Compensation Policy

Talk of reforming the BWC and the Industrial Commission (IC) continues; however following the defeat of state issue 2, it appears the most substantive changes (those requiring law change) are on hold indefinitely. Instead it appears rule changes and policy changes are more likely to be in offing.

Leadership

Northeast Ohio Manufacturing Projected To Outpace U.S. Average

Team Northeast Ohio (Team NEO) released its **quarterly Cleveland Plus Economic Review** this week with a focus on the region's manufacturing sector. By 2015, Northeast Ohio's manufacturing economic output is expected to outpace the national average by 10 percent. Emerging sectors such as specialty chemicals and fabricated metal manufacturing are driving the growth.

The Cleveland Plain Dealer **editorialized** on the findings and spotlighted recent investments by OMA members Republic Steel in Lorain and Chrysler in Toledo.

11/18/2011

New Director of ODNR is a Familiar Face

Governor John Kasich **appointed** Ohio Department of Agriculture Director Jim Zehringer as director of the Ohio Department of Natural Resources (ODNR) on Tuesday. OMA members had an opportunity to **dialogue** with Director Zehringer over the summer. ODNR is the lead agency for many of the regulations and policies impacting shale gas; its website has an abundance of **information on shale gas**.

11/18/2011

Reject New Lawsuits!

The OMA and other business organizations **told members** of a Senate panel this week to reject Senate Bill 143, which would create a new state form of lawsuits known as qui tam actions. The legislation is supported by Ohio Attorney General Mike DeWine as a tool to root out fraud against the government.

"While we do not condone any form of fraud against the government, the creation of a new category of whistleblower lawsuits is not the answer," says the OMA's Ryan Augsburger. "If the False Claims Act were to become law, new

frivolous lawsuits against businesses would increase."

Speaking on behalf of the OMA and the Ohio Alliance for Civil Justice, attorney Jonathan Diesenhaus told members that a state false claims law was unnecessary since a federal provision already applies in Ohio. His presentation included a **table** that depicts diminished recovery for the state if the legislation were to be enacted.

11/18/2011

What's Next?

After voters demolished Senate Bill 5 by resoundingly rejecting Issue 2, Statehouse attention turned to the future. While Democrats celebrated, Republicans expressed introspection.

The governor said he'd take a "deep breath" and reflect. Senate President Tom Niehaus (R – New Richmond) said his focus is to "digest the results" of the election. Speaker Bill Batchelder (R – Medina) said "we have not intention at this time of doing anything about any of those issues."

Suggesting strategic missteps in a failure to engage citizens in the development of the bill, the speaker said, "When a fellow falls down the stairs, the next time he'll turn on the light."

11/11/2011

What Happened?

The spin doctors in Ohio and nationally are having a field day with the **election results** in Ohio. With the largest turnout in an odd-year election in decades, voters vetoed Governor Kasich's Senate Bill 5 by 61 percent to 39 percent on Issue 2. While they were at it, the voters took to the time to repudiate President Obama's health care reforms with a vote of 66 percent to 34 percent in passing Issue 3.

Democrats and unions proclaimed a resurgence of their base that'll have lasting effects. They predict mobilization of this base for President Obama in 2012.

The tea party proponents of Issue 3 claimed a mass movement supporting freedom from government mandates. They plan to put a **right to work** referendum on the ballot in 2012 or 2013.

Some observers of the political scene see the results of this year's Ohio General Election as one sure thing: a rebuke of the political classes of both parties.

Quoted in the NY Times, Senator Bill Seitz (R – Cincinnati) described this point of view: "The message is, a plague on both your houses. It was a non-ideological expression of frustration by an overwhelming number of voters about the inability of their elected leaders to come up with a more consensus-based collaborative approach."

11/11/2011

General Assembly Acts to Revise Congressional Districts (Again)

The House Rules Committee this week convened to consider **HB369**, which would revise the maps of congressional districts. Republicans and Democrats appear to be making little headway in agreement on the revised congressional boundaries.

The bill's sponsor, Representative Matt Huffman (R-Lima), said in an interview with Gongwer News: "The two sides would have to come to an agreement by next week to allow enough time for presidential and congressional candidates to collect signatures ahead of the December 7 deadline to file petitions for the March primary because the bill would eliminate the June primary that Republicans created last month to buy more time to resolve the impasse (HB318)."

11/11/2011

Manufacturing Innovation Summit Attendees Work on National Innovation Strategy

Last month, a **Manufacturing Innovation Summit** hosted by EWI and The Manufacturing Institute, an affiliate of the National Association

of Manufacturers, was held in Columbus to advance the creation of a national innovation strategy for U.S. manufacturing competitiveness. Attendees included industry executives from 23 American manufacturing companies.

Citing other countries' innovation infrastructures, EWI Chief Technology Officer Chris Conrardy said, "America needs an innovation infrastructure to mature and transition advanced manufacturing technologies from the laboratory to the shop floor."

This is a story to watch and we'll bring you updates on the advancement of a national model as they are released to us.

11/11/2011

Your basic obligations as a director of any organization

As a member of the board of directors of any organization, you have certain obligations to the organization and the rest of the board. In addition, each of your fellow directors has a right to expect that you and the other directors will respectively observe their director obligations. **Read more** about these basic obligations on Acredula.com. *From OMA Connections Partner, Bricker & Eckler LLP.*

11/10/2011

House Fails to Move Bill Creating New Congressional District Maps

Speaker Bill Batchelder's attempt to avoid the mess of a referendum on the congressional district maps of the next decade fell short on the House floor this week. The Speaker needed to attract seven Democratic votes to get to the 66 votes necessary to pass the bill with an emergency clause (under which a bill becomes law immediately, and thus referendum-proof).

The vote followed a week of closed door discussions with black Democratic lawmakers that produced a **new proposed map**. This revised map made some changes sought by black Democrats. The compromise proposal would have tightened district lines around urban

areas in Toledo, Columbus, Dayton and Cincinnati. It also increased the percentage of black voters in a new Democratic district in Franklin County.

Speaker Batchelder is giving compromise one more try. He's referred the bill to the House Rules and Reference Committee, which is traditionally stocked with leadership allies of both caucuses.

The House debate was highly emotional. You can watch it [here](#).

11/04/2011

If Your Haven't Made Up Your Mind on State Issues 1, 2, 3 ... Read This

The OMA manages a web site called [OhioPoweredByManufacturing.com](#); its purpose is to help voters make pro-manufacturing decisions about issues and candidates by offering nonpartisan information.

For the upcoming Ohio general election, the site posted factual information about state issues 1, 2, and 3 that is suitable for OMA members to share with their employees, suppliers, customers and stakeholders.

Check it out and vote.

11/04/2011

NAM Produces Its First Presidential Forum

Candidates for the Republican nomination for president gathered at Vermeer Corporation headquarters in Pella, Iowa for a forum sponsored by the National Association of Manufacturers (NAM) and broadcast by Iowa Public Television.

Candidates participating in the forum were Rep. Michele Bachmann (R-MN), former Rep. Newt Gingrich (R-GA), Rep. Ron Paul (R-TX), Texas Gov. Rick Perry (R-TX) and former Sen. Rick Santorum (R-PA). The forum was moderated by Iowa Gov. Terry Branstad and Nightly Business Report Co-Anchor and Managing Editor Tom Hudson.

Watch the dialogue from this first ever NAM presidential forum [here](#).

11/04/2011

Third Frontier Program Undergoes Overhaul

The Third Frontier Program is undergoing significant change in the Kasich administration. Created in 2002, the program was extended through 2015.

The \$2.3 billion initiative supports applied research and commercialization, entrepreneurial assistance, early-stage capital formation, and expansion of a skilled talent pool that can support technology-based economic growth. A number of new programs of interest to manufacturers have been developed within the Third Frontier.

At the OMA Tax Committee meeting of Thursday, November 3, OMA Tax Counsel Mark Engle will make a **presentation** on the program and its changes, and on how manufacturers can access the program's resources. Register for the committee meeting [here](#). The meeting begins at 10:00 a.m., goes to noon, with a networking lunch to follow.

10/28/2011

Republican Presidential Forum on Manufacturing

On Tuesday, November 1, at 11:00 a.m. EST, the National Association of Manufacturers will host its first ever presidential forum on manufacturing.

Candidates for the Republican nomination for president will gather at Vermeer Corporation headquarters in Pella, Iowa, for the forum. Iowa Public Television will produce the broadcast of the forum, and that broadcast will be seen nationwide on the WORLD channel.

To date, the candidates participating in the forum, moderated by Iowa Gov. Terry Branstad and Nightly Business Report Co-Anchor and Managing Editor Tom Hudson, are Rep. Michele Bachmann (R-MN), former Rep. Newt Gingrich (R-GA), Rep. Ron Paul (R-TX), Texas Gov. Rick

Perry (R-TX) and former Sen. Rick Santorum (R-PA).

Watch the forum live [online here](#).

10/28/2011

Millions and Millions Spent on State Issue 2

With less than two weeks until the November 8 general election, the backers of Issue 2, the referendum on the public union contract legislation (Senate Bill 5), reported a significant **fundraising** advantage over the defenders of the reforms.

Citing contributions mostly from labor unions, the We Are Ohio campaign seeking the 'no' vote to overturn the law, this week reported \$19 million raised, with \$4.3 million on hand.

Campaigning for a 'yes' vote, Building A Better Ohio, reported \$7.6 million raised in the same period with \$1.6 million on hand.

The OMA board of directors has endorsed a 'yes' vote on Issue 2. [Go here](#) for information on how to support and preserve the reforms in Senate Bill 5.

A **Quinnipiac University poll** was released this week that shows 57% of registered Ohio voters want to repeal the law.

10/28/2011

Major Newspapers Endorse "Yes" Vote on State Issue 2

As the November 8 General Election approaches, major Ohio newspapers are weighing-in on the contentious Issue 2 debate.

The Columbus Dispatch this week **editorialized** in support of the referendum on SB5 which revises union contract terms for public employees. The Dispatch said Issue 2 "would restore control of public expenditures to elected officials after almost three decades since enactment of Ohio's extremely lopsided collective-bargaining law."

The Cleveland Plain Dealer also **endorsed**

Issue 2. While calling SB5 imperfect, the paper said a no vote would "lock in the status quo so unbalanced that it has become a barrier to reforming schools, right-sizing local government and making Ohio more attractive to investment."

10/21/2011

Redistricting Challenged at Ohio Supreme Court

Ohio Secretary of State Jon Husted refused to accept petitions for a referendum on the new congressional maps this week noting the legislation contained an appropriation and is not subject to referendum.

Typically, legislation does not become effective for 90 days and is subject to referendum. However, appropriations become effective immediately and are not subject to referendum. This issue will get sorted out in short order as Democrats have filed a lawsuit at the Ohio Supreme Court and the Court has agreed to an expedited schedule.

10/14/2011

NAM Rolls Out Four-point Plan for Economic Growth and Jobs

The National Association of Manufacturers (NAM) just published its blueprint to strengthen and grow the domestic manufacturing sector: **A Manufacturing Renaissance: Four Goals for Economic Growth.**

Each of the NAM's priorities and policy recommendations included in the plan is intended to improve the ability of manufacturers in the United States to compete in the global marketplace. NAM reports that the United States produces 21 percent of global manufactured goods, and is the world's largest manufacturing economy, with China in second at 15 percent and Japan third at 12 percent.

The four main goals of the plan to grow global manufacturing leadership are: the United States will be the best place in the world to manufacture and attract foreign direct investment; the United States will expand access to global markets to enable

manufacturers to reach the 95 percent of consumers who live outside our borders; manufacturers in the United States will have the workforce that the 21st-century economy requires; and, manufacturers in the United States will be the world's leading innovators.

10/14/2011

OMA Makes Employee Communication Tools on State Issues 1, 2, 3 Available

On the premise that an informed electorate is essential to enacting policies that support a fertile manufacturing environment in Ohio, the OMA maintains the website: www.OhioPoweredByManufacturing.com. Content is non-partisan and non-political; the goal of the web site is to inform and educate.

There is fresh content on the site about the three statewide issues on the November ballot. Issue 1 proposes to raise the mandatory retirement age for state and local judicial candidates from 70 to 75, Issue 2 gives voters the opportunity to ratify or reject changes to government union contracts enacted in Senate Bill 5 earlier this year, and Issue 3 would prohibit mandatory participation in any health care system, such as the new requirements under federal law.

In addition to factual information about the three statewide ballot issues, the website also contains valuable information about how to register to vote, get absentee ballots and contact elected officials.

OMA created a **template employee communication** that members can use to encourage employees to know and vote the issues.

10/14/2011

Currency Anti-Manipulation Legislation Passes U.S. Senate

This week, bipartisan legislation introduced by **Ohio Senator Sherrod Brown**, the Currency Exchange Rate Oversight Reform Act of 2011, passed the Senate by a 63-35 vote. According to Brown, this bill "addresses one of the biggest challenges facing Ohio manufacturers – unfair

competition with Chinese products that are flooding our markets and priced artificially low due to the Chinese government's undervaluation of its currency."

Brown notes, "A recent report shows that that growing trade deficit with China has cost the United States more than 2.8 million jobs since 2001, including more than 1.9 million manufacturing jobs. Ohio, alone, has lost more than 100,000 of those manufacturing jobs due to the U.S. – China trade deficit."

10/14/2011

Increasing International Trade is Focus of New Ohio Legislation

House Bill 344 was introduced in the General Assembly this week to create the SellOhio Global Initiative within the Ohio Department of Development (ODOD) and the Global Initiative on International Relations (GIIR) within the General Assembly.

The GIIR is intended to advance and promote Ohio's education, economy, diplomacy, humanity, and legislative initiatives through reciprocal relationships with foreign governments.

The SellOhio initiative within ODOD is intended to facilitate Ohio business entry or expansion into foreign markets. ODOD will certify "Ohio business consulates," who will assist Ohio businesses in foreign markets. Consulates shall not receive compensation from any state agency for their services.

10/14/2011

OSU and GE Announce Partnership to serve Middle Market

Results from the largest study ever of the U.S. Middle Market show this business segment is the nation's surest bet for economic recovery. The study, a survey of more than 2,000 business leaders and analysis of economic data conducted by The Ohio State University Fisher College of Business (Fisher) and GE Capital found Middle Market firms, defined as the segment between small and big business,

surprisingly resilient throughout the economic crisis.

The study is part of Fisher's and GE Capital's new multi-year partnership to research, analyze and map the Middle Market and create a blueprint for sustained segment growth in the years ahead. A new "National Middle Market Center at Fisher" will serve as a center of excellence for Middle Market research, business resources and peer-to-peer networking.

Read the study and its highlights [here](#).

10/07/2011

Portman Backs Trade Sanctions against China

U.S. Senator Rob Portman this week **announced** his support for Democrat legislation to impose trade sanctions against China.

The bill, "The Currency Exchange Rate Oversight Reform Act of 2011," would penalize countries for unfair trade practices, and is presently under debate in the Senate. The bill is sponsored by Senator Portman's Ohio colleague, Senator Sherrod Brown.

"China is not engaging in fair trading rules, and is manipulating its currency," Portman said, "It's doing so in such a ways as to give its exports an advantage, and to disadvantage our exports."

In a floor speech rallying Republicans, Sen. Lindsey Graham (R-S.C.) **said**, "The institution I need to be protecting is the American workforce, who is having their clock cleaned by a communist dictatorship who cheats," Graham said.

The bill's future is uncertain, both in the House and with the president.

10/07/2011

Midwest Report Card on Innovation

OMA Connections Partner, Plante Moran, together with its partner NewNorth Center, released the **results** (and PowerPoint

presentation) of its recent survey about the status of innovation among companies in Illinois, Michigan and Ohio. OMA members were invited to participate in the survey last summer. More than 500 executives responded; 36% of respondents were manufacturers.

The survey categorized top innovators as the top 25% of respondents who generated 77% of total revenue from products/services that are less than five years old. The survey indicated the top innovators have: an executive team that drives innovation as part of corporate strategy, a process for development and commercialization to bring innovative ideas into the marketplace, and specific funds to support innovation and a rewards system.

Plante Moran fields this survey annually to give the Midwest a competitive advantage in economic development by helping companies understand the components of innovation.

10/07/2011

Newest Poll: Senate Bill 5 Still Under Water, but not As Deeply

The latest Quinnipiac Poll, **presented** this week to the OMA Government Affairs Committee, shows that repeal of Senate Bill 5, the public sector collective bargaining reform bill, is still popular with Ohioans, but not quite as much as earlier.

By 51 to 38 percent, Ohio voters support repeal in the November referendum (Issue 2), compared to 56 to 32 percent in July.

Peter A. Brown, assistant director of the Quinnipiac University Polling Institute, said: "Support for repealing the bill in the November referendum has dropped from a 24-point to a 13-point margin. Backers of SB 5 have only six weeks to make up the difference, although public opinion appears to be moving in their direction."

09/30/2011

Development Director Visits OMA Government Affairs Committee



It was “old home week” for Chris Schmenk, Director of the Ohio Department of Development, as she visited with the OMA Government Affairs Committee. Chris was a long-time member of the committee in her former management position with

OMA member company Scotts Miracle-Gro.

Chris presented the **restructuring** of the state’s economic development apparatus. Under the restructuring, the new private, non-profit JobsOhio will take the lead in business loans, grants and “close the deal” funds. The development department, soon to be renamed the Development Services Agency, will manage innovation and investment programs (such as the Third Frontier and Edison programs), workforce development programs, tax credit programs and community development programs.

Both state agencies will work locally through six regional economic development organizations.

09/30/2011

OMA Government Affairs Committee Meeting Materials - 09/28/2011

These are the materials that support the September 28, 2011 OMA Government Affairs Committee meeting.

Content of note includes:

- Polling data on State Issues 1, 2, and 3 from Quinnipiac University.
- An executive briefing on JobsOhio from Ohio Department of Development Director, Christiane Schmenk.
- Ohio legislative redistricting process and maps.

09/27/2011

NAM President Addresses OMA Board

At its meeting this week, the OMA board of directors heard remarks from National Association of Manufacturers present, Jay Timmons. As a Chillicothe native and grandson of a paper manufacturer, Timmons has a passion not only for manufacturing but for Ohio manufacturing.



Timmons itemized the pain points of U.S. policy as they

relate to manufacturing competitiveness and indicated that it is 18% more expensive to manufacture in the U.S. than the top industrial countries against which we compete. NAM is currently revising this cost analysis and is retooling its policy blueprint for manufacturers, “The NAM Strategy for Jobs,” which will focus on four critical areas: investment, trade, skills and innovation.

OMA board leadership will seek ways for the association and members to collaborate with the NAM for effective advocacy in 2012.

Timmons made a point to thank all OMA members for their involvement in the OMA, their specific industry associations and in the NAM as they all play a distinct role in addressing their interests.

09/23/2011

Issue 2 Campaign Encourages Action

As the general election approaches, the campaign to defend Senate Bill 5 is asking supporters of the bill to take action. View the new ad, “**The Facts.**” Share this video with associates, friends and family. The campaign has also created an **Adwatch** for rebuttals to the opposition’s ads.

For more opportunities to engage on the issue, visit the **action center**. The OMA has endorsed a “yes” vote on Issue 2 to uphold the collective bargaining reforms of Senate Bill 5.

09/23/2011

State Lawmaker District Boundaries Redrawn

The state **apportionment board** today posted revised district maps for state representatives and state senators. Since Republicans controlled the process, the newly proposed boundaries favor Republicans, making the swing districts safer for Republicans, likely safeguarding Republican majorities in the Ohio House and Ohio Senate in coming elections.

Click to view the proposed **house map** and **senate map**. The board will take testimony on Monday and finalize the boundaries shortly thereafter. Learn more about the process at **Reshape Ohio**.

09/23/2011

Leahy-Smith America Invents Act

On September 16, 2011, President Barack Obama signed into law the Leahy-Smith America Invents Act, which represents the most comprehensive overhaul to the United States patent system since 1836. The new legislation seeks to encourage innovation, create new jobs in the United States, and provide the necessary resources to the United States Patent and Trademark Office (USPTO) to operate efficiently and strengthen the quality of issued patents. Read **more**.

09/23/2011

House Unveils, Acts on New Congressional Districts

The Ohio House this week unveiled new maps for the state's congressional districts, and then passed legislation that would create them. The bill, House Bill 319, goes now to the Senate.

The Ohio constitution gives the General Assembly the authority to draw district lines. The redistricting occurs after each decennial U.S. census.

This time around, because of declining population relative to the nation, Ohio is losing two congressional seats (going to 16 seats from the current 18). This situation has made for some nervous U.S. representatives.

The legislation combines the districts of U.S. Rep. Steve Austria (R-Beavercreek) and U.S. Rep. Mike Turner (R-Dayton), as well as those of U.S. Rep. Marci Kaptur (D-Toledo) and U.S. Rep. Dennis Kucinich (D-Cleveland). Thus, there will likely be one contested Republican primary and one contested Democratic primary pitting incumbents.

See a statewide map of the new districts **here**. Look at each **individual** district map **here**.

09/16/2011

Ohio Voters to Decide Judicial Retirement Age

This November, Ohio voters will be asked to approve a constitutional amendment that would raise the age at which a state judge could be elected or appointed to 75 from the current age of 70. Ohio judges are not term limited; they are limited by age and may not run if they will be 70 on the day they would have been sworn into the office they are seeking.

Ten percent of Ohio's judges will be impacted if State Issue 1 fails. Ohio Supreme Court Justices Paul Pfeifer and Judith Lanzinger both will turn seventy before their terms expire, and consequently, will be prohibited from serving another term on the high court if voters don't approve Issue 1.

OMA counsel, **Bricker & Eckler**, provides this good **summary** to help voters decide.

09/16/2011

Women in Manufacturing Symposium Scheduled for October

More than 150 women executives, managers and supervisors will gather in Cleveland on October 25-26 for the first annual Women in

Manufacturing **Symposium** hosted by the Precision Metalforming Association (PMA).

The event will provide an opportunity for participants to share perspectives and network with peers in manufacturing.

Click [here](#) to learn more about the event and to register.

09/16/2011

OMA Participates in Issue 2 Press Conference

OMA President Eric Burkland this week participated in a press conference of business groups supporting passage of Issue 2. Passage of Issue 2 would uphold public sector collective bargaining reforms enacted through Senate Bill 5 earlier this year.

Burkland **said**: "At its June meeting, the OMA's Board of Directors voted to endorse the defense of Senate Bill 5 against the voter referendum to repeal the law. The Board's rationale was this: We are in the midst of very difficult economic times. All of us, as families, companies and governments need to be careful stewards of limited resources. We need to exert greater controls over spending. We need to improve efficiency and productivity in all of what we do. Governments are no different than the rest of us. In the view of our organization, the cost of governments in Ohio is too high. The trajectory of increases in costs is too steep."

09/16/2011

U.S. House Passes Bill to Stop NLRB on Boeing Decision

The House of Representatives this week **passed** a Republican-backed bill that removes the ability of the National Labor Relations Board (NLRB) to order companies to close, relocate or transfer employment. The Protecting Jobs From Government Interference Act (H.R. 2587) passed the U.S. House of Representatives by a vote of 238-186, largely along party lines.

"Today's vote is just one step in the process of reining in this rogue agency," said NAM President and CEO Jay Timmons.

"Manufacturers thank the members of the House who voted to pass this bill today. To protect jobs the Senate must take up this legislation as soon as possible."

H.R. 2587 addresses the issue of the NLRB trying to tell the Boeing Company that it must build airplanes in Washington State, rather than at its new state-of-the-art facility in South Carolina.

09/16/2011

The Looming Multiemployer Pension Crash

The Employee Retirement Income Security Act of 1974 (ERISA), a law designed to protect employee pensions, is now bringing about the very harm it was designed to rectify and prevent. ERISA was enacted in response to public demands for pension reform. Americans (and thus Congress) would not tolerate a state of affairs where employees worked for decades believing that they were accruing substantial pension benefits to fund their retirement, only to find out that the promise was illusory. By regulating retirement plans, ERISA sought to ensure that promised pension benefits would be funded and available at retirement.

By failing to amend certain provisions of ERISA in response to changing U.S. economic dynamics that have significantly and adversely impacted the long-term viability of multiemployer pension plans, however, Congress has allowed these plans to become a \$165 billion-plus sinkhole beneath the U.S. economy -- one that grows deeper and wider on a daily basis. Unless Congress acts, ERISA, over the next decade, is likely to recreate, on a hundred-fold or even thousand-fold scale, the harm it was enacted to address and prevent. Read **more**. *From OMA Connections Partner, Walter & Haverfield LLP, by Jeremy J. Sharp.*

09/13/2011

ODNR Director Leaves to Join JobsOhio

Ohio Department of Natural Resources Director David Mustine will be leaving the department to become general manager for energy at JobsOhio. In this role Mustine will head up Ohio's efforts to develop the state's oil and natural gas deposits in the Marcellus and Utica shales.

These shale plays provide Ohio with a significant economic **opportunity** for Ohio, and will require careful environmental management to assure public support in Eastern Ohio. Mustine brings extensive oil field and energy management experience to his new role.

09/09/2011

OMA Board of Directors Endorses Defense of SB 5

The OMA board this week **announced** it has voted to endorse the defense of Senate Bill 5 against the November 2011 voter referendum to repeal the law. The board announcement came the day following the last day on which the referendum could have been pulled from the ballot, which would have saved the state a costly (in many ways) ballot battle.

The board said: "Ohio faces an economic imperative to exert greater controls over spending and to improve efficiency and productivity in the delivery of government services. The OMA supports public policies that lower the cost of providing government services while increasing efficiency and productivity without compromising quality or putting our most vulnerable citizens at risk."

Engage in the campaign at <http://betterohio.org>.

09/02/2011

What Economic Development Resources are Available for Ohio Manufacturers?

That's a question Pam Butcher, President and COO of OMA-member company Pilot Chemical Company, asked the OMA. This week she and members of her senior management team spent a day in the OMA offices to get some answers.



The Pilot team was briefed by officials from the governor's office, the Ohio Department of Development, and the Ohio Board of Regents, as well as by Mark Engel and Price Finley from OMA counsel Bricker & Eckler.

Governor Kasich is driving significant changes in the state's portfolio of development resources. The OMA will present its members with learning programs about these changes through the remainder of this year. In the meantime, if you have the same question that Pam asked, please contact **Eric Burkland** or **Ryan Augsburger**. *Pictured: Pilot Chemical President Pam Butcher and Senate President Tom Niehaus at the Capitol*

08/26/2011

Try Your Hand at Drawing District Lines!

Every ten years, following the census, state officials are required to revise Congressional and General Assembly districts to reflect the changes in the state's population. Ohio Secretary of State Jon Husted has created **ReshapeOhio.org**, a tool for the public to engage in the redrawing of Ohio's political maps.

At the site, you can **learn** more about the redistricting and reapportionment processes, **redraw districts** using mapping technology, formally **submit** your proposed maps, and follow the proceedings of the **Ohio Apportionment Board** and **legislative committees** set up to take testimony.

08/26/2011

Republican Leaders Invite Senate Bill 5 Compromise to Avoid Referendum Vote

On Wednesday, Governor John Kasich, House Speaker Bill Batchelder and Senate President Tom Niehaus held a **press conference** to discuss their offer to revise the controversial public employee collective bargaining law if opponents agree to scrap their referendum effort.

The Republican leaders in a joint **letter to union leaders**, wrote: "In a matter of days Ohioans will be thrust into a costly political battle that will likely result in lasting scars and bitter divisions at one of the most fragile moments in our state's history." And further: "Outside observers, including Ohio's two largest newspapers, have rightly asked whether that recourse is our only option. It is not."

Opponents to the bill filed sufficient signatures to place a referendum on the November ballot as State Issue 2. The campaign committee for State Issue 2 has until August 29 to ask the Secretary of State to remove the issue from the November ballot. .

If the issue progresses to the ballot, a costly campaign will be waged by both sides.

08/19/2011

Comments Due to NLRB on Monday Regarding Quickie Elections

The National Association of Manufacturers (NAM) is calling for all manufacturers to communicate directly to the National Labor Relations Board (NLRB) about a potential rule that would disadvantage employers, and thus employees, in union organizing.

The NLRB's proposed "snap election" or "quickie election" regulation would allow unions to begin organizing a workforce secretly and then surprise an employer once enough signatures are collected. This new regulation would give employers as few as 10 days to communicate with their employees between the time they learn that a union is trying to organize the workforce and the election.

The NAM has created online communication tools to facilitate commenting. Click **here** to send a short message directly to the NLRB urging them to oppose the proposed quick-snap election rules. Or, the NAM has prepared detailed, formal comments that you can personalize and send directly to the NLRB. Click **here** to send more comprehensive comments.

08/19/2011

OMA Members Invited to NAM Congressional Dialogue with Rep. Renacci August 25

On Thursday, August 25, The Timken Company and the National Association of Manufacturers (NAM) will host a Congressional Dialogue with Representative Jim Renacci (R-OH-16) at Timken's corporate headquarters, located at 1835 Dueber Avenue, SW, Canton, OH, beginning at 9:30 a.m.

The meeting will be chaired by NAM board member, Tim Timken, chairman of The Timken Company. There will be an informal discussion of key issues impacting manufacturing and manufacturers will engage Rep. Renacci on important public policies.

Advanced registration is required. Please contact the NAM's Lisa Gilliana (773) 243-8315 or **lgilliana@nam.org** by close of business on Monday, August 22, to reserve your place. If you have any questions or need additional information, call the NAM's Bill Gill at (847) 549-5867.

08/19/2011

Public Forums Announced on State Tax Policy, Workforce Development and Technology

Ohio House Speaker William Batchelder **announced** this week a series of study committees that will be held in August and September to gain feedback on important issues facing the state. The public forums will be held in Columbus and at locations around the state.

The **Tax Structure Study Committee** will examine the tax code, including the commercial activity tax (CAT). The Workforce Development Study Committee will examine the state's workforce development programs and policies. A Technology in State Government Study Committee will explore how technology may render greater efficiency and services among the public sector.

Speaker Batchelder is earnest about improvements, thus, we are encouraging manufacturers to attend to inform improvements. Contact OMA's **Ryan Augsburg** to find out how to get involved.

08/19/2011

Miscellaneous Legislation of Interest to Manufacturers
Prepared by: The Ohio Manufacturers' Association
Report created on November 28, 2011

- HB1** **JOBSONIO** (DUFFEY M) To authorize the Governor to create JobsOhio, a nonprofit economic development corporation.
Current Status: 2/18/2011 - **SIGNED BY GOVERNOR**; Eff. 2/18/2011
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_1
- HB2** **PERFORMANCE AUDITING** (SNITCHLER T) To require performance auditing of most state agencies.
Current Status: 3/8/2011 - Referred to Committee Senate Finance
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_2
- HB9** **UNIFORM COMMERCIAL CODE** (COLEY II W) To adopt revisions to the general provisions and documents of title portions of the Uniform Commercial Code that were recommended by the National Conference of Commissioners on Uniform State Laws.
Current Status: 3/30/2011 - **SIGNED BY GOVERNOR**; Eff. 6/29/2011
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_9
- HB48** **CORPORATIONS** (MECKLENBORG R, CARNEY J) To make changes to the law governing corporations dissenting shareholders, the dissolution of a corporation, rights to indemnification or advancement of expenses, directors' fiduciary duties, and recording of corporate mortgages.
Current Status: 11/29/2011 - Senate Judiciary, (Fourth Hearing)
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_48
- HB55** **CAMPAIGN CONTRIBUTIONS** (GOYAL J, MURRAY D) To regulate independent expenditures by corporations, labor organizations, and entities the primary purpose of which are to accept corporate or labor organization funds for use in making independent expenditures and to prohibit contributions made for the purpose of influencing a ballot issue from being made to or accepting by an entity that is not subject to campaign finance reporting requirements.
Current Status: 2/1/2011 - Referred to Committee House State Government and Elections
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_55
- HB82** **PUCO-MOTOR VEHICLE REGULATIONS** (GROSSMAN C, BOOSE T) To prescribe the applicability of federal regulations adopted by the Public Utilities Commission of Ohio to certain motor vehicles.
Current Status: 3/16/2011 - House Public Utilities, (Second Hearing)
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_82
- HB94** **SMALL BUSINESS RULE REVIEW PROCESS** (ROEGNER K, THOMPSON A) To adopt a new small business rule review process.
Current Status: 2/24/2011 - House Economic and Small Business Development, (Second Hearing)
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_94
- HB102** **LABOR REQUIREMENTS** (YOUNG R) To prohibit state agencies from requiring or prohibiting certain labor requirements as a condition of performing public works and to prohibit the appropriation of state funds for public works when political subdivisions require or prohibit certain labor requirements.
Current Status: 5/11/2011 - **REPORTED OUT AS AMENDED**, House Commerce & Labor, (Fourth Hearing)
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_102
- HB112** **ENGINE COOLANT/ANTIFREEZE** (GROSSMAN C, LETSON T) To require the inclusion of a bittering agent in engine coolant and antifreeze.
Current Status: 5/18/2011 - **REPORTED OUT**, House Transportation, Public Safety and Homeland Security, (Fourth Hearing)
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_112
- HB114** **TRANSPORTATION BUDGET** (MCGREGOR R) To make appropriations for programs related to transportation and public safety for the biennium beginning July 1, 2011, and ending June 30, 2013, and to provide authorization and conditions for the operation of those programs.
Current Status: 7/13/2011 - HB114 had a provision amended by SB187
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_114
- HB123** **WORKERS' COMPENSATION BUDGET** (HOTTINGER J) To allow the administrator of Workers' Compensation to waive criteria certain public employers must satisfy to become self-insuring employers; to require bills for medical and vocational rehabilitation services in claims that are ultimately denied to be paid from the Surplus Fund

Account under specified circumstances; to make appropriations for the Bureau of Workers' Compensation and for the Workers' Compensation Council for the biennium beginning July 1, 2011, and ending June 30, 2013; and to provide authorization and conditions for the operation of the Bureau's and the Council's programs.

Current Status: 4/25/2011 - **SIGNED BY GOVERNOR**; Some provisions eff. 4/25/11; others 7/29/11

More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_123

- HB124 INDUSTRIAL COMMISSION BUDGET (HOTTINGER J)** To set appropriations for the Industrial Commission for the biennium beginning July 1, 2011, and ending June 30, 2013, and to provide authorization and conditions for the operation of Commission programs.
- Current Status:** 4/25/2011 - **SIGNED BY GOVERNOR**; Eff. 4/25/11
- More Information:** http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_124
- HB153 BIENNIAL BUDGET (AMSTUTZ R)** To make operating appropriations for the biennium beginning July 1, 2011, and ending June 30, 2013, and to provide authorization and conditions for the operation of state programs.
- Current Status:** 6/30/2011 - **SIGNED BY GOVERNOR**; Effective 6/30/2011; some sections different dates, 7 line item vetos
- More Information:** http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_153
- HB168 CAREER TRAINING WORKFORCE DEVELOPMENT GRANT (CAREY, JR. J)** To establish the Career Training Workforce Development Grant Program and to allocate a portion of casino license fees to finance the program.
- Current Status:** 4/7/2011 - House Economic and Small Business Development, (Second Hearing)
- More Information:** http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_168
- HB170 ACTIONS ON CONTRACTS (MECKLENBORG R)** To shorten the period of limitations for actions upon a contract in writing.
- Current Status:** 6/28/2011 - Referred to Committee Senate Judiciary - Civil Justice
- More Information:** http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_170
- HB188 OHIO CONSTITUTIONAL MODERNIZATION COMMISSION (BATCHELDER W)** To establish the Ohio Constitutional Modernization Commission and to make an appropriation.
- Current Status:** 7/15/2011 - **SIGNED BY GOVERNOR**; Eff. 10/17/2011
- More Information:** http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_188
- HB199 STATE BUDGET-AGGREGATE REVENUE (BECK P)** To prohibit the Governor from proposing and the General Assembly from enacting a state budget with aggregate general revenue fund appropriations that exceed ninety-five per cent of the total money received in aggregate revenue.
- Current Status:** 4/12/2011 - Referred to Committee House Financial Institutions, Housing and Urban Development
- More Information:** http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_199
- HB200 INCOME TAX DEDUCTION FOR NET CAPITAL GAINS (BECK P)** To allow an income tax deduction of up to ten thousand dollars for net capital gains.
- Current Status:** 4/12/2011 - Referred to Committee House Ways and Means
- More Information:** http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_200
- HB238 REFINERS/WHOLESALERS OF PETROLEUM (GERBERRY R, HAGAN R)** To require refiners and wholesalers of petroleum products to submit monthly reports to the Director of Commerce regarding petroleum products shipped into, used in, and exported from this state and to create the Gasoline Practices Oversight Commission for the period ending December 31, 2013.
- Current Status:** 5/25/2011 - Referred to Committee House State Government and Elections
- More Information:** http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_238
- HB240 OHIO SUSTAINABLE FOOD ADVISORY COUNCIL (WEDDINGTON C, AMSTUTZ R)** To create the Ohio Sustainable Food Advisory Council to address program and policy considerations regarding the development of a sustainable food economy in Ohio.
- Current Status:** 5/25/2011 - Referred to Committee House Agriculture and Natural Resources
- More Information:** http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_240
- HB250 PORTABLE ELECTRONICS INSURANCE (HACKETT R)** To establish requirements and procedures for issuing portable electronics insurance.
- Current Status:** 11/16/2011 - **PASSED BY HOUSE**; Vote 94-2
- More Information:** http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_250
- HB264 SUNSET REVIEW COMMITTEE (BURKE D, GROSSMAN C)** To implement the recommendations of the Sunset Review Committee by abolishing, terminating, transferring, or renewing various agencies and by reestablishing the

Sunset Review Committee but postponing its operation until the 131st General Assembly, to terminate the operation of certain provisions of this act on December 31, 2016; to declare an emergency.

Current Status: 6/22/2011 - House State Government and Elections, (Second Hearing)

More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_264

- HB318 ELIMINATE MARCH PRIMARY ELECTIONS** (BLESSING L, O'BRIEN S) To set two separate primary elections in 2012 for presidential and congressional races.
Current Status: 10/21/2011 - **SIGNED BY GOVERNOR**; Eff. 1/20/2012
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_318
- HB319 CONGRESSIONAL DISTRICT BOUNDARIES** (HUFFMAN M) To establish Congressional district boundaries for the state based on the 2010 decennial census of Ohio.
Current Status: 9/26/2011 - **SIGNED BY GOVERNOR**; Eff. 9/26/2011
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_319
- HB337 COMMERCIAL DRIVERS' LICENSES** (ROSENBERGER C) To make changes in the law governing commercial drivers' licenses, including hazardous material endorsements, medical certification requirements, disqualifications, conviction records, establishing testing while driving as a serious traffic violation, and licenser of private commercial driver's license test administrators, and to exclude certain components from the prohibited length dimensions of specified types of vehicles.
Current Status: 11/29/2011 - House Transportation, Public Safety and Homeland Security, (Second Hearing)
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_337
- HB344 OHIO INTERNATIONAL INITIATIVE** (BARNES, JR. J) To establish the Ohio International Initiative by creating the "SellOhio Global Initiative" with in the Department of Development and the Global Initiative on International Relations within the General Assembly to create new, untapped global markets for Ohio businesses and thereby promote job creation, and to make an appropriation.
Current Status: 11/15/2011 - House Finance and Appropriations, (First Hearing)
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_344
- HB380 ASBESTOS EXPOSURE COMPENSATION** (BLESSING L) To require claimants in asbestos tort actions to make certain disclosures pertaining to asbestos trust claims that have been submitted to asbestos trust entities for the purpose of compensating the claimant for asbestos exposure.
Current Status: 11/29/2011 - House Judiciary and Ethics, (First Hearing)
More Information: No link available
- HCR10 F-35 JOINT STRIKE FIGHTER** (BUBP D, MARTIN J) To urge the Congress of the United States to continue the full funding and production of the F-35 Joint Strike Fighter.
Current Status: 5/18/2011 - **REPORTED OUT**, House Veteran's Affairs, (Second Hearing)
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_HCR_10
- HCR21 PENSION BENEFITS-RETIRED STEELWORKERS** (SLESNICK S, RAMOS D) To declare the state of Ohio's support of its steelworkers in urging the President and the Congress of the United States to ensure that the Pension Benefit Guarantee Corporation is fully funded and properly administered to pay pension benefits to retired steelworkers and their spouses.
Current Status: 6/8/2011 - Referred to Committee House Health and Aging
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_HCR_21
- SB2 REGULATORY REFORM** (HUGHES J) To evaluate the economic impact of agency rules and regulations on small business in Ohio.
Current Status: 3/4/2011 - **SIGNED BY GOVERNOR**; Eff. 6/7/2011; some sections 1/1/2012
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_2
- SB11 GOVERNMENT REGULATION PROCESS** (CAFARO C) To enact the Common Sense Regulation Act to improve state agency regulatory processes, especially as they relate to small businesses, to require state departments to develop customer service training programs, and to require the Director of Environmental Protection to provide environmental regulatory compliance assistance to small businesses.
Current Status: 2/2/2011 - Referred to Committee Senate Government Oversight & Reform
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_11
- SB12 SMALL BUSINESS SET ASIDE** (KEARNEY E) To generally require that state agencies set aside a certain amount of purchases for which only small business enterprises may compete.
Current Status: 2/2/2011 - Referred to Committee Senate State & Local Government & Veterans Affairs
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_12

- SB73** **NONBEVERAGE FOOD MANUFACTURERS** (MANNING G) To allow manufacturers of nonbeverage food products to purchase at wholesale beer and intoxicating liquor from A and B liquor permit holders.
Current Status: 4/21/2011 - **SIGNED BY GOVERNOR**; Eff. 7/22/2011
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_73
- SB89** **LABOR REQUIREMENTS** (JORDAN K) To prohibit state agencies from requiring or prohibiting certain labor requirements as a condition of performing public works and prohibit the appropriations of state funds for public works when political subdivisions require or prohibit certain labor.
Current Status: 3/8/2011 - Referred to Committee Senate Joint Committee on Agency Rule Review
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_89
- SB98** **FEDERAL IMMIGRATION LAWS** (STEWART J) To direct the Attorney General to pursue a memorandum of agreement that permits the enforcement of federal immigration laws in this state by law enforcement officers.
Current Status: 4/13/2011 - Senate State & Local Government & Veterans Affairs, (First Hearing)
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_98
- SB140** **BITTERING AGENT IN ENGINE COOLANT** (BACON K, SKINDELL M) To require the inclusion of a bittering agent in engine coolant and antifreeze.
Current Status: 11/15/2011 - Senate Judiciary, (Second Hearing)
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_140
- SB143** **RECOVERY-FRAUD AGAINST THE STATE** (HUGHES J, OELSLAGER S) To provide for the recovery of damages and civil penalties for defrauding the state of money or property and to authorize private persons to bring qui tam civil actions in the name of the state to remedy the frauds.
Current Status: 11/15/2011 - Senate Judiciary, (Fourth Hearing)
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_143
- SB171** **SUNSET REVIEW COMMITTEE RECOMMENDATIONS** (GILLMOR K) To implement the recommendations of the Sunset Review Committee by abolishing, terminating, transferring, or renewing various agencies and reestablishing the Sunset Review Committee but postponing operation until the 131st General Assembly, and to declare an emergency.
Current Status: 6/30/2011 - **SIGNED BY GOVERNOR**; Eff. 6/30/2011
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_171
- SB193** **SCRAP METAL DEALERS** (SEITZ B) To require scrap metal dealers to take and keep as part of the sales record a photograph of each person selling or giving an article to the dealer.
Current Status: 9/27/2011 - Senate Insurance, Commerce & Labor, (First Hearing)
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_193
- SB200** **EDISON JOBS DEVELOPMENT PROGRAM** (HUGHES J) To create the Edison Jobs Development Program within the Department of Development and to make an appropriation.
Current Status: 9/20/2011 - Referred to Committee Senate Finance
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_200
- SB217** **MARCH PRIMARY ELECTIONS** (FABER K) To eliminate March primary elections in presidential election years by requiring all primary elections to be conducted on the first Tuesday after the first Monday in May, and to declare an emergency.
Current Status: 9/20/2011 - Referred to Committee Senate Government Oversight & Reform
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_217
- SB224** **WRITTEN CONTRACTS** (OBHOF L) To shorten the period of limitations for actions upon a contract in writing.
Current Status: 11/29/2011 - Senate Judiciary, (Second Hearing)
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_224
- SB231** **SEXUAL/GENDER DISCRIMINATION** (SKINDELL M, TAVARES C) To prohibit discrimination on the basis of sexual orientation or gender identity.
Current Status: 11/16/2011 - Senate Judiciary, (First Hearing)
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_231
- SB246** **PORTABLE ELECTRONICS INSURANCE** (BACON K) To establish requirements and procedures for issuing portable electronics insurance.
Current Status: 11/29/2011 - Senate Insurance, Commerce & Labor, (First Hearing)
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_246

- SB253** **ELECTRONIC WASTE ADVISORY COUNCIL** (LEHNER P) To establish a recycling program for covered electronic devices, to create the Electronic Waste Advisory Council to evaluate and make recommendations and prepare a report concerning recycling of those devices, and to terminate the Council on July 1, 2015.
 Current Status: 11/15/2011 - Referred to Committee Senate Agriculture, Environment & Natural Resources
 More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_253
- SB256** **RIGHT TO CURE AGREEMENT** (COLEY W) To allow suppliers and consumers to enter into a Right to Cure agreement.
 Current Status: 11/16/2011 - Introduced
 More Information: No link available
- SCR10** **CONSUMER PROTECTION ACT** (TURNER N) To request the Commissioners of the United States Commodity Futures Trading Commission act with all possible, yet prudent, haste to develop and implement the uniform transparency rules and speculative trading limits authorized under the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010.
 Current Status: 6/15/2011 - Senate Financial Institutions, (First Hearing)
 More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_SCR_10

My Results [\(Customize\)](#)

My Results

Voter Turnout Results

Interactive State Map

[Proposed Constitutional Amendment to increase the maximum age at which a person may be elected or appointed judge and eliminate certain authorities.](#) [MAP IT](#)

| Issue | % of Votes For | Number Of Votes For | % of Votes Against | Number Of Votes Against |
|--|----------------|---------------------|--------------------|-------------------------|
| Proposed Constitutional Amendment to increase the maximum age at which a person may be elected or appointed judge and eliminate certain authorities. | 37.97% | 1,246,535 | 62.03% | 2,036,080 |

[Proposed Referendum on Am. Sub. S.B. 5.](#) [MAP IT](#)

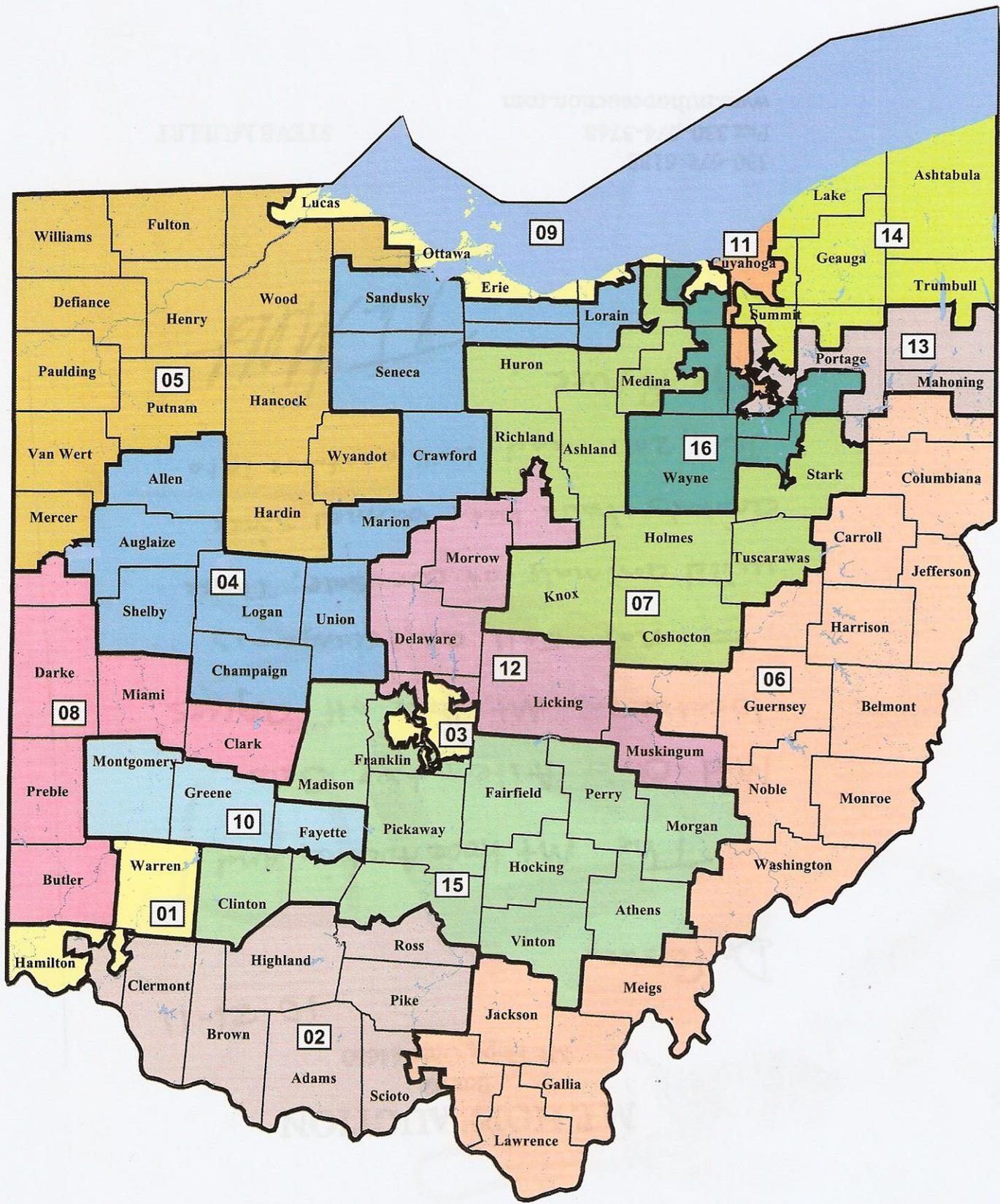
| Issue | % of Votes For | Number Of Votes For | % of Votes Against | Number Of Votes Against |
|---|----------------|---------------------|--------------------|-------------------------|
| Proposed Referendum on Am. Sub. S.B. 5. | 38.67% | 1,352,366 | 61.33% | 2,145,042 |

[Proposed Constitutional Amendment to preserve the freedom of Ohioans to choose their health care and health care coverage.](#) [MAP IT](#)

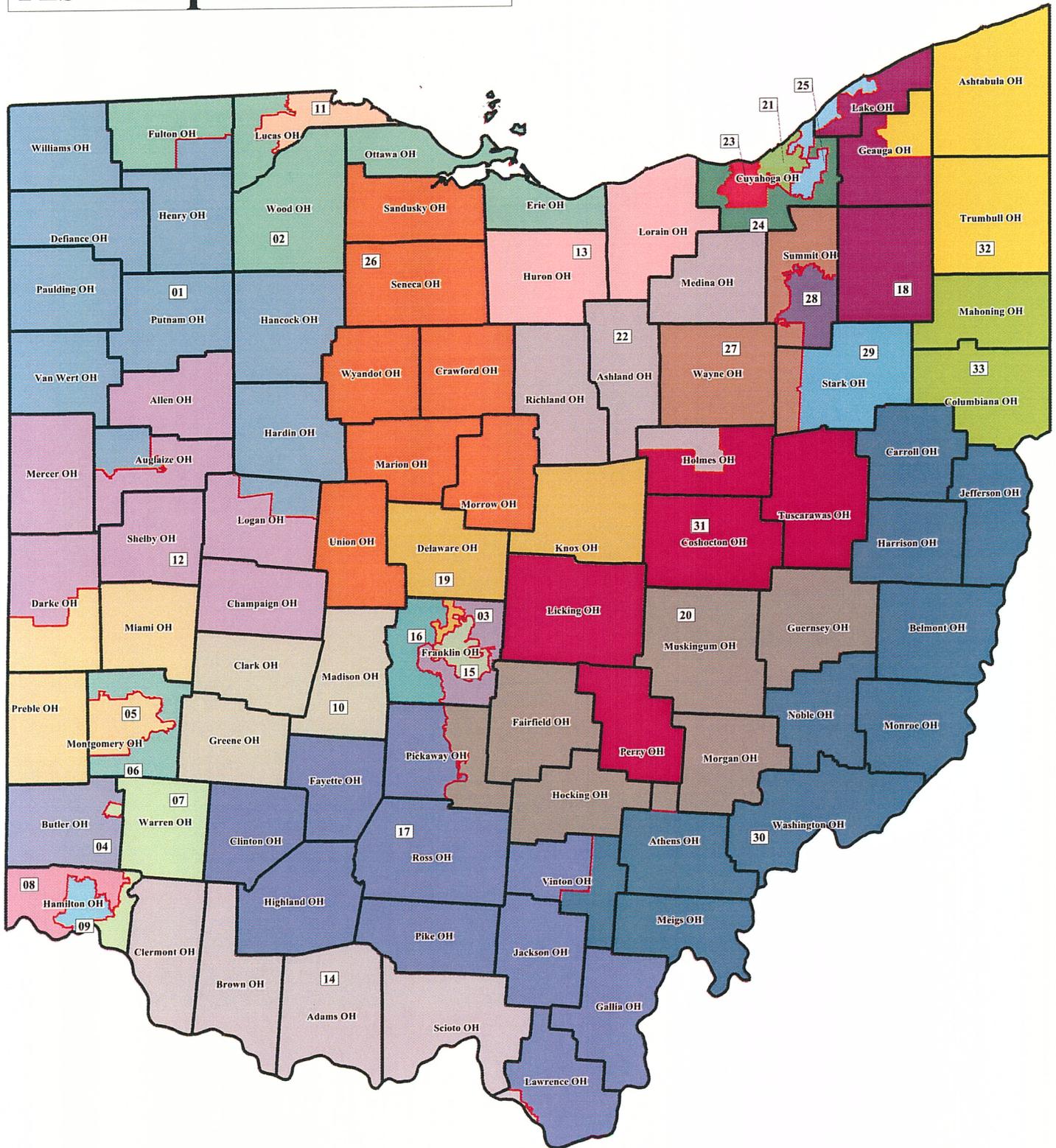
| Issue | % of Votes For | Number Of Votes For | % of Votes Against | Number Of Votes Against |
|--|----------------|---------------------|--------------------|-------------------------|
| Proposed Constitutional Amendment to preserve the freedom of Ohioans to choose their health care and health care coverage. | 65.63% | 2,221,175 | 34.37% | 1,163,276 |

Update in: 00:02:07

Proposed Congressional Districts



Ohio Senate Districts As Adopted



ATTORNEY-CLIENT PRIVILEGED
CONFIDENTIAL MEMORANDUM

COLUMBUS | CLEVELAND
CINCINNATI-DAYTON

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Kurtis A. Tunnell
614.227.8837
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To: Ohio Alliance for Civil Justice

From: Kurtis A. Tunnell
Bricker & Eckler LLP

Re: Pending Legislation

Date: November 29, 2011

Senate Bill 143 – False Claims Act

The legislation enacts new Ohio Revised Code 2747 providing that any person who knowingly presents a false or fraudulent claim, false record, or statement in a fraudulent claim to the State of Ohio is liable to the State for three (3) times the amount of damages that the State sustains because of the damage, costs of any action to recover those damages, and a civil penalty of \$5,500 to \$11,000 for each violation. Lesser penalties are provided for those who cooperate in False Claims Act investigations.

The Attorney General is authorized to bring civil actions against violations of False Claims provisions. Senate Bill 143 provides for Whistleblower civil suits against violators whereby whistleblowers stand to receive between 15 to 30 percent of damages (depending on AG intervention) and penalties collected. The statute of limitations under the legislation is 6 years (or 3 years after the date when the facts materials to the right of action are known or reasonably should have been known by the AG, but in no event longer than 10 years after the violation occurred, whichever is last. Retroactive application of claims is permitted as long as the statute of limitations has not expired.

The State of Ohio and federal governments would split under a 60/40 arrangement (increased from the current 50/50 recovery as provided for in current law).

House Bill 170 / Senate Bill 224. Statute of Limitations Revisions

House Bill 170 and companion Senate Bill 224 legislation reduces Ohio's statutes of limitations for written contracts from 15 years to 6 years. Ohio is one of only two states (Kentucky) that permit 15 year statutes of limitations for breach of written contracts.

Senate Bill 52. Offers of Judgment

The legislation requests the Ohio Supreme Court to amend Rule 68 of the Ohio Rules of Civil Procedure to provide for the following with respect to offers of judgment. Rule 68 would be amended to say that more than 10 days before trial the party defending an action may provide to the plaintiff an offer of judgment with costs, which may be accepted and filed with the clerk to enter the judgment. Unaccepted offers of judgment are considered withdrawn and unaccepted offers are not admissible as evidence.

If a party's certain liability has been determined, but remaining liability is left for additional proceedings, an offer of judgment may be made on the remaining liability. An offering party may be forced to pay costs incurred after an offer was made if the final judgment is not more favorable than the unaccepted offer.

Senate Bill 202. Trespasser Liability

Senate Bill 202 clarifies the responsibilities for a possessor of real property in tort for death or injuries to trespassers. The revisions specify that the owner of real property is liable to a trespasser if the possessor of such property knows, should know or believe that a trespasser is in a position of peril and the possessor of such property fails to exercise ordinary care to avoid causing the injury, death, or loss.

Possessors of property are liable in tort for trespass for injuries to children caused by artificial conditions on the property if the possessor knows or has reason to know children are likely to trespass, the condition involves an unreasonable risk to those children, the children, because of their age, do not recognize the risk involved, the utility of maintaining the artificial condition is slight, and the possessor fails to exercise reasonable care to eliminate the risks of the artificial condition.

Possessors of real property are liable to adults to attempt to rescue children who trespass on property due to the artificial condition. Senate Bill 202 does not create new causes of action, additional immunities or defenses established in statute or common law, or civil liabilities in statute or established in common law. Criminal liabilities are unaffected and immunities or defenses for self-defense or defenses of third persons are likewise unaffected.



OHIO ALLIANCE FOR CIVIL JUSTICE



HB 170 Fact Sheet

Bill Summary: Shorten the statute of limitations in Ohio for written contracts from fifteen years to six years.

- The passage of HB 170 will fix an outdated Ohio law and in so doing will alleviate a significant burden on both Ohio businesses and courts.
- Ohio is one of only two states (along with Kentucky) that allow fifteen years to bring a lawsuit on a written contract. Twenty-two states have the six-year statute of limitations proposed in HB 170 and eighteen states have limitation periods between 3-5 years.
- By comparison, Ohio's statute of limitations for oral contracts is six years, personal injury claims two years and tort claims is generally four years.
- The current fifteen year statute of limitations is a relic of a different era. It was initially adopted in 1803 under a very different legal environment when communication systems were considerably less efficient. The legal underpinnings of the law adopted in 1803 have all since changed.
- The current fifteen year statute of limitations negatively impacts Ohio's businesses:
 - Businesses must maintain records for fifteen years after entering a written contract or risk defending legal claims without proper documentation. That is a substantial cost burden to both large and small businesses – both in terms of time and costs.
 - Legal exposure to businesses from class action lawsuits is significantly expanded because anyone party to a contract for a fifteen year period can be a part of the class action.
- Ohio's legal climate is unnecessarily complicated by this long statute of limitations; producing evidence and accurate witness testimony to facts fifteen years prior is very difficult and in many cases not practical. Additionally, courts are burdened by handling claims that attempt to turn tort claims with shorter statute of limitations into contract claims so that plaintiffs get the benefit of the longer limitations period.



SB 143 Fact Sheet

Bill Summary: Proposes to adopt a state false claims law in Ohio that would authorize any person (commonly referred to as a whistleblower) to bring a civil action in the name of the State of Ohio for the recovery of damages for defrauding the state of money or property. Penalties for violating the law include triple damages, a civil penalty ranging from \$5,500 to \$11,000 per violation and all costs and attorneys fees for bringing the action. Whistleblowers are financially incentivized to file actions under the proposed law as they are awarded monetary rewards between 15-30% of the damages.

- SB 143 is being portrayed as pro-taxpayer legislation that will capitalize on federal incentives to increase what Ohio recovers from suits brought under the federal False Claims Act against businesses that defraud the government. However, that is not the full story.
- In order for Ohio to capitalize on the federal incentive (capture an additional 10 percentage points of the money recovered in a whistleblower lawsuit), SB 143 places Ohio businesses with government contracts in greater jeopardy of being sued by whistleblowers – who are generally represented by contingency-fee attorneys who have a lot to gain by chasing questionable claims.
- By providing a large financial incentive to potential whistleblowers and their lawyers, we can expect more frivolous lawsuits that force businesses to defend and disprove unfounded fraud allegations. That is a very expensive undertaking for businesses (often running into the millions of dollars to defend even meritless claims) and will be a consideration for businesses looking to move into or expand in Ohio.
- Ohio's legal climate has become fair and predictable after the comprehensive legal reforms of the past several years. SB 143 is a threat to that predictability and a clear step in the wrong direction.
- It is questionable whether SB 143 would result in a net financial gain for Ohio taxpayers. Although Ohio may be able to recover additional federal recovery dollars under the proposed law, whether or not the state would really gain 10% additional monies is unlikely due to the additional expenses Ohio would need to expend in these lawsuits. Ohio would have to award the whistleblower up to 30% of its recoveries. And, the additional 10% could be more than offset by the higher rewards paid to whistleblowers not to mention the increased costs for additional staff and resources to investigate these actions brought by private citizens.
- Most states have not adopted the federal mandate included in SB 143, likely because the financial benefits are questionable. For example, Minnesota's Attorney General estimated that the cost of adopting the federal whistleblower requirement contained in SB 143 would cost Minnesota \$2 million and Washington State estimated the net cost at over \$6 million per year.
- On balance, the alleged, and questionable, financial benefit of SB 143 is far outweighed by the harm that the legislation would do to Ohio's civil justice system and the substantial cost and increased litigation risk that would be absorbed by Ohio's businesses if the bill becomes law.



OHIO ALLIANCE FOR CIVIL JUSTICE



September 12, 2011

Via Electronic Mail: Lisa.Valentine@ohr.state.oh.us

Lisa Valentine
Policy Advisor to the Ohio House Republican Caucus
Office of Speaker William G. Batchelder
77 South High Street, 14th Floor
Columbus, Ohio 43215

Dear Lisa:

On August 29, 2011, you hosted a meeting of interested parties to discuss Transparency in Private Attorney Contracts (TiPAC), a model law the Ohio House is currently considering. In that meeting, you asked the interested parties to comment on seven specific topics (outlined below). The Ohio Alliance for Civil Justice (“OACJ”), which is comprised of representatives of more than 200 Ohio trade and professional associations, small and large businesses, medical groups, farmers, non-profit organizations and local government associations, prepared the following single set of comments.

As you know, the OACJ is very supportive of the House’s consideration of this very important reform measure and if we can be helpful to you or others by providing additional materials or information about this model law, we would be happy to do so. Thank you in advance for your consideration of TiPAC.

1. The Attorney General must analyze certain factors and make a written determination that contingency fee representation will be both cost effective and in the public interest, prior to entering into a contract.

This provision not only encourages, but requires, cautious consideration by the Attorney General in his or her decision to hire private lawyers on a contingency fee basis. The decision to use contingency fee counsel to represent Ohioans needs to be carefully made, so as not to undermine the neutrality required of government attorneys who must act in the interests of the public. In addition, this provision is the first step of many to incorporate a set of uniform standards and procedures that the Attorney General must adhere to when awarding special counsel work on a contingency fee basis.

The fees in contingency cases can be quite large, and as a result, private lawyers who are compensated through a share of the state’s recovery have a significant and direct financial stake in the government’s proceedings. Contingency fees in this context *may* create incentives for profit-minded counsel to promote unwarranted litigation, pursue

Ms. Lisa Valentine
September 12, 2011
Page 2

speculative claims under the cloak of the state's authority, and disregard good-faith settlement opportunities in order to drive up recoveries (and fees). The government's retention of self-interested counsel, in some cases, may also implicate constitutional guarantees. Requiring analysis and documentation of the need to hire contingency fee counsel encourages good decision making and helps protect the interests of all parties, including Ohio's taxpayers, by increasing responsibility and accountability.

The state's use of outside counsel also creates opportunities for corruption or, at best, the appearance of corruption if contingency fee contracts are awarded to former campaign contributors, personal friends, or business associates. Requiring the Attorney General's Office to document the need to bypass talented government attorneys to hire private counsel for potentially high-fee cases helps shine light on the Attorney General's contracting practices to enhance public confidence in Ohio's justice system.

2. The Attorney General is required to request proposals from private attorneys, or make a written determination that such a request is not feasible under the circumstances.

This provision is intended to assure that the Ohio Attorney General considers several options for private counsel in order to retain the best counsel possible under the best arrangement possible for the needs of the case and to minimize the potential for the appearance of cronyism. The Attorney General's Office may bypass the request for proposal requirement in emergencies or other extraordinary circumstances. However, the type of government litigation that requires the specialized expertise of private counsel is generally not something to be entered into lightly, without significant consideration of the potential benefits and drawbacks to those impacted the most -- Ohioans. As a result, in most cases there should be adequate time both to make a considered analysis of the need to hire outside counsel and to collect proposals from interested attorneys and firms.

3. Contingency fees are subject to tiered limits and an aggregate cap of \$50 million, exclusive of reasonable costs and expenses.

This provision is intended to limit special counsel work that is awarded by the Ohio Attorney General on a contingency fee basis. It is important to note that this provision *does not* limit any other type of contingency fee contract. There are valuable public policy reasons that exist for limiting these types of fees in the special counsel context and one such reason is that the Attorney General pays these fees out of the monies it receives on behalf of Ohio plaintiffs. The state should consider implementing policies that will protect public dollars and ensure that most of the recovered dollars are distributed to Ohioans.

The opportunity to draw unlimited amounts of contingency fees may encourage private counsel to propose speculative, unwarranted litigation on behalf of the state of Ohio. Under the proposed provision, fees are tiered at generous levels with an ultimate cap of \$50 million, intended to attract and compensate qualified counsel while

Ms. Lisa Valentine
September 12, 2011
Page 3

discouraging inappropriate, fee-driven litigation. The tiered approach was pioneered by the state of Florida in legislation enacted in 2010 and supported by then-Attorney General Bill McCollum, and it was enacted in 2011 by the states of Arizona and Indiana.

4. Certain requirements must be met throughout the contract to ensure government attorneys retain complete control over the litigation.

State supreme courts considering the state's retention of outside counsel under contingency fee arrangements have emphasized the need for government attorneys to retain complete control over the course of the litigation. *See County of Santa Clara v. Superior Court*, 50 Cal. 4th 35, 235 P.3d 21 (Cal. July 26, 2010); *State v. Lead Industries Ass'n, Inc.*, 951 A. 2d 428 (R.I. 2008). The proposed requirements and provisions reflect the considerations outlined by the courts in determining whether the state is in control of the litigation. These are intended to minimize the potential for unfairness and abuse of the state's power that arises when contingency fee counsel with a financial conflict of interest represent the state in litigation. Requiring government attorney participation in settlement conferences helps assure that appropriate settlement offers and demands will be seriously considered and that the state's claims will be efficiently resolved.

5. Contingency fee contracts must include certain standard provisions reflecting what is expected of the government attorneys and contingency fee counsel.

As previously noted, state supreme courts considering the state's retention of outside counsel under contingency fee arrangements have emphasized the need for government attorneys to retain complete control over the course of the litigation. *See County of Santa Clara v. Superior Court*, 50 Cal. 4th 35, 235 P.3d 21 (Cal. July 26, 2010); *State v. Lead Industries Ass'n, Inc.*, 951 A. 2d 428 (R.I. 2008). The proposed requirements and provisions reflect the considerations outlined by the courts in determining whether the state is in control of the litigation.

6. The contingency fee contract, payments made under the contract, and the Attorney General's written determination about the need for contingency fee representation are to be posted on the Attorney General's website. Other records relating to the contract are to be subject to the State's Open Records laws. The private attorneys and paralegals are to maintain detailed contemporaneous time records for presentation to the Attorney General on request.

These minimal transparency requirements are intended to provide accountability to the public while preserving litigation-related information subject to the attorney-client privilege, work product doctrine, and other legal privileges. The requirement for detailed contemporaneous time records is to help the Attorney General assess the amount of work, type of expertise, etc. required for the litigation so he or she can determine whether the contingency fee contract was advantageous to the state and therefore more effectively contract for outside counsel in the future.

Ms. Lisa Valentine
 September 12, 2011
 Page 4

7. The Attorney General must submit an annual report to the Senate President and Speaker of the House that describes the State's retention of contingency fee counsel in the preceding calendar year.

This requirement is intended to encourage transparency and accountability in state contracts with outside contingency fee counsel and the state's engagement in contingency-fee funded litigation. As the branch of government charged with developing both the annual budget and public policy, the Ohio Legislature should be informed of the amount of state recoveries disbursed as contingency fees to outside counsel, the disposition of the remaining amounts of any recovery, the nature of the contingency fee funded- lawsuits brought, and the counsel involved, among other things. This will help inform the General Assembly's decision making during the budgeting process and will allow Ohio lawmakers to determine whether its public policy decisions are being carried out or whether its policymaking authority is being undermined by unwarranted litigation.

Again, thank you for your consideration of this important reform measure. If you have any questions regarding our comments or responses to these seven topics, please do not hesitate to reach out to any one of us.

Sincerely,



Ryan Augsburger
 OMA
 OACJ Chair



Linda Woggon
 Ohio Chamber
 OACJ Vice Chair



Barbara Benton
 OSCPA
 OACJ Treasurer



Tim Maglione
 OSMA
 OACJ Secretary



Chris Ferruso
 NFIB/Ohio
 OACJ Assistant Secretary



Gordon Gough
 OCRM
 Member at Large



Richard Sites
 OHA
 Member at Large

Human Resources Management

Congressional Reps File Amicus Brief Opposing NLRB Posting Requirement

Chairman John Kline (R-MN) of the House of Representatives' Committee on Education and the Workforce and 35 other members of Congress filed this **amicus brief** with the federal court in support of the National Association of Manufacturers' (NAM) position against the National Labor Relations Board (NLRB).

The NAM is taking legal action against the NLRB over its rule requiring all employers to post a notice of employees' rights to unionize. The brief argues that the NLRB exceeded its authority, and acted contrary to the National Labor Relations Act by imposing a notice obligation on employers who are not parties to a pending unfair labor practice charge or a pending representation petition.

Due to the lawsuit the effective date of the rule has been postponed to January 31, 2012. Stay tuned; the federal judge is scheduled to hear the case on December 19.

11/18/2011

Did Manufacturers Hire in 2011?

OMA Connections Partner, PNC Bank, reported that a year ago many manufacturers expected to hire in 2011. Did they follow through?

In fact, manufacturing job gains from January through August were low, according to data from the Bureau of Labor Statistics. Employment in manufacturing as a whole grew only 1.2 percent. Sectors that had the most gains included transportation, fabricated metal products and machinery, all sectors that are Ohio strengths.

According to the PNC **article**, instead of adding employees in 2011, manufacturers chose to invest in new capital equipment to improve productivity.

At the same time, many manufacturing companies say they would hire if they could find

people with the right skills, such as CNC machinists, welders and technicians.

11/18/2011

More I-9 Employment Verification Audits

According to OMA Connections Partner, Squire Sanders, the U.S. Department of Homeland Security (DHS), Immigration Customs and Enforcement (ICE) bureau has just issued several Notices of Inspection (NOI) to employers throughout the U.S. requiring the production of Forms I-9, payroll records and related information for inspection.

All U.S. employers must complete and retain a Form I-9 for each individual they hire for employment in the United States. This includes citizens and noncitizens. On the form, the employer must examine the employment eligibility and identity document(s) an employee presents to determine whether the document(s) reasonably appear to be genuine and relate to the individual and record the document information on the Form I-9.

This action comes during what has been a record year in immigration enforcement with DHS-initiated audits up 300 percent since 2009.

11/18/2011

Holidays Coming ... Tips for Employer Sponsored Holiday Parties

Holiday gathering offer employees an opportunity to celebrate with co-workers and provide employers an opportunity to show appreciation for a year of hard work. OMA Connections Partner Roetzel & Andress LPA has **tips** for hosting employee holiday parties in order to minimize potential lawsuits.

11/11/2011

Turn in Unemployment Fraudsters

Employers well know that Ohio is facing an unprecedented bill for unemployment claims. Now, **according** to OMA Connections partner, Roetzel & Andress LPA, the Ohio

Department of Job and Family Services has introduced a **new website** where anonymous tips may be left by those who suspect unemployment fraud, such as an individual continuing to collect benefits while working.

Those caught receiving fraudulent benefits are subject to criminal penalties as well as penalties against any future unemployment claims.

11/11/2011

House Committee Approves Reforms to Rein In Activist NLRB

This week in Washington, a U.S. House panel reported out the **Workforce Democracy and Fairness Act** (3094). The legislation is intended to roll back the activist agenda of the National Labor Relations Board (NLRB) and reaffirm important protections for workers and employers.

In past months, the NLRB has taken action to allow for ambush elections and micro-unions, among other policy shifts. The **OMA joined** with the NAM and the Coalition for Democratic Workplace in voicing support for federal legislation.

10/28/2011

NAM v. NLRB Over Posting Requirement: Legal Process Advances

This week the National Association of Manufacturers (NAM) filed its first set of briefs with the U.S. District Court in its lawsuit against the National Labor Relations Board (NLRB) contesting the Board's "posting requirement" rule finalized in August.

The **brief** requests the Court find, based on the National Labor Relations Act, that there is no dispute because the NLRB lacks the authority to issue the "posting requirement" rule, and because there is no dispute on the law, the brief asks the Court to find in favor of the NAM and nullify the rule.

The NLRB also **filed its brief** on October 26, which argues the opposite. Each party will have a chance to file replies to the briefs by

November 22 and a hearing will be held on the case on December 19.

10/28/2011

Is Your Disabled Employee Requesting ADA Accommodation? You May be Entitled to a Doctor's Note.

One issue that often puzzles employers is whether they may require medical documentation, such as a doctor's note, before providing an accommodation to a disabled employee. As most employers know, the Americans with Disabilities Act (ADA) requires them to provide reasonable accommodations to disabled employees. **Read more.** *From OMA Connections Partner, Roetzel & Andress.*

10/25/2011

U.S. Representative Introduces Legislation to Slow Down NLRB

According to the National Association of Manufacturers (NAM), Rep. John Kline (R-MN), Chairman of the House Education and the Workforce Committee, introduced the Workforce Democracy and Fairness Act addressing recent aggressive National Labor Relations Board (NLRB) decisions about the length of time an employer has to react to a union election and how a work unit is defined for bargaining purposes.

Rep. Kline's legislation guarantees an employer's ability to participate in a fair union election by establishing a 14-day timeframe for an employer to prepare a case to be heard by the NLRB. It ensures employees are able to make fully informed decisions by providing that no union election will be held in less than 35 days. It would also reestablish decades of law by reinstating the standard by which employees vote in the union elections, preventing the possibility of several "micro-unions" at one facility.

NAM invites you to go **on record** with your member of Congress.

10/21/2011

Manufacturing Institute Publishes Skills Gap Report

American manufacturing companies cannot fill as many as 600,000 skilled positions – even as unemployment numbers hover at historic levels – according to a **new report** from Deloitte and The Manufacturing Institute, an affiliate of the National Association of Manufacturers.

The survey polled a nationally representative sample of 1,123 executives at manufacturing companies over the summer, including OMA members.

Overall, survey findings are consistent with previous skills gap studies, with 67% of respondents reporting a moderate to severe shortage of available, qualified workers and 56% anticipating the shortage to grow worse in the next three to five years. In addition, the survey indicates that 5% of current jobs at respondent manufacturers are unfilled due to a lack of qualified candidates. These results underscore a talent shortage that threatens the future effectiveness of the U.S. manufacturing industry.

10/21/2011

Ohio Minimum Wage to Increase in 2012

OMA Connections Partner, Bricker & Eckler LLP, **reminds employers** that effective January 1, 2012, the Ohio minimum wage will increase by 30 cents, from \$7.40 per hour to \$7.70 per hour. (The Ohio minimum wage for “tipped employees” will increase from \$3.70 per hour to \$3.85 per hour, plus tips.)

If you are an Ohio employer with annual gross receipts of \$283,000 or more (previously \$271,000 or more), you must pay the Ohio minimum wage. If you are an Ohio employer and your annual gross receipts are less than \$283,000, then Ohio law requires you to pay the federal minimum wage, which is currently \$7.25 per hour (unchanged since July 2009).

Ohio’s minimum wage is tied to the rate of inflation as measured by the Consumer Price Index.

Here is an updated Ohio minimum wage **poster for 2012**.

10/21/2011

Ohio’s Tooling U Offer Free Workforce Readiness Assessment

Tooling U, the Cleveland-based online training provider focused on the needs of manufacturers, has created a free **Workforce 2021 Readiness Assessment**.

This workforce assessment program gives manufacturers the opportunity to assess their capabilities to face challenges associated with the predicted skilled workforce shortages of the next decade.

10/14/2011

NLRB Posting Requirement Delayed

This week the National Labor Relations Board (NLRB) announced it will voluntarily delay implementation of its posting requirement rule until January 31, 2012. The rule, mandating employers post a prescribed poster to inform employees of their rights to unionize, was slated to go into effect on November 14, 2011.

According to Joe Trauger, Vice President, Human Resources Policy, the National Association of Manufacturers (NAM), the decision to delay was made in response to the suit filed by the NAM against the NLRB. NLRB **justified** the two-month postponement “in order to allow for enhanced education and outreach to employers, particularly those who operate small and medium sized businesses.”

The U.S. District Court for D.C. has set December 19th for a hearing on summary judgment motions with a decision being rendered before the new effective date, January 31, 2012.

On September 8th, the NAM filed suit against the NLRB arguing that requiring all employers to post a notice of employee rights to unionize is outside the Board’s authority under the National

Labor Relations Act and is in violation of the Administrative Procedure Act.

10/07/2011

NAM Steps Up Legal Strategy Over NLRB Posting Requirement

Last weekend, the National Association of Manufacturers (NAM) and its counsel, Peter Kirsanow, were in discussions with National Labor Relations Board (NLRB) attorneys regarding the possibility of a stay on the implementation of the impending new **posting requirement** until the case could be adjudicated.

NAM is suing NLRB over its authority to require private-sector employers within the NLRB's jurisdiction to display a poster that describes "employee rights" under the National Labor Relations Act where other workplace notices are posted. The effective date of posting is now November 14, 2011.

NAM received word from the NLRB this past Monday indicating it would not stipulate to a stay on enforcement, but would agree to stipulated time frames for summary judgment. While this would facilitate a speedier hearing of the case, there is no guarantee the court would rule prior to the November 14th effective date of the rule. As a result, the NAM filed a motion for preliminary injunction.

09/30/2011

Attention Carbon-Based Lifeforms!

The Alliance for Working Together (AWT) in Northeast Ohio is looking for **sponsors** for its "RoboBots 2012" program. RoboBots is a program in which manufacturers partner with schools and their students to build "combat robots" which fight it out in an annual competition.

From AWT: "In order to provide this program to students/schools at no charge, we ask our sponsor companies to support the team financially through the purchase of all materials and components needed for the RoboBot.

Teams come up with their own unique designs and weapons, so the total spends will vary from team to team. Teams will be given a suggested 'shopping list' of what they need to build a bot and suggestions on where to purchase the items— the rest is up to you. Everything is purchased (and paid) by you so you have absolute control over the amount that is spent."

There will be an **orientation meeting** for company sponsors and school representatives on October 5th at Jergens, Inc. from 4:00 p.m. to 5:30 p.m. For more information, or to RSVP for the orientation, please email **Alyson Scott** or call (440) 951-5200.

09/30/2011

New IRS Developments in Worker Classification

The Internal Revenue Service (IRS) announced a **new program** to permit taxpayers to voluntarily reclassify workers as employees for federal employment tax purposes. The Voluntary Classification Settlement Program (VCSP) allows eligible taxpayers to voluntarily reclassify their workers for federal employment tax purposes with limited federal employment tax liability for the past nonemployee treatment.

Meanwhile, IRS Commissioner Douglas Shulman and Labor Secretary Hilda Solis signed a memorandum of understanding (MOU) to work together to create educational materials and meet regularly to address the issue of worker classification. This **effort** is intended to reduce alleged worker misclassification of independent contractors and non-employees.

09/30/2011

To Post or Not to Post – That is the Question

The National Labor Relations Board's recent rule requiring most private sector employers to post a notice of employees' rights under the National Labor Relations Act, to be effective November 14, 2011, is being challenged. Thus, employers may want to wait before clearing a space for this posting. **Read more** in this Bricker & Eckler

Human Resources E-Alert. *From OMA Connections Partner, Bricker & Eckler LLP.*

09/26/2011

NAM Launches NLRB Campaign

From the National Association of Manufacturers:

“The National Labor Relations Board's (NLRB) aggressive agenda threatens jobs in this country...The House of Representatives will soon vote on legislation, the Protecting Jobs from Government Interference Act (H.R. 2587), that would prevent the NLRB from telling an employer where it can do business. The measure is a response to the agency's complaint against the Boeing Company arising from its decision to build a new manufacturing facility in South Carolina. If the NLRB's complaint against Boeing succeeds, the company could be forced to abandon its \$1 billion plant in the state...

To build broad, bipartisan support for this measure, the NAM has joined with the National Federation of Independent Business to launch an advertisement campaign in 11 key states. The radio spots will air in Colorado, Florida, Iowa, Michigan, Missouri, Nevada, New Jersey, New Mexico, North Carolina, Ohio, and Virginia, calling on Congress to pass legislation to rein in the NLRB and prevent the board from dictating where businesses can and cannot create jobs in our country.”
You can listen to the ads [here](#).

09/09/2011

NAM Sues NLRB Over Posting Requirement

Late yesterday, the National Association of Manufacturers (NAM) filed suit against the National Labor Relations Board (NLRB) regarding the recently finalized posting requirement rule. The board issued a rule requiring all employers subject to the National Labor Relations Act to put up a poster notifying employees of their rights under the act on or before November 14, 2011.

In comments filed with the board, the NAM contended the posting requirement is beyond

the NLRB's authority under the act. These comments are the basis for the lawsuit filed in federal court yesterday. The NAM is asking the court to preliminarily and permanently enjoin the board from implementing, enforcing and applying the rule.

09/09/2011

Senate Bill 5 Backers Air First Campaign Ad

The campaign organization defending Senate Bill 5 on the November ballot (Issue 2) released its **first TV ad** this week. The ad features Toledo mayor Mike Bell, a former firefighter. In its release, Building a Better Ohio notes that Mayor Bell supports Issue 2 because it “gives our cities the tools they need to get spending under control and balance budgets without raising taxes or laying off good employees.”

Meanwhile reports the Columbus Dispatch, to “galvanize support behind Senate Bill 5, Gov. John Kasich is prodding private-business leaders with two of their least-favorite words. Card check.”

The governor reportedly told the press: “You get people emboldened, you don't know what it will lead to. It's a legitimate concern. There's a lot of things that could come. I'm not saying they will, but people who get emboldened, they do more-aggressive things.”

Campaign resources are available at the Building a Better Ohio [website](#).

09/09/2011

National Labor Relations Board to Require All Covered Employers to Post Unionization Rights Notices

On August 25, 2011, the National Labor Relations Board (NLRB) **issued a rule** requiring all private sector employers to post workplace notices informing employees of their unionization rights under the National Labor Relations Act.

09/06/2011

NLRB Announces New “Overwhelming Community of Interest” Burden on Employers

All of your employees are subject to the same work rules and personnel policies, but the employees in one of your smaller departments are disgruntled. Can a union cherry-pick this small group of employees for union representation? The answer may surprise you. **Read more** in this Bricker & Eckler Human Resources Bulletin. *From OMA Connections Partner, Bricker & Eckler LLP*

09/02/2011

NLRB Goes on Pre-Labor Day Rampage

With Labor Day approaching, the Obama-appointed stacked National Labor Relations Board (NLRB) gave labor several gifts and continued its aggressive pro-union agenda during the past two weeks. The Board issued one rule and three decisions that significantly impact private sector labor relations. These actions underscore the current Board's penchant to overturn Bush-era Board rulings, as well as long term NLRB precedent, and create easier opportunities for unions to organize employees.

These recent Board actions further shine the spotlight on the current NLRB's unstated commitment to achieve through rule making and board decisions what the proponents of the Employee Free Choice Act could not accomplish through Congress—a much easier, if not tilted, playing field for unions to sell the advantages of union membership and organize employees, who by all statistics have had little to no interest in buying what the union is trying to sell.

Read **more** in a memo prepared by OMA counsel Bricker & Eckler LLP.

09/02/2011

NLRB Requires Employers to Post Notice of Employees' NLRA Rights

As of November 14, the National Labor Relations Board (NLRB) will require most private employers to notify employees of their rights under the National Labor Relations Act (NLRA). Employers are being required to "increase employees' awareness" of their rights under the NLRA by posting prominent notices in the workplace. Read more in this **Bricker & Eckler Human Resources E-Alert**. *From OMA Connections Partner, Bricker & Eckler, LLP - 09/02/2011*

09/02/2011

NLRB Imposes New Posting Requirement – Compliance Required November 14

The National Labor Relations Board (NLRB) has **issued a final rule** requiring most private-sector employers, both those with and without unions, to notify employees of their rights under the National Labor Relations Act by posting a new 11-by-17 inch notice. The rule is scheduled to take effect on November 14, 2011.

The Board justified its action thus: “The Board believes that many employees protected by the NLRA are unaware of their rights under the statute and that the rule will increase knowledge of the NLRA among employees, in order to better enable the exercise of rights under the statute.”

The posting states that employees have the right to act together to improve wages and working conditions, to form, join and assist a union, to bargain collectively with their employer, and to refrain from any of these activities. It provides examples of unlawful employer and union conduct and instructs employees how to contact the NLRB with questions or complaints.

NLRB prepared this **fact sheet** to give employers guidance.

OMA is holding a webinar, **Manufacturers' Briefing on NLRB Activities**, on September 13 to prepare employers for activist agency activities.

08/26/2011

Human Resources, Health Care & Employment Law Legislation
Prepared by: The Ohio Manufacturers' Association
Report created on November 28, 2011

- HB7** **POST-VIABILITY ABORTIONS** (FENDE L) To revise the criminal laws governing post-viability abortions.
Current Status: 2/2/2011 - House Health and Aging, (First Hearing)
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_7
- HB11** **PATIENT PROTECTION AND AFFORDABLE CARE ACT** (SEARS B) To prohibit state departments and agencies from implementing or enforcing a provision of the federal Patient Protection and Affordable Care Act without meeting certain conditions.
Current Status: 2/23/2011 - House Health and Aging, (Second Hearing)
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_11
- HB61** **COMPENSATORY TIME OFF** (THOMPSON A, MARTIN J) To give private employers the option to offer and employees the option to accrue and use compensatory time off in lieu of monetary overtime compensation.
Current Status: 2/24/2011 - **SUBSTITUTE BILL ACCEPTED & REPORTED OUT**, House Economic and Small Business Development, (Fourth Hearing)
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_61
- HB63** **ABORTION - PREGNANT MINOR** (YOUNG R, SLABY L) To revise the procedures governing a hearing by which a court may permit a pregnant minor to have an abortion and to require a court to make its findings with respect to such a hearing by clear and convincing evidence.
Current Status: 11/4/2011 - **SIGNED BY GOVERNOR**; Eff. 2/3/12
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_63
- HB78** **POST VIABILITY ABORTIONS** (UECKER J, ROEGNER K) To review the criminal laws governing post-viability abortions.
Current Status: 7/20/2011 - **SIGNED BY GOVERNOR**; Eff. 10/20/2011
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_78
- HB79** **INSURANCE COVERAGE - ABORTIONS** (BUBP D, UECKER J) To prohibit qualified health plans for providing coverage for certain abortions.
Current Status: 11/29/2011 - Senate Insurance, Commerce & Labor, (Second Hearing)
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_79
- HB85** **HEALTH INSURANCE** (HACKETT R, SEARS B) To prohibit requiring an individual to obtain or maintain health insurance.
Current Status: 2/23/2011 - House Health and Aging, (Second Hearing)
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_85
- HB125** **ABORTION** (WACHTMANN L) To generally prohibit an abortion of an unborn human individual with a detectable fetal heartbeat.
Current Status: 6/28/2011 - **PASSED BY HOUSE**; Vote 54-43
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_125
- HB131** **EMPLOYMENT RELATED MATTERS** (REECE A) To prohibit employers from using a consumer report or investigative consumer report for employment purposes.
Current Status: 5/11/2011 - House Commerce & Labor, (First Hearing)
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_131
- HB137** **UNIFORM DEFINITION OF EMPLOYEE** (PHILLIPS D, DRIEHAUS D) To create a generally uniform definition of employee for specified labor laws and to create a uniform standard to determine whether an individual performing services for an employer is an employee of that employer.
Current Status: 5/25/2011 - House Commerce & Labor, (First Hearing)
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_137
- HB230** **EMPLOYMENT APPLICATION QUESTIONS** (WILLIAMS S) To prohibit employers from including on an employment application any question concerning whether an applicant has pleaded guilty to or been convicted of a felony.
Current Status: 6/1/2011 - House Commerce & Labor, (First Hearing)
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_230

- HB257 LAKE ERIE WATERS (MURRAY D)** To establish a program for the regulation of withdrawals and consumptive uses of waters from the Lake Erie basin.
Current Status: 6/15/2011 - Referred to Committee House Agriculture and Natural Resources Subcommittee
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_257
- HB376 HEALTH INSURANCE COVERAGE-AUTISM (CELESTE T, GARLAND N)** To prohibit health insurers from excluding coverage for specified services for individuals diagnosed with an autism spectrum disorder.
Current Status: 11/15/2011 - Introduced
More Information: No link available
- HCR3 HEALTH COVERAGE TAX CREDIT (O'BRIEN S)** To request the members of the United States Congress to reauthorize and continue the Health Coverage Tax Credit (HCTC) enhancements including provisions related to the monthly reimbursement program, the qualified family members program, and Voluntary Employee Beneficiary Associations (VEBAs).
Current Status: 2/10/2011 - Referred to Committee House Finance and Appropriations
More Information: http://www.legislature.state.oh.us/res.cfm?ID=129_HCR_3
- HJR2 HEALTH CARE COVERAGE (MAAG R, SEARS B)** To preserve the freedom of Ohioans to choose their health care and health care coverage.
Current Status: 3/23/2011 - **REPORTED OUT**, House Health and Aging, (Third Hearing)
More Information: http://www.legislature.state.oh.us/res.cfm?ID=129_HJR_2
- SB30 EMPLOYMENT DISCRIMINATION CREDIT HISTORY (TAVARES C)** To specify that discrimination by an employer against any person because of the person's credit history is an unlawful discriminatory practice under the Ohio Civil Rights Law.
Current Status: 3/9/2011 - Senate Judiciary - Civil Justice, (First Hearing)
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_30
- SB35 MOBILE DEVICE OPERATION MOTOR VEHICLE (TAVARES C)** To prohibit driving a vehicle while using a handheld or manually operated mobile communication device and to establish the violation as a secondary traffic offense.
Current Status: 2/2/2011 - Referred to Committee Senate Highways & Transportation
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_35
- SB55 HEALTH INSURANCE PAYMENTS (TAVARES C)** To prohibit health insurers from denying payment for a service during or after the performance of the service if the insurer provided prior written authorization for the service.
Current Status: 9/20/2011 - Senate Insurance, Commerce & Labor, (First Hearing)
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_55
- SB62 COMPENSATORY TIME OFF (BEAGLE B)** To give private sector employers the option to offer and employees the option to accrue and use compensatory time off in lieu of monetary overtime compensation.
Current Status: 2/16/2011 - Referred to Committee Senate Insurance, Commerce & Labor
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_62
- SB107 UNIFORM DEFINITION OF EMPLOYEE (SKINDELL M)** To create a generally uniform definition of employee for specified labor laws and to create a uniform standard to determine whether an individual performing services for an employer is an employee of that employer.
Current Status: 11/29/2011 - Senate Insurance, Commerce & Labor, (First Hearing)
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_107
- SB112 OHIO HEALTH CARE PLAN (SKINDELL M)** To establish and operate the Ohio Health Care Plan to provide universal health care coverage to all Ohio residents.
Current Status: 11/29/2011 - Senate Insurance, Commerce & Labor, (First Hearing)
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_112
- SB189 HEALTH CARE COMPACT (GRENDLELL T)** To join the Health Care Compact.
Current Status: 6/21/2011 - Referred to Committee Senate Insurance, Commerce & Labor
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_189
- SCR13 CONTRACEPTIVE DRUGS INCLUDE HEALTH INSURANCE (TAVARES C)** To urge the Secretary of the United States Department of Health and Human Services to include all federally approved prescription contraceptive drugs and devices in the list of women's preventive health services that must be covered by new health

insurance plans.

Current Status: 6/28/2011 - Referred to Committee Senate State & Local Government & Veterans Affairs

More Information: http://www.legislature.state.oh.us/res.cfm?ID=129_SCR_13

SJR1

HEALTH CARE COVERAGE (GRENDALL T) To preserve the freedom of Ohioans to choose their health care and health care coverage.

Current Status: 6/22/2011 - BILL FAILED; Vote 59-39 (60 votes needed to pass)

More Information: http://www.legislature.state.oh.us/res.cfm?ID=129_SJR_1

To: OMA Government Affairs Committee
From: Kevin Schmidt, OMA Staff
Re: Energy Update
Date: 11/2/2011

1. Energy Summit – Soliciting White Papers

The OMA recently submitted a white paper to the Governor suggesting several policy changes. The white paper is included in your meeting materials and summarized below:

- Energy Efficiency – With Ohio moving towards a deregulated environment for electricity it is more important that manufacturers and customers have the ability to reduce their exposure to the market. Energy efficiency (EE) is a key strategy in doing this. The OMA suggests that while utility EE programs are important they shouldn't be developed at any cost. A 3% cost cap for utility programs is recommended.
- Co-Generation – The OMA suggested that various existing regulations and policies need to be reviewed to ensure Ohio doesn't have artificial hurdles to the adoption of co-generation. A review of standby power rates, interconnection standards and other issues is warranted to ensure Ohio is taking advantage of co-generation.
- Economic Development Rates – Economic Development Rates should be set in a way that maximizes their benefit. They should be focused on those industries that provide the most jobs and economic benefit through supplier networks. Additionally, EDR should not discriminate between new and existing electricity customers.

2. Electric Utility Rate Cases

- Duke Energy Ohio

The PUCO recently approved Duke's ESP for 2012 which moves the utility to a deregulated environment. The settlement requires Duke to sell its generating assets – when this happens moving Duke back to regulation is all but impossible. Additionally, the settlement provides Duke with a rider that is tailored to boost the utilities earnings to 10% for the life of the ESP. The OMA and other parties designed this rider to have minimal effect on most manufacturing.

- AEP Ohio

AEP Ohio's rate case, while very similar to Duke's, is garnering a lot more attention. It is similar because it moves AEP-Ohio away from a regulated utility model and towards a deregulated model. It also provides some protection for AEP while this business change happens just like Duke's settlement.

FirstEnergy Solutions and IEU Ohio are challenging the settlement for various reasons. FES is challenging based on the shopping rules that will be in place during the transition. IEU is challenging for unknown reasons. Reports indicate that it is likely the settlement will be approved without major modifications.

3. Statehouse Energy Hearings

The House and Senate Public Utilities Committees have been hearing from various stakeholders in energy over the past few months regarding Ohio's regulations. The panels have heard from parties in deregulated states, regulated states, all of Ohio's investor owned utilities, American Municipal Power, the OMA, and various other customer groups. While the panels have covered lots of ground it is unclear where they go from here.

4. OMA Announces Partnership With FirstEnergy Solutions

The OMA announced a partnership with FirstEnergy Solutions recently. The OMA Electric Savings Pool was developed to provide OMA members with a competitive electric offer and customer friendly terms. After a detailed review process the OMA selected FirstEnergy Solutions for a number of reasons: FES owns generation in Ohio, FES is an Ohio company, FES is one of the most competitive suppliers in the state, and FES has a reputation of excellent customer service.

Contact Kevin Schmidt if you'd like to learn more about the OMA Electric Savings Pool and how your company may participate.

Energy Management

Municipal Power Systems Describe Regulatory "Trainwreck"

Testifying before a House committee this week, Jolene Thompson, Executive Director of the Ohio Municipal Electric Association, did a good job describing the regulatory "trainwreck" driven by the U.S. EPA:

"Combined, the Utility MACT Rule, the Clean Air Transport Rule..., the proposal to regulate coal ash as hazardous under the Resource Conservation and Recovery Act..., and the Cooling Water Intake Structures Rule...coupled with the New Source Performance Standards for greenhouse gases..., new National Ambient Air Quality Standards for criteria pollutants, and National Emission Standards for Hazardous Air Pollutants for ...boilers and reciprocating internal combustion engines, fossil-fuel-fired electric utilities are facing a regulatory "trainwreck" of competing and potentially conflicting environmental requirements within the next five to ten years."

It is a federal war on coal that will cost Ohio dearly if not stopped.

11/18/2011

And, on the FERC Regulation of Wholesale Electricity Markets

Jolene Thompson, Executive Director of the Ohio Municipal Electric Association, did a very nice job **describing** concerns (shared by manufacturing) about the Federal Regulatory Commission's (FERC) regulation of wholesale markets through Regional Transmission Organizations (RTO's):

"FERC is responsible for ensuring that wholesale electric rates are "just and reasonable." Historically, FERC met this statutory requirement through active, cost-of-service rate regulation. In 1995, however, FERC embarked on a long, evolutionary path designed to introduce greater competition into the wholesale electric generation markets. In short, FERC believed that market forces could

better serve the public interest and that customers would see lower prices, better service and innovation...

Today, RTO's also play a major role in determining the day-to-day price of electricity sold in their regions through several market auctions. Electric generators bid available generation into these market auctions for specific time periods, and the RTO's dispatch the generators from the lowest to the highest bid – but paying all generators at the highest bid price. In essence, the last increment of demand sets the clearing price...

In our experience, the higher prices paid by customers in RTO markets have failed to date to incent specific desired behaviors – the building of needed new generation and transmission resources. Under the current RTO market structure, there is little incentive for for-profit entities to add new generation or transmission resources to the grid, which would result in lower prices...for their products and services."

11/18/2011

Utility Securitization Bill Heard by Senate Committee

The **Senate Energy and Public Utilities Committee** heard sponsor testimony from **Senator Troy Balderson** (R-Zanesville) this week on **Senate Bill 248**, which would allow electric utilities to securitize certain assets. The purpose of the legislation is to lower customer bills by letting a utility refinance debts owed to it by customers through the sale of bonds.

The OMA will be following this legislation closely. In its current form it is good for Ohio customers; however, utility legislation can quickly become a vehicle for mischief.

11/11/2011

FirstEnergy has Rebate Dollars for Your Energy Efficiency Projects

FirstEnergy again has incentive funding for energy efficiency projects undertaken by its customers. This is a good time for FirstEnergy customers to lock in ongoing savings produced

by higher efficiency lighting, motors and drives, and other projects that reduce use of electricity, and get a cash rebate for doing so. Most projects pay up to 50% of the total project cost, including labor.

Program details and application forms can be found [here](#). Contact OMA's **John Laughman** or **Kevin Schmidt** for more information.

11/04/2011

Duke Energy Ohio Extends Energy Efficiency Rebate Program

The deadline for applications for Duke Energy's "Mercantile Self-Direct" rebate program, which provides incentives to qualifying Ohio customers for past energy efficiency projects, has been extended. Customers that use 700,000 kWh or more of electricity annually (or are part of an account with multiple locations) have until August 15, 2012 to apply for rebates on energy saving projects from any of the three prior years.

Don't leave money on the table. According to Duke Energy: This is an outstanding opportunity for eligible commercial companies to capitalize on a financial opportunity that may have been missed in years past.

Visit [Duke Energy's web site](#) to learn more about the program and how to apply. (Projects that were previously awarded Smart Saver® Incentives are not eligible for rebates under this program.)

11/04/2011

OMA Energy Committee Hears About Governor's Energy Focus

The OMA Energy Committee this week heard from Craig Butler of Governor Kasich's office. Butler handles energy issues for the administration. He indicated that the office is focused on energy as a competitive advantage for Ohio. Topics under development are shale gas, co-generation, compressed natural gas as a transportation fuel, energy efficiency, and the electricity generation adequacy.

In response to the administration's call for suggestions on state energy policy, the committee is advancing the policy suggestions in this [document](#).

Member feedback is invited. Contact **Kevin Schmidt** at the OMA.

11/04/2011

Renewable Advocates and Regional Electric Grid Operator Testify

In another joint session, the House Public Utilities Committee and the Senate Public Utilities Committee heard from a number of renewable energy advocates, as well as the regional transmission organization (RTO) operating in Ohio, PJM.

Andrew Ott of **PJM** educated policymakers about how the RTO manages grid stability and reliability. The renewable energy advocates spoke to the continued need for a renewable energy portfolio mandate to make their business models work.

The full testimony for all witnesses can be found [here](#).

11/04/2011

OMA Government Affairs Committee Meeting Materials - 11/02/2011

These are the materials that support the November 2, 2011 OMA Energy Committee meeting, and they have utility to the energy community - and broader - community of practice among Ohio manufacturers as well.

11/02/2011

Joint Committee Hears Debate on Electricity Regulation

The Ohio House and Senate Public Utilities Committees held a joint session this week to learn how other states regulate electricity. Bob Blue of Dominion Resources, which operates regulated electric utilities in Virginia, and Terrance Fitzpatrick, President and CEO of the Energy Association of Pennsylvania, a

deregulated state, provided **testimony**.

The representatives spoke about the respective benefits of a regulated state system versus a deregulated state system. The debate focused on what system can better provide rate stability and a reliable supply of electricity. Both representatives indicated that new generation plants are being built in their states.

The debate about the benefits of regulated systems versus market systems continues in Ohio.

10/28/2011

Utilities Debate Ohio Electricity Regulations

Top executives from FirstEnergy, AEP-Ohio, Duke Energy Ohio, and the Dayton Power and Light Company (DP&L) this week offered comments on Ohio's electricity regulations. In their testimony before the **House Public Utilities Committee**, the utility representatives focused on whether Ohio's current law, a hybrid between state regulation and federally controlled markets, is adequate to attract investment in power plants. **Committee Chairman Peter Stautberg** (R-Cincinnati) noted that Ohio is a net importer of electricity and impending U.S. EPA regulations threaten to exacerbate the issue by shutting down plants in Ohio.

Appearing before the panel earlier this month, the OMA's Kevin Schmidt stressed that regardless of regulatory design and utility business structures, manufacturing needs long-term price certainty to adequately plan and make decisions regarding capital investment. Click [here](#) to read full coverage of the committee meeting from the Hannah Report.

10/21/2011

AEP and DP&L Customers: Free Upcoming Learning Events about Electric Cost Savings

On October 27, AEP Ohio customers have the opportunity to learn about the incentive programs - and limited time bonus incentives - that AEP is offering to its customers who deploy energy savings projects. This is a one-

hour webinar-style learning event presented by the energy experts at AEP, an OMA Connections Partner. **Details and registration.**

And on November 2, DP&L customers have the opportunity to attend a half-day in-person energy conference in Beavercreek to learn how to save money by shopping for the best electric price. FirstEnergy Solutions will provide the subject matter expertise in this OMA-sponsored event. **Details and registration.**

10/21/2011

Duke's 2010 Earnings "Not Excessive"

Duke Energy Ohio, Inc. (Duke) filed its annual filing with the Public Utilities Commission of Ohio (PUCO) on May 16, 2011 to determine if it had significantly excessive earnings for 2010. Under Ohio law, utilities are prohibited from making excessive earnings as a consumer protection.

Through testimony, Duke demonstrated that its return on equity (ROE) was 7.14% for 2010, and it did not exceed the 15% set in Duke's electric security plan.

Thus the stipulation concluded that Duke's ROE was not significantly in excess for 2010. Good news for Duke customers.

10/21/2011

Ohio Shale Gas Huge Opportunity for its Supply Chain

The Ohio Business Development Coalition, a non-profit organization that provides marketing strategy and implementation to support Ohio's economic development efforts, has published a compelling **white paper** about the opportunities that Ohio's supply chain has with respect to shale gas drilling and transportation.

The paper notes that shale gas supply chain companies will benefit from both the state's manufacturing know-how and its world-class logistics infrastructure. And goes on, "Everything that made Ohio the ideal location choice for suppliers to the automotive industry is in place for Tier I and II suppliers to leverage in order to efficiently and affordably supply the

Marcellus and Utica Shale gas industry.”

The Coalition’s **press release** also makes for good reading about the economic potential for Ohio’s manufacturers.

10/21/2011

OMA Chooses FirstEnergy Solutions as Electric Savings Partner

The OMA has developed an electric procurement program to help members obtain the best price on electric generation using the strength of its group buying power.

After researching competitive electricity pricing options, OMA has negotiated a statewide offering – the OMA Electric Savings Pool powered by FirstEnergy Solutions –that will benefit members with a single facility as well as those that have facilities in multiple electric distribution utility territories. FirstEnergy Solutions is one of the nation’s largest electric generation suppliers, providing competitive pricing to more than 1.5 million customers in six states.

Members who have an average monthly electric monthly bill greater than \$5,000 will have the opportunity to receive customized savings analyses, while members with average monthly bills of less than \$5,000 will have access to a pre-negotiated low price.

As an added benefit, the OMA has also negotiated low residential pricing that members can pass along to their employees.

Watch for more information soon from OMA and FirstEnergy Solutions. OMA has not endorsed programs with any other electric supplier; if you have questions, please contact **John Laughman** at (800) 662-4463.

10/21/2011

PUCO and FirstEnergy to Test Renewable Energy Cost Cap

In a recent compliance review of FirstEnergy, the Public Utilities Commission (PUCO) found that FirstEnergy exceeded the 3% cost cap for renewable energy. Ohio law requires electric

utilities to purchase renewable energy as long as it does not result in increasing customer bills by more than 3%.

The issue is now before the PUCO to sort out. FirstEnergy, which has already procured the renewable energy, argues that the language is permissive and it should be allowed to recover from customers. Customers have argued that the cost-cap is meaningless if a utility can exceed it and pass along costs.

The OMA supports the prudent and reasonable development of renewable energy and supported the cost cap as a consumer protection.

10/14/2011

House Democrats Move to Block Natural Gas Drilling

Representative Denise Driehaus (D - Cincinnati) and Representative Tracy Heard (D -Columbus) introduced legislation this week (**House Bill 345**) that would impose a moratorium on horizontal hydraulic fracturing until U.S. EPA completes an investigation into the potential risk to ground water.

Representative David Hall (R - Millersburg) who chairs the Agriculture and Natural Resources committee that will hear the bill noted that it is not high on the agenda and said the sponsors “have no sources where they’re saying that fracking in the United States has been a problem.”

10/14/2011

AEP Ordered to Refund \$78 Million

The Public Utilities Commission of Ohio ordered AEP to refund \$78 million in Provider of Last Resort (POLR) fees that it had collected pursuant to an earlier approved plan. The charges were appealed and the Ohio Supreme Court ordered a review by the PUCO.

It is unclear how much customer refunds will be, as AEP is entitled to appeal the decision. The full PUCO order can be found **here**.

10/07/2011

Economic Success Tied to Manufacturing and Affordable, Reliable Power

OMA's Kevin Schmidt **testified** to the Ohio House Public Utilities Committee that: "As Ohio is tied to manufacturing for its economic success, manufacturing is tied to affordable, reliable power for its competitiveness."

Schmidt said "This requires a modern distribution infrastructure, reliable generating plants and regulatory certainty. These investments, both on the customer side and the utility side, are not done with a short term view. Many times utility investments have a three or four decade lifespan and must be looked at as strategic assets both for the state and the utility."

Schmidt identified six principles for effective energy policymaking, including the need for predictable, stable prices, a modernized infrastructure, strategic and operational collaboration among utilities, government and customers, and the regulatory recognition of technical and economic realities.

10/07/2011

Initial Output of First Three Ohio Utica Shale Wells: Wow!

In a meeting at the OMA offices, David Mustine, General Manager for Energy JobsOhio, Governor Kasich's point person on development of the Marcellus and Utica shale oil and gas plays, reported to the Ohio Steel Council this week that the first three Utica wells have produced volumes that exceed expectations. This very good news for Ohio and Ohio manufacturing.

Chesapeake Energy Corporation on Wednesday **disclosed** initial horizontal well drilling results in the wet gas and dry gas phases of the Utica shale play in three wells in eastern Ohio and one in western Pennsylvania.

A well in Harrison County achieved a peak rate of 9.5 million cubic feet (mmcf) per day of

natural gas and 1,425 barrels (bbls) per day of natural gas liquids and oil (liquids), or 3,010 barrels of oil equivalent (boe) per day; a Carroll County well achieved a peak rate of 3.1 mmcf per day of natural gas and 1,015 bbls per day of liquids, or 1,530 boe per day; and a Carroll County well achieved a peak rate of 3.8 mmcf per day of natural gas and 980 bbls per day of liquids, or 1,615 boe per day.

The results are so strong that Robert Chase, chairman of petroleum engineering and geology at Marietta College, **said**, "We have nothing to compare them to in Ohio."

Aubrey K. McClendon, Chesapeake's Chief Executive Officer commented, "The company is targeting a development program with average drilling and completion costs of approximately \$5.0 - \$6.0 million per well. Chesapeake is currently drilling with five operated rigs in the Utica Shale play and plans to increase its operated rigs up to 10 rigs by year-end 2011, up to 20 rigs by year-end 2012 and up to 40 rigs by year-end 2014."

With the Ohio Steel Council, Mustine discussed the state's efforts to aggressively develop these remarkable new energy resources, while operating a best-in-class environmental protection regimen.

09/30/2011

Governor's Energy Summit Sets Stage for Ohio Energy Policy

Governor Kasich this week hosted a groundbreaking two-day summit on energy and the economy. The event, managed by Battelle and held at The Ohio State University, brought together a remarkable array of subject matter experts on a broad base of energy topics. The governor's aim (cheered by the OMA) with the event and its follow-up is to develop a comprehensive state energy policy.

Shale Gas:

Multiple panels discussed the opportunity that Ohio has to develop the Marcellus and Utica shale formations' potentially enormous economic impact on Ohio. Karen Wright of OMA member

company Ariel Corporation, a manufacturer of natural gas compressors, discussed the opportunities for manufacturers in the supply chain. Aubrey McClendon, CEO of Chesapeake Energy, noted that the potential for the Utica shale to hold oil makes Ohio's resources particularly valuable. (Video Links: **Upstream; Midstream, Downstream, and Feedstock Opportunities; Environment, Technology, and Community Impacts**)

Automotive:

The summit conducted two panels focused on transportation. The **Alternative Transportation Fuels** panel heard from an ethanol producer and automotive and truck manufacturers. The panel discussed how shale gas opportunities in Ohio could help fuel the development of compressed natural gas as a transportation fuel, as well as the continuing advancements in vehicle electrification.

The **Transportation Manufacturing Industry** panel focused on what the industry needs in Ohio to be more competitive. Representatives from Chrysler, Ford, and Honda all focused on the need for reliable, affordable power, as well as an increased focus on energy efficiency in operations. Rick Schostek, Vice President of Honda of America Manufacturing, noted that Ohio's state level business tax code is already favorable to manufacturing and should be protected.

Electric Utilities:

Electric utility issues came up throughout the conference. There was a clear consensus that SB 221 is generally working. Panelists and the governor indicated that co-generation at manufacturing facilities should perhaps qualify as renewable energy under the bill's Renewable Portfolio Standards.

The electric utility panelists disagreed about whether new power plants are needed in Ohio and how they would be funded. (Video Links: **Power Generation, Transmission, Demand, and Efficiency; Coal; Wind Solar, and Efficiency: The Role of Renewables in Ohio's 21st Century Economy**)

Energy Security:

To see the conference's most impassioned

promoter of manufacturing, watch James L. Wainscott, Chairman, President and CEO, AK Steel Corporation, on the **Energy Security and the Environment panel**. The panel discussion contains an articulate framing of the issues and opportunities for the state to strengthen its energy security.

A link to all conference videos can be found [here](#).

09/23/2011

Energy Legislation
Prepared by: The Ohio Manufacturers' Association
Report created on November 29, 2011

- HB51 MUNICIPAL UTILITIES** (SNITCHLER T) To require a municipal utility supplying surplus electricity to nonresidents to provide written notice of termination one year before terminating the service.
Current Status: 2/1/2011 - Referred to Committee House Public Utilities
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_51
- HB73 TRANSPORTATION OF NUCLEAR MATERIALS** (YOUNG R) To require payment of only the cost of police escort services for the highway transportation of limited amounts of certain nuclear materials.
Current Status: 3/2/2011 - **REPORTED OUT**, House Transportation, Public Safety and Homeland Security, (Third Hearing)
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_73
- HB95 NATURAL GAS RATES** (STAUTBERG P) To permit certain rate-calculation adjustments for natural gas companies, eliminate public notice requirements for rate cases, and for natural gas companies, to make other regulatory changes concerning audits, alternative rate plans, and forecast reports, and allowing applications for natural gas company capital expenditure programs.
Current Status: 6/2/2011 - **SIGNED BY GOVERNOR**
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_95
- HB133 OIL AND GAS LEASING/DRILLING ON STATE LAND** (ADAMS J) To create the Oil and Gas Leasing Board and to establish a procedure by which the Board may enter into leases for oil and gas production on land owned or under the control of a state agency for the purpose of providing funding for capital and operating costs for the agency.
Current Status: 6/30/2011 - **SIGNED BY GOVERNOR**; Eff. 9/30/2011
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_133
- HB204 ADVANCED ENERGY FUND** (FOLEY M) To reimburse the Advanced Energy Fund revenue rider on retail electric distribution service rates and to clarify how Advanced Energy Fund grant amounts are to be determined.
Current Status: 5/25/2011 - House Public Utilities, (Second Hearing)
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_204
- HB297 MOTOR FUEL QUALITY TESTING** (WEDDINGTON C, FENDE L) To require the Department of Agriculture to establish a motor fuel quality testing program under which county auditors may conduct such testing.
Current Status: 9/13/2011 - Referred to Committee House Agriculture and Natural Resources
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_297
- HB304 LAKE ERIE OIL/NATURAL GAS** (ANTONIO N) To ban the taking or removal of oil or natural gas from and under the bed of Lake Erie.
Current Status: 9/13/2011 - Referred to Committee House Agriculture and Natural Resources
More Information: http://www.legislature.state.oh.us/res.cfm?ID=129_HB_304
- HB306 BUILDING STANDARDS** (PILLICH C) To require a building or structure constructed using state capital budget moneys to adhere to certain energy efficiency and building standards and to encourage the use of Ohio-produced products.
Current Status: 9/13/2011 - Referred to Committee House State Government and Elections
More Information: http://www.legislature.state.oh.us/res.cfm?ID=129_HB_306
- HB310 ELECTRIC VEHICLE SALES TAX REDUCTION** (GOODWIN B) To reduce the amount of sales tax due on the purchase or lease of a qualifying electric vehicle by up to \$2,000.

Current Status: 11/16/2011 - House Ways and Means, (Second Hearing)
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_310

HB345 **STIMULATION OF OIL AND GAS WELLS (DRIEHAUS D, HEARD T)** Establishes a moratorium on horizontal stimulation of oil and gas wells until the USEPA publishes a report containing the results of a study of the relationship of hydraulic fracturing to drinking water resources and the Chief of the Division of Oil and Gas Resources Management issues a report analyzing how Ohio's rules address issues raised in the USEPA report.

Current Status: 11/9/2011 - Referred to Committee House Agriculture and Natural Resources

More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_345

HB351 **WELL STIMULATION/BRINE DISPOSAL (ANTONIO N, FEDOR T)** To establish requirements governing well stimulation, brine disposal and water that is used in the drilling/operation of oil and gas wells, including a requirement that oil and gas permittees pay a seven per cent overriding royalty for each well that is stimulated.

Current Status: 11/9/2011 - Referred to Committee House Agriculture and Natural Resources

More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_351

HB364 **SECURITIZATION COSTS STANDARDS-ELECTRIC UTILITIES (ROEGNER K, DUFFEY M)** To establish standards for the securitization of costs for electric distribution utilities.

Current Status: 11/30/2011 - House Public Utilities, (Second Hearing)

More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_364

HCR3 **HEALTH COVERAGE TAX CREDIT (O'BRIEN S)** To request the members of the United States Congress to reauthorize and continue the Health Coverage Tax Credit (HCTC) enhancements including provisions related to the monthly reimbursement program, the qualified family members program, and Voluntary Employee Beneficiary Associations (VEBAs).

Current Status: 2/10/2011 - Referred to Committee House Finance and Appropriations

More Information: http://www.legislature.state.oh.us/res.cfm?ID=129_HCR_3

HCR4 **URANIUM ENRICHMENT (ROSENBERGER C)** To urge the President of the United States to direct the United States Department of Energy to ensure the continuation of the uranium enrichment work being developed by USEC, Inc. at its Piketon, Ohio plant by granting USEC's application for a federal loan guarantee and to direct the Secretary of Energy to strongly consider providing federal funding assistance for the Clean Energy Park Demonstration Project.

Current Status: 4/12/2011 - Referred to Committee Senate State & Local Government & Veterans Affairs

More Information: http://www.legislature.state.oh.us/res.cfm?ID=129_HCR_4

HCR12 **ENCOURAGE DOMESTIC PRODUCTION OF COAL (THOMPSON A)** To urge the Administration of President Barack Obama to reconsider proposals to increase taxes on producers of coal, natural gas, and petroleum and instead commit to adopting policies that encourage domestic production of these important resources.

Current Status: 6/15/2011 - Referred to Committee Senate Agriculture, Environment & Natural Resources

More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_HCR_12

HR97 **TRANSCANADA KEYSTONE XL PIPELINE PROJECT (SEARS B)** To urge Congress to support the continued and increased importation of oil derived from Canadian oil sands and urge Congress to ask the U.S. Secretary of State to approve the TransCanada Keystone XL pipeline project from Alberta to Oklahoma.

Current Status: 6/15/2011 - **ADOPTED BY HOUSE**; Vote 92-0

More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_97

SB75 **ELECTRICITY CUSTOMER DISCOUNTS (PATTON T)** To restore discounts for customers using

electricity to heat their homes and for electric, load-management programs, to specify that those discounts run with the land and may be transferred, to provide for refunds to customers whose rate discounts were modified or discounted, and to declare an emergency.

Current Status: 9/27/2011 - Senate Energy & Public Utilities, (First Hearing)

More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_75

- SB78** **NATURAL GAS LAKE ERIE** (SKINDELL M) To ban the taking or removal of oil or natural gas from and under the bed of Lake Erie.
Current Status: 2/23/2011 - Referred to Committee Senate Agriculture, Environment & Natural Resources
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_78
- SB108** **OIL & GAS LEASING** (JORDAN K) To create the Oil and Gas Leasing Board and to establish a procedure by which the Board may enter into leases for oil and gas production on land owned or under the control of a state agency for the purpose of providing funding for capital and operating costs for the agency.
Current Status: 3/29/2011 - Senate Agriculture, Environment & Natural Resources, (Third Hearing)
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_108
- SB188** **ALTERNATIVE FUEL FACILITY** (PATTON T) To allow a credit against the personal income tax or commercial activity tax for the installation of an alternative fuel facility.
Current Status: 9/22/2011 - Senate Ways & Means & Economic Development, (First Hearing)
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_188
- SB198** **MOTOR FUEL QUALITY TESTING PROGRAM** (TAVARES C) To require the Department of Agriculture to establish a motor fuel quality testing program under which county auditors may conduct such testing.
Current Status: 9/20/2011 - Referred to Committee Senate Agriculture, Environment & Natural Resources
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_198
- SB209** **ELECTRIC VEHICLE SALES TAX REDUCTION** (HITE C, TURNER N) To reduce the amount of sales tax due on the purchase or lease of a qualifying electric vehicle by up to \$2,000.
Current Status: 9/22/2011 - Senate Ways & Means & Economic Development, (First Hearing)
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_209
- SB242** **RENEWABLE ENERGY CREDITS** (PATTON T) To specify that renewable energy resources do not have to be converted to electricity to receive renewable energy credits.
Current Status: 11/9/2011 - Referred to Committee Senate Energy & Public Utilities
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_242
- SB248** **ELECTRIC DISTRIBUTION UTILITIES** (BALDERSON T) To establish standards for the securitization of costs for electric distribution utilities.
Current Status: 11/30/2011 - Senate Energy & Public Utilities, (Second Hearing)
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_248
- SCR4** **URANIUM ENRICHMENT** (DANIELS D) To urge the President of the United States to direct the United States Department of Energy to ensure the continuation of the uranium enrichment work being developed by USEC, Inc. at its Piketon, Ohio plant by granting USEC's application for a federal loan guarantee and to direct the Secretary of Energy to strongly consider providing federal funding assistance for the Clean Energy Park Demonstration Project.
Current Status: 6/15/2011 - **ADOPTED BY HOUSE**; Vote 87-6
More Information: http://www.legislature.state.oh.us/res.cfm?ID=129_SCR_4

SR69

TRANSCANADA KEYSTONE COAST EXPANSION PROJECT (WAGONER M) To urge Congress to support the continued and increased importation of oil derived from Canadian oil sands and urge Congress to take the U.S. Secretary of State to approve the TransCanada Keystone Coast Expansion pipeline project.

Current Status: 9/27/2011 - **REPORTED OUT AS AMENDED**, Senate Energy & Public Utilities, (First Hearing)

More Information: http://www.legislature.state.oh.us/res.cfm?ID=129_SR_69

To: Governor Kasich
From: The Ohio Manufacturers' Association
Re: Energy Policy Recommendations
Date: 11/10/2011

Manufacturing is the largest contributor to Ohio's economy, producing more than \$84 billion in goods annually, generating nearly 18% of Ohio's overall economy, and providing an annual payroll of \$38 billion, according to the most recent data available. Ohio is first, second or third among U.S. states in 84 NAICS categories of manufacturing.

Manufacturers consume roughly one-third of all energy used in Ohio. Thus, a focused energy policy that protects and grows Ohio manufacturing is critical to the success of Ohio's economy.

The Ohio Manufacturers' Association respectfully submits these energy policy concepts for your consideration. This document is intended to be a high-level presentation of important energy issues for Ohio manufacturers. The OMA welcomes the opportunity to organize industry leaders to discuss these concepts in more detail, as well as the opportunity to forward additional recommendations as they are developed.

1. Waste Energy Recovery (WER) Project Development

Ohio is home to a number of energy intensive industries, including primary metals, chemicals and glass. The manufacturing processes for these products consume vast amounts of energy. These processes produce waste streams, such as heat, off-gas and other byproducts, that can be harnessed to create energy. Because the manufacturing processes for many of these industries require 24/7 operation, the WER projects can be considered base-load as they are able to produce energy continuously. These projects bring carbon-free energy to the grid as they require no additional fuel source. And, because Ohio is home to large numbers of these manufacturers, the development of WER resources will have a measureable reduction on Ohio's need to import power.

The largest obstacle for industry to develop WER is the substantial capital requirement of these projects. Often, the return on investment for WER projects is too long for the projects to compete with other capital demands within the firms.

Nevertheless, these projects can be economical when considered in the broader context of the electricity grid. A utility evaluates a new base-load generation investment over a 30-40 year time horizon. Manufacturers typically consider new capital investments on a 5 year or shorter time horizon. A new WER project that has a 10-year payback is economical when compared to a base load generation standard, but not if it is characterized as "just" a manufacturing capital investment. WER investments are assets to Ohio's overall economy as a domestic source of no-carbon electricity. As well, they have a positive effect on the hosting manufacturer's competitiveness.

Ohio can facilitate manufacturers' implementation of WER projects with minor modifications to Ohio's existing energy policies. The policy recommendations, if implemented, would result in a strengthened Ohio manufacturing base, less reliance on imported power, and domestic, carbon-free electricity generation.

Policy Recommendations

a. Modify Ohio's Renewable Requirements to Include WER Projects.

Allowing WER projects to be included as renewable energy will create an additional revenue stream for manufacturers through long-term Renewable Energy Certificate (REC) contracts with utilities. This policy change will improve the economics of WER projects through longer-term financing. It will also increase the supply of RECs helping to keep compliance costs down for Ohio's investor owned utilities (IOUs).

b. Modify Ohio's Energy Efficiency Requirements to Specifically Include WER Projects.

Modifying Ohio law to specifically include WER projects in Ohio's energy efficiency requirements will provide a lifeline to Ohio's electric utilities. No utility in the state has an affordable compliance plan for its energy efficiency requirements by year 2015. Under this proposal, a utility could provide financing for the projects, as they do in current energy efficiency incentive programs, in exchange for counting the energy efficiency towards its benchmarks. This financing could make projects economically viable which otherwise might not be.

c. Review and Update Existing PUCO Regulations Related to WER Implementation

WER projects must be tied into the existing electricity distribution and transmission grids to allow for the sale of excess power from the project into the grid, and for the ability of a manufacturer to draw power from the grid when the WER project is shut down for scheduled (i.e. maintenance) or unscheduled reasons.

The ability to ensure a reliable use of the existing power grid necessarily requires interconnection and related regulations to ensure overall grid stability. The ability to use power from the grid when necessary is generally referred to as "standby power." Standby power requirements and interconnection requirements vary by utility and are generally viewed as hurdles to the implementation of WER projects due to complexity and cost. Technology has made old rules outdated. A review of existing standby power and interconnection requirements is necessary to ensure these regulations are reflective of the transmission system's ability to efficiently move power where it is needed and designed in a way to facilitate the development of WER and other distributed generation projects.

2. Continue to Actively Support Energy Efficiency, but Add a Consumer Protection

Ohio's energy efficiency standards have helped numerous manufacturers improve their operations, reduce their energy intensity, and increase their competitiveness. The standards are working. Investments in energy efficiency are generally much cheaper than are investments in new energy generation (i.e., new power plants).

Some parties have called for repeal of the standards. They argue that customers will invest in energy efficiency if it makes sense within their business plan to do so. They say any state policy that encourages utilities to invest in customer-sited energy efficiency and recover the costs from the rate base is a wealth transfer.

This argument misses a fundamental point: the benefit of these energy efficiency investments extend beyond the customer and into the grid. That benefit is an economic one: avoidance of expensive

investments in new power plants. Investing in customers' energy efficiency is cheaper than investing in new power plants.

An improvement to the policy is warranted, in order to assure delivery of this potential economic benefit:

Policy Recommendation

Apply a 3% Cost Cap to Ohio's Energy Efficiency Requirements

When the advanced and renewable energy standards were put in place in Senate Bill 221 there was a recognition that Ohio needed to invest in the future, but not at any cost to consumers. As such, a 3% cost cap was put in place on the renewable energy standard as a consumer protection.

For the same reason, Ohio should consider implementing a 3% cost cap on the energy efficiency standard. Under this cap, a utility would not develop programs that would increase a customer's total bill by more than 3% in a year. If a utility were not able to attain its efficiency target for that year under the cost-cap, then the utility would be exempt from the penalties associated with the shortfall.

The PUCO has the authority to determine if a utility has made a good faith effort to comply with the mandate and ensure that effective energy efficiency programs are implemented. The 3% cost cap will serve to protect consumers and create an incentive for utilities to pursue the most economical methods for meeting the standards.

3. Create a New Job-Creating Rate Structure

In addition to a reliable supply of energy, manufacturing needs competitive, stable and predictable pricing. Regulatory policies that ensure such pricing for energy sensitive industries are necessary. Job-creating, competitive rates can be delivered through well-constructed economic development rate structures.

The OMA has commissioned an economic study from the Cleveland State University to determine the most cost-effective methodology to create jobs through use of economic development electricity rates. The study will also benchmark states with which Ohio competes to identify what are competitive rates to develop to attract investment and create jobs in Ohio.

Ohio can maximize the benefits of an energy-intensive manufacturing rate through minor policy changes:

Policy Recommendation

a. Create a Statewide Collection Mechanism for Economic Development Rates

Currently, Ohio law allows an electric distribution utility to collect dollars for economic development, but only over the utility's own service territory. This focuses the effect of the dollar collection on a smaller population than could benefit.

Since most manufacturing economic development projects have a beneficial regional or even statewide effect, collecting the dollars from a statewide pool is fairer and would spread costs across a wider customer base.

Consider including rural electric cooperatives in the collection mechanism. Their populations benefit from the economic development.

b. Do Not Distinguish Between New Entrants to Ohio and Existing Businesses

Economic development is as much about job retention as it is growth. Manufacturers who are already located in Ohio are in the best position to add new jobs should the environment and business conditions warrant.

Creating an economic development rate that allows new entrants to the Ohio to receive a rate that is subsidized by existing Ohio businesses creates conflict and results in existing Ohio employers subsidizing competitors.

Ohio should focus its economic development rates on existing Ohio companies, not just new-to-Ohio operations, in those industries that create the greatest economic benefit through direct capital investments, direct jobs, and “ripple effect” jobs.

The Columbus Dispatch

Thursday October 20, 2011

Impact of regulations is costly

Where environmental regulations are concerned, manufacturers, like all businesses, have several critical needs. We need clarity, predictability and consistency. We need policies that reflect scientific consensus and common-sense enforcement. And we need careful cost-benefit analysis as part of the policymaking process.

At the same time, manufacturers understand that fair and reasonable environmental regulations that address our critical needs must be balanced with responsible stewardship of our natural resources and concern for human health.

Unfortunately, the U.S. Environmental Agency is in the process of implementing a number of costly emission-control regulations that threaten to upset that delicate balance — putting jobs at risk and driving up the cost of business at a time when our nation is struggling to recover from one of the worst economic downturns in history.

Among the most troublesome — and imminent — regulations being advanced by EPA are Utility MACT (Maximum Achievable Control Technology) and the Cross-State Air Pollution Rule (CSAPR). Both target coal-fired electricity generation plants. Utility MACT would establish a new standard for the electric-utility industry's emissions of certain hazardous air pollutants, while CSAPR requires utilities to reduce power-plant emissions that contribute to ozone and fine-particle pollution in other states.

The problem is not just that these regulations are overreaching and costly. Another major cause for concern is that the EPA's regulatory process does not include a thorough, rigorous evaluation of the possible cumulative economic impacts: job losses, higher energy costs and threats to electricity system reliability.

National Economic Research Associates, a firm that evaluates economic impacts for government agencies, associations and businesses, in a preliminary analysis for the American Coalition for Clean Coal Electricity projects that Utility MACT and CSAPR will result in 1.4 million lost jobs nationally over the next nine years, including 53,500 jobs in Ohio. And that's net job losses, because the research takes into account jobs created by the two new rules as well those that will be lost.

Additionally, according to NERA, utilities' compliance costs for the two regulations would total \$17 billion annually and electricity costs in Ohio would increase by about 13 percent.

Failure to adequately evaluate the cumulative economic impact of new regulations is only part of the problem. The EPA only looks at the new rules in isolation, rather than considering that the pancaking of these rules will make compliance costs unnecessarily higher. Furthermore, the agency requires compliance with some of these regulations within three years, a deadline that is often unrealistic or impossible to meet.

We all want cleaner air and water. Manufacturers have invested billions of dollars in environmental-control technologies and more efficient processes. These investments have significantly reduced emissions and improved air quality in our state. We all also want a brighter economic future for all Ohioans. The fact is, we can have both a healthier environment and a stronger economy with the sound public policies and prudent business investments that will be fostered by balanced regulations.

The EPA's failure to rigorously review the cumulative impact of Utility MACT and CSAPR regulations prompted the U.S. House of Representatives to pass legislation earlier this month that would require the agency to slow down and conduct just such an analysis. That's good news for Ohio manufacturers and for Ohioans. Now it's time for the U.S. Senate to take similar action.

Ohio manufacturers, businesses and families are depending on our leaders in Washington to take common-sense action on this critical policy front.

Kevin Schmidt is director of public policy services for the Ohio Manufacturers' Association.

To: OMA Government Affairs Committee
From: Kevin Schmidt, OMA Staff
Re: Environment Update
Date: 11/30/2011

1. Storm Water Permit Changes

Ohio EPA is moving towards a massive expansion of the Industrial Storm Water Permit. This is being done under the assumption that business should be happy more industries will have a general permit. Of the more problematic issues with the new permit are requirements for quarterly visual inspections and an annual sampling and analysis. Additionally, the new general permit will contain “unenforceable” benchmarks for different substances.

The OMA prepared and delivered a letter to the Agency earlier this month highlighting manufacturing’s concerns with the proposal and suggested that the benchmark provisions be modified. This letter is attached.

2. Fracking Moratorium Imposed

State representatives Denise Driehaus (D-Cincinnati) and Tracy Heard (D-Columbus) have introduced legislation (H.B. 345) that would place a moratorium on horizontal until ODNR completes a report analyzing how Ohio rules address issues raised by U.S. EPA. Chairman Dave Hall (R-Millersburg) of the Agriculture and Natural Resources Committee has stated that the legislation is not a priority of the committee and is unlikely to move.

3. The Regulatory Train Wreck – Environmental Justice

U.S. EPA has proposed Plan EJ 2014 whereby U.S. EPA is proposing to advance its environmental justice agenda. The basis for this movement is a 15 year old executive order from the Clinton administration.

Environmental justice is the philosophy that if minority or low-income populations live by a facility regulated by U.S. EPA then extra regulatory requirements may be necessary in the name of justice. The OMA supports scientifically based standards that are protective of human health. Inserting demographic considerations into a scientific evaluation should be avoided.

In August of this year, 14 federal agencies signed a memorandum of understanding regarding environmental justice and formally agreed to certain environmental justice commitments including the development of an environmental justice strategy, meaningful opportunity for public input, and an annual implementation progress report.

Plan EJ 2014 - <http://www.epa.gov/compliance/environmentaljustice/plan-ej/index.html>
U.S. EPA Environmental Justice Webpage - <http://epa.gov/environmentaljustice/>

Environment Management

More Restrictive Great Lakes Compact Unveiled

This week Governor Kasich produced a revamped proposal to regulate large-scale water withdrawals from the Great Lakes watershed. Earlier this year Kasich vetoed Republican legislation to adopt regulations, saying that the proposal didn't go far enough to protect Lake Erie.

The bill's sponsor, Representative Lynn Wachtmann (R-Napoleon), stopped short of offering endorsement, saying parts of the bill are going to "allow way too much future regulation potential by a future governor" that could diminish the ability to draw the water.

Representative Wachtmann tells the **Columbus Dispatch** that the governor's proposal lowers the limits of what can be withdrawn from Lake Erie without a permit from five million gallons a day in the prior bill to two-and-one-half million gallons. Similarly, according to Wachtmann, the governor's new proposal reduces withdrawals from rivers from two million gallons per day to one million.

Interested members should contact OMA's **Ryan Augsburger**.

11/18/2011

OMA Urges Caution (Again) on Boiler MACT

The OMA joined with the NAM to express continued concern about U.S. EPA's proposed Boiler MACT regulations. A **joint-letter** to Senator Sherrod Brown and other key members of the U.S. Senate urges support for bi-partisan legislation (S.1392) that would provide a more certain path forward to achievable rule implementation. The legislation encourages EPA to use existing discretion to provide less costly alternatives.

11/18/2011

Ohio EPA Announces E3 Recognition Program

The Ohio EPA's new **Encouraging Environmental Excellence** (E3) program recognizes small to large businesses, non-profit organizations, schools, governments and others committed to environmental excellence. The program rewards those who reduce waste, improve efficiency and work to continuously improve as an environmental steward.

"If you're doing something great for the environment, tell us about it," says Ohio EPA Director Scott J. Nally. "By recognizing Ohio businesses and other organizations, we can improve Ohio's environment through innovation and efficiency."

11/11/2011

U.S. EPA Regulations Under Scrutiny

The National Association of Manufacturers (NAM) is asking U.S. senators to co-sponsor the EPA Regulatory Relief Act of 2011 (S. 1392), aimed at protecting manufacturers from punitive U.S. EPA regulations.

The NAM is asking companies to sign a letter expressing concerns with the regulations in question and urge these senators to co-sponsor the legislation. **Click here** for resource materials and to take action.

11/11/2011

Director Nally at the OMA this Week

Ohio EPA Director **Scott Nally** visited with the OMA Environment Committee this week to discuss the agency's priorities, including a reform bill aimed at cleaning up outdated regulations within the agency.

The committee also heard from Bob Paduchik of the **American Coalition for a Clean Coal Economy**. Paduchik spoke on the **Cross State Air Pollution Rule** and other U.S. EPA proposals that could result in Ohio utilities shutting down inexpensive coal-fired power plants. Full committee materials can be found **here** and **here**.

11/11/2011

OMA Environment Committee Materials - 11/10/2011

These are the materials that support the November 10, 2011 OMA Environment Committee meeting, and they have utility to the environment management community of practice among Ohio manufacturers as well.

This **Stormwater Comparison Document** is a late addition to the meeting materials.

11/10/2011

Ohio EPA Director Nally to Speak at OMA on November 10

Ohio EPA Director Scott Nally will join the OMA Environment Committee on Thursday, November 10, for a briefing on the agency's progress and priorities.

The committee will also hear from a representative of the American Coalition for a Clean Coal Economy (ACCCE) on the status of federal environmental rules, including the Utility MACT.

Participate in person or by calling in. Either way, please **register** to attend. OMA committee meetings begin at 10:00 a.m. and run through noon, with a networking lunch following. Meetings are held at the OMA offices, 33 N. High St., 6th floor, Columbus.

To make sure you always receive Environment Committee meeting notices, as well as the committee materials in your email, go to **My OMA** and subscribe to the environment management community or email **Judy Thompson**. This is a free service for OMA members.

11/04/2011

Ohio Office of Compliance Assistance and Pollution Prevention Has Tons of Resources

The Ohio EPA Office of Compliance Assistance and Pollution Prevention (OCAPP) is a non-

regulatory program that provides information and resources to help small businesses comply with environmental regulations. OCAPP also helps customers identify and implement pollution prevention measures that can save money, increase business performance and benefit the environment.

Services of the office include a toll-free hotline at (800)329-7518, on-site compliance and P2 assessments, workshops/training, plain-English publications library and assistance in completing permit application forms. **Check it out.**

11/04/2011

Manufacturers to U.S. EPA: Analyze Economic Impact of Utility-Impacting Regs

The U.S. EPA's failure to rigorously review the cumulative impact of Utility MACT (Maximum Achievable Control Technology) and the Cross-State Air Pollution Rule (CSAPR) regulations prompted the U.S. House of Representatives to pass recent legislation that would require the agency to slow down and conduct just such an analysis. That's good news for Ohio manufacturers and for Ohioans.

Here's why. The National Economic Research Associates, a firm that evaluates economic impacts for government agencies, associations and businesses, in a preliminary analysis for the American Coalition for Clean Coal Electricity projects that Utility MACT and CSAPR will result in 1.4 million lost jobs nationally over the next nine years, including 53,500 jobs in Ohio.

Both regulations target coal-fired electricity generation plants. Utility MACT would establish a new standard for the electric-utility industry's emissions of certain hazardous air pollutants, while CSAPR requires utilities to reduce power-plant emissions that contribute to ozone and fine-particle pollution in other states.

As OMA's Kevin Schmidt said in an **op-ed** for The Columbus Dispatch this week: now it's time for the U.S. Senate to take similar action.

10/21/2011

OMA Asks Senator Brown to Review Utility Environmental Regulations

The OMA delivered a **letter** to U.S. Senator Sherrod Brown today asking him to review the economic effect that two environmental regulations could have on Ohio.

The Utility Maximum Achievable Control Technology (Utility MACT) and the Cross State Air Pollution Rule (CSAPR) are projected to have a combined negative effect of more than \$15 billion on the electric utility industry. The timelines contained in both rules frontload those costs on utilities and their customers and raise questions of technical feasibility.

In its letter the OMA asks Senator Brown to “consider the economic impact of these regulations and their implementation timelines on Ohio and engage U.S. EPA in a discussion to lessen the burden on Ohioans.”

09/30/2011

U.S. EPA Advances “Environmental Justice” Agenda

In a press release this week the U.S. EPA announced a comprehensive plan (entitled **Plan EJ 2014**) to advance “environmental justice” in nine areas including rulemaking, permitting, enforcement, and science. The plan is U.S. EPA’s new strategy to meet a 15 year old Executive Order (**EO 12898**) put in place by President Clinton.

In the name of “environmental justice,” if minority or low-income populations are located near a facility regulated by U.S. EPA that facility must meet extra regulatory scrutiny. To learn more about U.S. EPA’s environmental justice agenda click [here](#).

09/16/2011

White House to U.S. EPA: Reconsider Ozone Regulations

President Obama directed U.S. EPA to reconsider its proposal for tighter ozone standards. In a **letter** to the agency, the

president told U.S. EPA that “he does not support finalizing the rule at this time.”

Since the proposal was first announced the OMA has repeatedly **communicated** the rule's punitive effect on Ohio to policymakers. The president's letter is a welcome, if overdue, development.

09/02/2011

Ohio EPA Drafts General Permit for Shale Gas Production Sites

With natural gas production from Ohio’s shale deposits projected to increase, Ohio EPA has **drafted** a new general permit “to make sure the air around production sites is safe, while providing business with the most efficient option to get operations up and running.”

“A general permit for shale gas production will streamline the process, giving producers the tools they need to comply with Ohio’s air pollution regulations,” said Ohio EPA Director Scott Nally.

Director Nally has brought a welcome focus on efficiency of permitting, together with significant experience in environmental protection. These new general permits will simplify the permitting process for business, while providing citizens with clear standards for environmental protection.

08/26/2011

Deep Online Resources on Shale Play at ODNR

The Division of Geologic Survey at the Ohio Department of Natural Resources has developed **deep resources** for those interested in the Marcellus and Utica shale plays in Ohio.

Here’s how the division set up the website:

“Resource estimates indicate the Devonian-age Marcellus Shale is the largest exploration play in the eastern United States. Recently, the application of horizontal drilling combined with multistaged hydraulic fracturing to create

permeable flow paths from wellbores into shale units has resulted in a drilling boom for the Marcellus in the Appalachian Basin states of Pennsylvania, West Virginia, southern New York, and eastern Ohio.

This proven technology also may have application in other shale units, such as the Ordovician-age Utica Shale, which extends across much of the Appalachian Basin region. While limited production has occurred in the Utica up to this point, thickness and widespread geographical extent indicate it may also have great oil-and-gas potential.”

08/26/2011

Ohio House and Senate Send Letter to Governor on Great Lakes Compact

Ohio House Speaker Bill Batchelder and Ohio Senate President Tom Niehaus co-authored a **letter** to Governor Kasich regarding the Great Lakes Compact implementation legislation that the Governor vetoed earlier this year.

The Governor’s veto came as a surprise to the legislature and the respective leaders. In the letter President Niehaus and Speaker Batchelder note the legislation (**House Bill 231**) “meets all necessary provisions in the Compact and does so in a way that works well for Ohio’s citizens and businesses.” The leaders went on to note they look forward to reviewing the Governor’s specific concerns and working collaboratively to finalize implementation of the Compact.

08/19/2011

Ohio EPA to hold Compliance Assistance Conference

On November 7-8, Ohio EPA is hosting its sixth annual Compliance Assistance Conference in Columbus. While a large part of the conference is targeted to businesses that need to learn the basics about environmental compliance, based on attendee feedback, the agenda will also include advanced topics, such as New Source Review (NSR) and Title V permitting and

reporting. Agency staff will be available at an “Ask the Experts” session during the conference.

View the complete conference **agenda**.

08/19/2011

Business Coalition Runs Anti- EPA Regs TV Ads

While President Obama toured the Midwest this week, a coalition of industry groups including the U.S. Chamber of Commerce, the National Association of Manufacturers and the American Petroleum Institute, launched an **advertising campaign** blasting the U.S. EPA's upcoming ozone regulations as a major burden on the economy. See story published in **The Hill**.

08/19/2011

Environment Legislation
Prepared by: The Ohio Manufacturers' Association
Report created on November 29, 2011

- HB10** **REMEDIATION OF CONTAMINATED SITE (SEARS B)** To authorize refundable tax credits for the completion of a voluntary action to remediate a contaminated site and for the return of such sites to productive use, and to exempt persons through 2017 who have issued covenants not to sue under the Voluntary Action Program from certain fees and penalties for one year after the issuance of such a covenant.
Current Status: 3/2/2011 - House Ways and Means, (Fifth Hearing)
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_10
- HB133** **OIL AND GAS LEASING/DRILLING ON STATE LAND (ADAMS J)** To create the Oil and Gas Leasing Board and to establish a procedure by which the Board may enter into leases for oil and gas production on land owned or under the control of a state agency for the purpose of providing funding for capital and operating costs for the agency.
Current Status: 6/30/2011 - **SIGNED BY GOVERNOR**; Eff. 9/30/2011
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_133
- HB231** **LAKE ERIE WATERS (WACHTMANN L)** To establish a program for the issuance of permits for the withdrawal and consumptive use of waters from the Lake Erie basin.
Current Status: 7/15/2011 - **VETOED BY GOVERNOR**
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_231
- HB257** **LAKE ERIE WATERS (MURRAY D)** To establish a program for the regulation of withdrawals and consumptive uses of waters from the Lake Erie basin.
Current Status: 6/15/2011 - Referred to Committee House Agriculture and Natural Resources Subcommittee
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_257
- HB304** **LAKE ERIE OIL/NATURAL GAS (ANTONIO N)** To ban the taking or removal of oil or natural gas from and under the bed of Lake Erie.
Current Status: 9/13/2011 - Referred to Committee House Agriculture and Natural Resources
More Information: http://www.legislature.state.oh.us/res.cfm?ID=129_HB_304
- HCR9** **PROPOSED AIR POLLUTION TRANSPORT RULE (THOMPSON A)** To urge the Congress, the President of the United States, and the United Environmental Protection Agency to immediately suspend the Proposed Air Pollution Transport Rule.
Current Status: 5/17/2011 - **REPORTED OUT**, House Agriculture and Natural Resources, (Third Hearing)
More Information: http://www.legislature.state.oh.us/res.cfm?ID=129_HCR_9
- HR48** **STREAM PROTECTION RULE (LANDIS A)** To express opposition to the implementation of the stream protection rule and environmental impact statement of the Office of Surface Mining, Reclamation, and Enforcement in the U.S. Department of the Interior.
Current Status: 6/23/2011 - Re-Referred to Committee
More Information: http://www.legislature.state.oh.us/res.cfm?ID=129_HR_48
- SB22** **NPDES PERMITS SEWAGE SYSTEMS (SCHAFFER T)** To require the Director of Environmental Protection to consider, to the extent allowable under the Federal Water Pollution Control Act, specified factors before issuing NPDES permits for sewerage systems, requiring and approving long-term control plans for wet weather discharges from sewerage systems, and enforcing provisions of that Act as applied to sewerage systems.
Current Status: 6/30/2011 - **SIGNED BY GOVERNOR**; Eff. 9/30/2011
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_22

SB140 **BITTERING AGENT IN ENGINE COOLANT** (BACON K, SKINDELL M) To require the inclusion of a bittering agent in engine coolant and antifreeze.

Current Status: 11/15/2011 - Senate Judiciary, (Second Hearing)

More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_140

SB186 **WITHDRAWALS OF LAKE ERIE WATERS** (SKINDELL M) To establish a program for the regulation of withdrawals and consumptive uses of waters from the Lake Erie basin.

Current Status: 6/15/2011 - Referred to Committee Senate Agriculture, Environment & Natural Resources

More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_186

Via Electronic Mail

November 22, 2011

Scott Nally
Director of Ohio Environmental Protection Agency
PO Box 1049
Columbus, OH 43216-1049

Re: Proposed Industrial Storm Water General Permit (OHR000005)

Dear Director Nally:

We are writing on behalf of the Ohio Manufacturers' Association (OMA), the Ohio Chamber of Commerce, and the Ohio Aggregates and Industrial Minerals Association to thank you for your efforts and willingness to discuss the issue related to Ohio EPA's proposed Industrial Storm Water General Permit (SWGP). We appreciate the constructive dialogue, meetings and your willingness to listen to our concerns relating to this draft permit, especially your efforts to reach out to industry to initiate and continue this discussion.

Notwithstanding your efforts and our efforts, it has become clear that we have not been able to reach a consensus on the proposed SWGP. As we have mentioned repeatedly during these discussions, the proposed SWGP will place added costs and burdens on industry without a corresponding environmental benefit when compared to the prior 5-year SWGP. This also comes during challenging economic times where business and industry struggle to be competitive and survive. Therefore, we cannot offer our support for the proposed SWGP. We do realize that you and the agency need to take action to renew or issue the SWGP and must do what you and the agency believes is necessary for the State of Ohio.

That being said, we respectfully request you to implement changes to the proposed SWGP as recently discussed. Currently, the proposed SWGP requires annual sampling for certain parameters by industry sector for comparison against established benchmarks for the entire 5-year period of the permit. Since most companies have never sampled their storm water runoff for these parameters, it is unknown whether the benchmarks are appropriate or have been established upon a reasonable basis. Ohio EPA, itself, admitted as much when the former SWGP was issued in 2005. According to Ohio EPA's Responsiveness Summary to comments received on the old SWGP in 2005, a comment was received requesting effluent limitations and more monitoring. Ohio EPA responded as follows:

“Deriving water quality-based limits is a task requiring site-specific information regarding a discharge and receiving stream. In addition, it is difficult to develop water quality-based effluent limits

Scott Nally
Page 2

for storm water discharges because of their variability (frequency, intensity and duration).”

Because of the imprecise science of establishing benchmarks based on literature without any industry-specific or site-specific information, we encourage Ohio EPA to revise the proposed SWGP to allow for four years of monitoring only for the specified parameters by industry sector. During the first four years of the SWGP, the results of such annual monitoring would be submitted to Ohio EPA for evaluation. For the last six months of the fourth year of the SWGP, Ohio EPA should meet with the affected industries to determine the appropriate benchmarks for the monitored parameters. Ohio EPA then would insert these appropriate benchmarks into the SWGP (perhaps through a modification of the SWGP) for implementation in year five or last year of the SWGP. This would give Ohio EPA science-based data to establish benchmarks and allow industry to provide valuable input into the benchmark setting process. If this concept is acceptable, we could provide suggested language to the proposed SWGP for you and Ohio EPA's consideration. Please let me know if this is something that you would like to pursue.

In closing, while we sincerely appreciate all of your and Ohio EPA's efforts on this front, we cannot support the proposed SWGP because it represents a seismic shift in the responsibilities and burdens of the permittees, as compared to the former SWGP, including the establishment of benchmarks, the requirement to conduct quarterly visual sampling and the compilation of an annual report. These are all new requirements not found in the former SWGP and increase the costs and burdens on business and industry. When these new costs and burdens are aggregated (i.e., some companies have multiple facilities throughout Ohio), they place a substantial burden on industry without providing any additional environmental benefits beyond those achieved under the former SWGP. Therefore, we cannot support the proposed SWGP but very much appreciate your and Ohio EPA's efforts to reach out to industry and to listen to our concerns. Notwithstanding our mutual efforts, we understand that there may be certain situations, like this, where we respectfully agree to disagree on an issue.

If you have any questions regarding the foregoing or wish to discuss this matter further, please feel free to contact us.

Sincerely yours,



Kevin Schmidt
Director, Public Policy Services
OMA



Matt Forney
Manager, Government Affairs
Ohio Chamber of Commerce

Scott Nally
Page 3

A handwritten signature in black ink that reads "Patrick A. Jacomet". The signature is written in a cursive style with a large initial 'P' and a long, sweeping underline.

Pat Jacomet
President, OAIMA

KS/jl

cc: Mark Hamlin
Frank Merrill, Bricker & Eckler

TO: OMA Government Affairs Committee
FROM: Ryan Augsburger
DATE: November 30, 2011
SUBJ: Safety & Workers' Compensation Update

Bureau of Workers' Compensation

Since mid-summer, BWC Administrator Stephen Buehrer and staff had been meeting with stakeholders, the OMA included, to devise a package of legislative proposals aimed at achieving structural cost-savings. Following the defeat of state issue 2, a victory for labor groups, state leaders have made statements backtracking from legislative reform efforts (see attached news and analysis). In place of legislative reforms, administrative actions to change the rules and operating procedures of the BWC seem to be more likely.

Among administrative reforms already enacted is the premium discount program, *GrowOhio* created earlier this year for new employers to the state. The OMA had questioned the actuarial soundness of the proposal and pointed out that funds could be used to subsidize an existing employer's competitor.

More recently, a rule package known as the *Destination: Excellence Program* has been proposed to streamline existing premium discount programs such as discounts for instituting drug-free safety programs, utilizing vocational rehab services, and clarifying limitations on stacked discounts, and deductible programs.

The package is intended to simplify these and other existing programs while instituting new discount programs for making electronic payments and awarding new grant funds for employers and employees in returning injured workers to work. OMA staff will be working with leaders of the OMA Safety & Workers' Comp Committee to evaluate these programs utilization of best practices, and actuarial justification.

Industrial Commission

Governor Kasich appointed former state senator Karen Gillmor over the summer, elevating her to Commission Chair. Commissioner Gillmor takes the place of Jodie Taylor, who remains a commissioner (employer representative). Commissioner Gillmor visited with members of the OMA Safety & Workers' Comp Committee earlier in November. She has invited suggestions on possible rule and process reforms.

Unemployment Compensation

Like many states, Ohio's fund to pay unemployment compensation claims was depleted in early 2010. The state has borrowed federal funds (\$2.3 billion) that will need to be paid back. States are required to begin paying interest by September 2011 (nearly \$300 in interest alone in the 2012/13 biennial budget).

The OMA has signed on with other business groups in urging the federal government to provide greater flexibility for states to repay the debt. Eventually Ohio employers could see a premium increase to repay the federal loans and restore the state fund, probably coupled with benefit cuts.

In the short term, the state budget appropriated funds to meet the interest payments that come due on Sept 30. This is a positive development for employers, but some employers with high experience ratings will see significant UI tax increases very soon. This topic is being monitored principally by the OMA Tax Policy Committee.

Privatization / Competition: The House proposal originally drafted by former Representative Todd Snitchler has not moved beyond discussion. Representatives Peterson and Sears appear to be likely sponsors.

A Senate created taskforce completed work on June 30. They concluded that more study was needed. Governor Kasich in comments over the summer was asked about privatizing the workers compensation system, the Governor said, "I'm not afraid to privatize anything that would make sense, but I'm not convinced at this point that's the way we ought to go." Similar statements have been recorded since the defeat of state issue 2.

The business community has been slow to embrace the change, potentially because there is *no good data* available to model the effects.

Safety and Workers' Compensation Management

Workers' Compensation Cases in the Courts

OMA workers' compensation counsel, Tom Sant, of Bricker & Eckler LLP draws attention to three **workers' compensation cases**, all filed in Cuyahoga County, that are of interest to employers.

A class action suit, *Cristino v. BWC*, in which the claimants complain that the Ohio Bureau of Workers' Compensation (BWC) underpaid claims settlements.

Another class action case, *Sam Allen, Inc. et al v. Administrator, BWC*, alleges that the BWC's workers' compensation group rating plan is unconstitutional and harms non group rated employers.

Finally, in *Larry Hewitt v. The L. E. Myers Company*, a jury found in favor of the claimant against his employer under Ohio's intentional tort statute; the employer has appealed.

We'll continue to monitor and report the outcomes of these cases as they potentially affect manufacturers.

11/18/2011

OMA Workers' Compensation Group Rating Savings Projections Roll

With the ground rules now established for the program, the OMA will be sending today and early next week emails and faxes indicating projected savings for 2012-13 to its qualified group rated members and prospects. Enrollment kits will be sent via U.S. mail in two weeks.

Ending a group-rating marketing moratorium on TPAs, the Bureau of Workers Compensation (BWC) board of directors voted today to ratify a recommendation from the board's actuarial committee to set the maximum group rating discount for the 2012-13 policy year at 53%. It is currently 65%, but with the breakeven factor, produces an effective maximum discount of

51%.

The board also voted to eliminate the breakeven factor, an actuarial device that had been used to minimize the subsidization of non-group rated employers' premium by group rated employers.

Contact your account manager, **Georgia Booth**, **Jay Kemo**, **Barb Raduege**, or member services director, **Greg Vergamini**, for information.

11/18/2011

Governor Shelves Workers' Comp Reforms?

The news media say that Governor Kasich has shelved plans to pursue legislative workers' compensation reforms. The Toledo Blade on Wednesday **reported**: "No longer apparently on the front burner is major reform of Ohio's workers' compensation system, one of the things he named as a top priority upon taking office early this year. Among the ideas discussed was the injection of a private insurance element to compete with the state-run insurance fund for injured workers."

The Columbus Dispatch **followed up** with a story on Thursday saying: "The governor has cooled months-long speculation (fueled in large part by his own rhetoric) that he would seek changes in workers' compensation that might draw the ire of organized labor, namely privatization and benefit cuts. He's said at least twice over the past several weeks, including on Tuesday, that for "major reforms" to occur, the state would "need both labor and management to sit down" and negotiate.

Kasich denies his call for collaboration is the result of the stinging defeat at the polls last week of Senate Bill 5 through Issue 2, but either way, he's got a new problem if he truly seeks major workers' compensation changes.

Neither Philip Fulton, a Columbus attorney for injured workers, nor Tim Burga, president of the AFL-CIO in Ohio, see a need for major reforms. Translation: They're not inclined to negotiate."

11/18/2011

Chairmen of the BWC Board and the Industrial Commission Visit OMA



Industrial Commission Chair Karen Gillmor told members of the OMA's Safety and Workers' Compensation Committee

this week that she will be working to identify improvement opportunities for hearing officer training. She also indicated an interest in finding ways to improve consistency in hearing outcomes. The committee also heard from Bureau of Workers' Compensation Board Chairman Nicholas Zuk, Senior VP and General Counsel of White Castle. Zuk described anticipated rate reforms (see separate story).

Karen Gillmor is pictured with OMA Safety & Workers' Compensation Committee Chairman Robert Truex of Lancaster Colony Corporation.

11/11/2011

BWC Plans Group Rating Discount Change

The Chairman of the Board of the Bureau of Workers' Compensation (BWC), Nick Zuk, addressed the OMA Safety & Workers' Compensation Committee on Wednesday. He previewed the **group rating discount changes** that were reviewed later in the week by the Actuarial Committee of the BWC Board.

Chief among the changes are the elimination of the breakeven factor on group rating discounts and the setting of a new maximum group rating discount.

The breakeven factor is an actuarial tool used to minimize the subsidization of non-group rated employers' premiums by group rated employers. It was implemented in 2009.

According to Zuk, the breakeven factor was disliked and difficult to understand.

A new maximum group rating discount would be

set at 53 percent, effective July 1, 2012. The maximum group rating discount is currently 65 percent, but with the breakeven factor produces an effective discount of 51 percent.

The full Board is expected to vote the rating changes on November 18.

The BWC is also considering **program changes** that are intended to improve injured worker return-to-work performance and cut administrative costs.

11/11/2011

OMA Safety & Workers' Compensation Committee Materials - 11/09/2011

These are the materials that support the November 9, 2011 OMA Safety & Workers' Comp Committee meeting, and they have utility to the workers' comp - and broader - community of practice among Ohio manufacturers as well.

11/08/2011

Chairmen of BWC Board and Industrial Commission to Speak at OMA on November 9

Chairman of the Ohio Bureau of Workers' Compensation (BWC) Board of Directors, Nicholas (Nick) W. Zuk, White Castle System, Inc. Senior Vice President & General Counsel and Secretary is scheduled to visit with the OMA Safety & Workers' Compensation committee on Wednesday, November 9 as is Karen Gillmor, Chairman, Public Member, of the Industrial Commission of Ohio.

Participate in person or a call-in option is available. Either way, please **register** to attend. OMA committee meetings begin at 10:00 a.m. and run through Noon, with a networking lunch provided by the OMA following. Meetings are held at the OMA offices, 33 N. High St., 6th floor, Columbus.

To make sure you always receive Safety & Workers' Compensation committee meeting notices as well as the committee materials in your email, go to **My OMA** and subscribe to the workers' compensation management community

or email **Judy Thompson**. This is a free service for OMA members.

11/04/2011

BWC Safety Grants Available to Ohio Employers

Ohio Bureau of Workers' Compensation (BWC) Administrator/CEO Stephen Buehrer **announced** 10 Ohio businesses received more than \$217,000 in safety intervention grants in September to improve workplace safety. Follow the link to see which employers received recent grants.

The **Safety Intervention Grant** program is designed to assist Ohio employers in reducing illness and injuries, and create a partnership with them to establish best practices for accident and injury prevention.

Ohio private and public employers are eligible for the grants, which provide a 2-to-1 matching amount up to a maximum of \$40,000 for a total of \$60,000 — \$20,000 from the employer and \$40,000 from BWC. Quarterly data reports and follow-up case studies help BWC to determine the effectiveness of employers' safety interventions and establish best practices.

10/28/2011

BWC GrowOhio Program Up and Running for New Ohio Businesses

OMA members may have customers or suppliers or start-up businesses that are new to Ohio and that might qualify for the Bureau of Workers' Compensation (BWC) premium discount program expressly for new Ohio employers: GrowOhio.

New employers can select a 25% discount or enroll in a group-rating program outside of the normal annual deadline.

The BWC offers **this PowerPoint** and **Q&A** on this new offering. If you have questions about the program, contact OMA's **Dennis Davis**.

10/28/2011

OMA Member Uses BWC's OSHA On-Site Consultation Program for Safety

Bureau of Workers' Compensation (BWC) administrator, Steve, Buehrer, **recently visited** OMA member, Aluminum Line Products Company (ALPCO), West Lake, to spotlight safe workplaces.

ALPCO is among a select group of only 27 Ohio employers that have been granted SHARP (Safety and Health Achievement Recognition Program) certification by the Occupational Safety and Health Administration (**OSHA**) **On-Site Consultation Program**. Each year, the program recognizes and re-certifies small, high-hazard employers across the country for excellence in occupational safety-and-health management systems.

BWC and its OSHA On-Site Consultation program works with companies like ALPCO to make their facilities safer. The OSHA On-Site Consultation Program is jointly funded by the BWC and federal OSHA. Services include free on-site safety inspections and consultation, safety program assistance, safety and hygiene training or seminars, and printed and electronic resources.

Unlike the federal OSHA program, OSHA On-Site Consultation does not have right of entry to a workplace and it does not issue citations or fines. An employer must request the service, and has a mutually agreed-upon timeframe within which to correct any safety hazards identified.

Employers who abate the hazards identified in their workplaces and maintain an exemplary safety record may qualify for OSHA's Safety and Health Achievement Recognition Program (SHARP).

10/28/2011

OSHA Publishes New/Revised Safety Materials

The Occupational Safety and Health Administration (OSHA) recently published new and revised **information** that explains workers' and employers' rights.

To order free copies of these materials online, visit OSHA's publications page or call OSHA at (800) 321-6742.

Employers are interested in understanding their rights and responsibilities following a federal OSHA inspection. The booklet, Employer Rights and Responsibilities, explains what happens after an inspection, and defines the types of violations for which an employer may be cited as well as remedies and recourses available to employers.

10/21/2011

OSHA Extends Comment Period on Proposed Tracking and Reporting Requirement Revisions

According to its [release](#), the Occupational Safety and Health Administration (OSHA) is reopening the rulemaking record to extend the comment period on revising the recordkeeping and reporting requirements for work-related injuries and illnesses. OSHA is extending the comment period in response to a stakeholder request. Individuals interested in submitting comments have until October 28, 2011.

Under the revised proposal, employers would be required to report to OSHA any work-related fatalities and all in-patient hospitalizations within eight hours, and work-related amputations within 24 hours. OSHA's current regulation requires employers to report to OSHA, within eight hours, all work-related fatalities and in-patient hospitalizations of three or more employees.

09/30/2011

BWC Board Gives OK to New Employer Discount Program

At its meeting this week, the Bureau of workers' Compensation (BWC) board of directors voted to approve a new discount program only for Ohio's new state fund employers, called **Grow Ohio**.

All new employers will receive a 25% discount on their workers' compensation premiums unless they elect to participate in group rating or

another program that is incompatible with the Grow Ohio discount. The discount will be applied to the new employer's total blended premium, and will be applied for the payroll period in which the employer's coverage becomes effective and the four consecutive payroll periods thereafter.

The rule also allows new employers, alternately, to opt to participate in group rating in their first policy year.

Astute Leadership Briefing readers will recall that OMA went on the record with the BWC as opposing "... any program that forces one group of Ohio businesses to pay inflated premiums to offset the cost of unearned discounts given to another class of Ohio businesses," among other concerns.

09/30/2011

October 31 is Next BWC Drug Free Safety Program Enrollment

Learn the benefits that becoming a drug free workplace, and enrolling in the Bureau of Workers' Compensation Drug Free Safety Program (DFSP) program, can bring to your workplace. OMA Connections Partner, **Working Partners®** is offering no-charge **webinars** in time for you to make a decision prior to the BWC's next enrollment deadline, October 31.

09/16/2011

Supreme Court Decides a Six-Year Period to Assert Certain Subrogation Claims

On September 7, 2011, the Ohio Supreme Court issued its decision written by Justice Cupp in Ohio Bur. of Workers' Comp. v. McKinley. In its syllabus, the Court stated:

"A claim brought by a statutory subrogee pursuant to recover its subrogation interest is a claim "upon a liability created by statute" and is therefore subject to the six-year statute of limitations of R.C. 2305.7."

This decision extends the period of time that statutory subrogees, which includes self-insuring

manufacturers, have to assert claims for benefits paid to injured workers, whose injuries were caused by third-party tortfeasors.

OMA Counsel, Tom Sant, of Bricker & Eckler LLP summarized, “That is a good thing particularly in situations ... where the injured worker and third party tortfeasor settled the case without paying the statutory subrogee. Because the self-insured manufacturer receives dollar for dollar reimbursement to the extent that payment is available, the advantage it has is more beneficial than to the state fund employer, which receives only partial benefits when the BWC collects from the injured worker and/or the third party tortfeasor.”

Read Sant’s [summary](#) of the case.

09/16/2011

OMA Supports BWC Proposed Regulation of Self-Insured PEOs

The Bureau of Workers’ Compensation (BWC) is developing **policy** regarding financial assessments and security requirements for the state’s self-insured professional employer organizations (PEOs). While there are fewer than ten self-insured PEOs in the Ohio workers’ comp system, it is important that the security requirements imposed on them are commensurate with those imposed on the entire community of self-insured employers.

OMA has gone on **record** with the BWC that it supports this development of fair policy for the protection and prudent administration of the Self-Insuring Employers Guaranty Fund.

09/09/2011

BWC Administrator Asks TPAs to Hold Offers, Wants Time to Study Programs and Discounts

In a **letter** this week to workers’ compensation third party administrators (TPAs) and associations that sponsor Bureau of Workers’ Compensation (BWC) programs, BWC administrator Steve Buehrer asked for a moratorium on marketing specific discounts to

potential group rating clients for the 2012/13 policy year. He indicated “that we (BWC) will not be bringing forward a recommendation on credibility levels and break-even factors for 60-90 days.”

Buehrer explained that the BWC will use this 60 to 90 day timeframe to “work to develop a comprehensive pricing package that looks at all programs and considers modifications to incentives, requirements, and compatibility.”

In addition to potentially modifying the specific factors that are used to calculate program discounts, such as credibility levels and break-even factors, the administrator also hinted that there may be additional program or product offerings: “...we should restructure both existing employer programs and evaluate potential new options to encourage the right behaviors, promote participation in multiple programs, and measure our collective efforts...”

As there is no ban on TPAs to solicit AC3 applications for group rating proposals to be issued later, employers will likely see continued solicitations. We will keep members informed of BWC program impacts and opportunities in ongoing OMA communications.

Offers received before the moratorium is lifted, and final BWC rules are issued, should be ignored.

09/09/2011

When Workers’ Compensation and Disabilities Laws Collide

The legal worlds of workers’ compensation law and the laws against disability discrimination sometimes collide and leave employers with difficult decisions about how to comply with each. A recent decision by the U.S. Court of Appeals for the Sixth Circuit serves as a cautionary tale to employers that impose work restrictions upon an employee based on what they perceive their responsibilities to be under a workers’ compensation order. **Read more** in this Bricker & Eckler Human Resources Bulletin. *From OMA Connections Partner, Bricker & Eckler LLP.*

09/06/2011

OMA Expresses Concerns with Proposed BWC Discount Program

The OMA **communicated** concerns with a proposed new premium discount program of the Ohio Bureau of Workers' Compensation (BWC). The "Grow Ohio Incentive Program" would provide a two-year 25% premium discount to employers new to Ohio. While the aim of the program is laudable, encouraging economic growth, the proposal is unfair to Ohio's existing employers.

In a letter to the BWC, OMA Managing Director for Workers' Compensation Services Denny Davis wrote: "This new program would require subsidization of new employers' premiums by employers already operating in the state. We oppose any program that forces one group of Ohio businesses to pay inflated premiums to offset the cost of unearned discounts given to another class of Ohio businesses. This circumstance is most concerning, of course, when a company is forced by the government to subsidize a competitor."

Davis also expressed concerns about potential unintended consequences and operational complexity within the rule's provisions.

09/02/2011

BWC Plans Discount Program to Benefit New Ohio Employers

Following the Ohio Bureau of Workers' Compensation (BWC) actuarial committee meeting this week where the idea was presented, BWC issued a **release** indicating about its proposed "economic development initiative" that would discount a new Ohio employer's premium by as much as 51 percent.

If approved by the BWC Board of Directors on September 29, "Grow Ohio" would offer eligible employers a 25 percent discount on their workers' compensation premiums for two years, or give them immediate access to participation in the group experience rating program. If approved, the incentives will apply to new business entities or out-of-state businesses that are new to Ohio and report payroll in Ohio on or after July 1, 2011.

Actuarially, this new program will require existing Ohio companies to subsidize the premium of new-to-Ohio companies. The OMA will express concerns to the BWC about the equity of such a circumstance.

08/26/2011

Workers' Compensation Legislation
Prepared by: The Ohio Manufacturers' Association
Report created on November 29, 2011

- HB123** **WORKERS' COMPENSATION BUDGET** (HOTTINGER J) To allow the administrator of Workers' Compensation to waive criteria certain public employers must satisfy to become self-insuring employers; to require bills for medical and vocational rehabilitation services in claims that are ultimately denied to be paid from the Surplus Fund Account under specified circumstances; to make appropriations for the Bureau of Workers' Compensation and for the Workers' Compensation Council for the biennium beginning July 1, 2011, and ending June 30, 2013; and to provide authorization and conditions for the operation of the Bureau's and the Council's programs.
Current Status: 4/25/2011 - **SIGNED BY GOVERNOR**; Some provisions eff. 4/25/11; others 7/29/11
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_123
- HB124** **INDUSTRIAL COMMISSION BUDGET** (HOTTINGER J) To set appropriations for the Industrial Commission for the biennium beginning July 1, 2011, and ending June 30, 2013, and to provide authorization and conditions for the operation of Commission programs.
Current Status: 4/25/2011 - **SIGNED BY GOVERNOR**; Eff. 4/25/11
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_124
- HB186** **PROFESSIONAL EMPLOYER ORGANIZATION LAW** (ADAMS R) To establish certain financial capacity requirements for professional employer organizations, clarify rights and liabilities of professional employer organizations and client employers, and to make other changes to the professional employer organization law.
Current Status: 6/1/2011 - **BILL AMENDED**, House Commerce & Labor, (Third Hearing)
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_186
- HB252** **IMMIGRATION STATUS-CONVICTED FELON** (YOUNG R) To require a prosecuting attorney to ask the Immigration and Naturalization Service of the United States to verify or ascertain the immigration status of an offender who has been convicted of or pleaded guilty to a felony, to require a prosecuting attorney if the INS informs the prosecutor that the offender is an illegal alien to notify the alleged felon's employer, the Department of Job and Family Services, the Registrar of Motor Vehicles, and the Secretary of State, to make illegal aliens ineligible for certain state public benefits, and to prohibit the Registrar of Motor Vehicles from issuing a driver's license to an alleged felon with respect to whom a prosecuting attorney has given the Registrar the above notice and require the Registrar to cancel any driver's licenses issued to such an alleged felon.
Current Status: 6/8/2011 - Referred to Committee House Transportation, Public Safety and Homeland Security
More Information: [tp://www.legislature.state.oh.us/bills.cfm?ID=129_HB_252](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_252)
- SB139** **PROFESSIONAL EMPLOYER ORGANIZATION LAW** (HUGHES J) To establish certain financial capacity requirements for professional employer organizations, clarify rights and liabilities of professional employer organizations and client employers, and make other changes to the professional employer organization law.
Current Status: 11/15/2011 - **REPORTED OUT AS AMENDED**, Senate Insurance, Commerce & Labor, (Fourth Hearing)
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_139

Public Policy Report**PUBLIC POLICY REPORT – Tax Policy**

TO: OMA Government Affairs Committee
FROM: Ryan Augsburger, OMA Staff
DATE: November 30, 2011
SUBJECT: TAX POLICY HIGHLIGHTS

Overview

Following completion of the main operating budget in June, only a House legislative study committee has been active. The November 8 General Election has dominated statehouse activity since last meeting.

State Issue 2 addresses state and local government service labor contracts and if not approved by voters may force budget corrections. A few bills are being considered, mostly in the House.

State Budget and Financial Condition

Tax and other revenue collection was \$19.5 million or 0.8% above estimates in September. State revenue collection is down \$36 million or 0.5% year to date. While collections are running at estimated levels, year to date figures are nearly 10% better than 2010. The largest contributions to this year-over-year growth were non-auto sales tax, personal income tax, and the commercial activities tax.

Administration officials have hinted that Governor Kasich may want to revise the budget (mid-term) to institute another rounds of cuts.

Estate Tax Repeal

The Estate Tax was repealed as a rider to the state budget with a 2013 effective date so it will not shortchange revenue collection in the FY12, FY13 biennium. The OMA advocated in support of repeal. See enclosed Wall Street Journal column referencing OMA member Summitville Tiles, Inc.

House Study Committee

Beginning in late August a legislative study committee met numerous times to hear learn about tax policy. OMA Tax Counsel Mark Engel of Bricker & Eckler appeared before the panel on behalf of the OMA (see testimony included in packet). He focused comments on the importance of the package of reforms, enacted in 2005. Most state representatives were not in the General Assembly during the reforms. Mark cautioned lawmakers about the importance of maintaining a broad base, in order to maintain the low rate. The committee is charged with looking at the CAT, considering the sales and use tax, and considering tax expenditures.

Over a dozen industries or companies have appeared before the committee asking for special treatment (exemption) from the CAT. A number of local government leaders are also appearing to express opposition to a rumored legislative proposal to consolidate municipal tax collection at the state level. Also see study committee presentation materials by Department of Taxation Deputy Director, Fred Church.

Unemployment Compensation

Like many states, Ohio's fund to pay unemployment compensation claims was depleted in early 2010. The state has borrowed federal funds (\$2.3 billion) that will need to be paid back. States are required to begin paying interest by September 2011 (nearly \$300 in interest alone in the 2012/13 biennial budget).

The OMA has signed on with other business groups in urging the federal government to provide greater flexibility for states to repay the debt. Eventually Ohio employers could see a premium increase to repay the federal loans and restore the state fund, probably coupled with benefit cuts. In the short term, the state budget appropriated funds to meet the interest payments that come due on Sept 30. This is a positive development for employers. See enclosed report by the tax foundation.

JobsOhio and Third Frontier

House Bill 1 / Senate Bill 1 created a non-profit corporation called JobsOhio to coordinate state economic development activity. The corporation is headed by a board of directors and chaired by the Governor. A series of informational presentations was held around the state recently. Also impacted was the eligibility criteria for popular Third Frontier Funds. See enclosed information on Third Frontier.

Tax Management

InvestOhio Tax Credit Launched

Governor Kasich this week signed an executive order authorizing the Ohio Department of Development to immediately adopt rules to implement the "InvestOhio" program. The program provides a non-refundable tax credit to eligible investors who make a qualifying investment in an Ohio small business enterprise.

Registration opens on November 14. Visit the Department of Development to **learn more about the program**.

11/11/2011

Manufacturers Face Unemployment Tax Hikes

Members of the OMA Tax Policy Committee this week heard a presentation by the Ohio Department of Job and Family Services on the state's unemployment compensation system. With unemployment still around 9% and benefits extended to 99 weeks by the federal government, Ohio's system has had to borrow \$2.6 billion: funds that will need to be repaid.

Significant rates hikes are potentially ahead for many Ohio employers. Take a minute to review Assistant Director Bruce Madson's **PowerPoint** to learn how the system is structured and how your company may be impacted.

Further system reforms including possible rate hikes could come in early 2012. Contact **Ryan Augsburger** at the OMA to help shape the reforms.

11/04/2011

Third Frontier Program Changes

Also this week at the meeting of the OMA Tax Policy Committee, Mark Engel of Bricker & Eckler LLP, OMA Tax Counsel, shared a **report** describing changes that are designed to make the awards more competitive to ensure the best

(economic development) projects get approved.

Engle's report will be useful to manufacturers interested in the variety of programs funded through the Third Frontier.

11/04/2011

OMA Tax Committee Materials - 11/03/2011

These are the materials that support the June 15, 2011 OMA Tax Committee meeting, and they have utility to the tax - and broader - community of practice among Ohio manufacturers as well.

Addendum: Guest Presentation - Ohio Jobs & Family Services - **Unemployment Insurance Update**

11/02/2011

Businesses Face Higher Unemployment Taxes

In a background paper on unemployment insurance, the Tax Foundation studied states like Ohio that have exhausted their funds for paying unemployment benefits and "may soon face a financial crisis without significant reform to the system."

Their study, **Unemployment Insurance Taxes: Option for Program Design and Insolvent Trust Funds**, serves as a primer for an important but complex system and as a roadmap for how to improve it. The study includes state-by-state rankings on unemployment insurance program structure, funding, and other metrics. Ohio's outstanding federal loans as of September, stood at \$2.61 billion.

10/21/2011

OMA To Lawmakers: Preserve Tax Reform

OMA Tax Counsel **Mark Engel** of Bricker & Eckler LLC this week told a panel in the Ohio House of Representatives to hold the line on the broad-base, low-rate commercial activity tax (CAT). Dozens of other business interests have

told the lawmakers that their business or industry is harmed by the CAT and are seeking exemption. Pharmaceutical distributors, retailers, grain elevator operators, and gas stations are among the parties protesting the “unfair” burden imposed on them by the CAT.

In his **testimony** on behalf of the OMA, Engel said, “The solution isn’t a tax system made of Swiss cheese; we tried that already, and it didn’t work. Hold fast to a broad-based, low-rate tax that is simple to enforce and simple to follow, and that treats all taxpayers the same.”

Last week, Cleveland State University Dean Edward “Ned” Hill made a presentation to the committee on the economic benefits of the tax reforms enacted in 2005.

09/23/2011

More Small Business Loans Available

The federal government recently approved the next wave of funds, \$767 million, to community banks for making commercial and industrial loans. The development is part of the Small Business Jobs Act enacted last year which set aside \$30 billion for this purpose. Manufacturers worked in support of the creation of this program.

Read more in the **PMA / NTMA One Voice**.

09/16/2011

OMA Recognized for Estate Tax Repeal



Earlier this year, state leaders repealed Ohio’s estate tax as an amendment to state budget legislation. Ab-

olishing the tax had been an OMA priority for many years because the tax served as a deterrent to necessary re-investment by family-owned businesses. **The Wall Street Journal** chronicled the historic development. The OMA

worked together with other supporter organizations including Citizens United to End Ohio’s Estate Tax.

Pictured is the OMA’s Ryan Augsburger, Ron Alban and Jack Boyle of Citizens Untied to End Ohio’s Estate Tax, and OMA President Eric Burkland.

09/09/2011

House Panel Considers State Tax Policy

The Ohio House of Representatives this week began a series of “study committees” with a panel to examine the state’s tax structure.

Deputy Ohio Tax Commissioner Fred Church said the goal of the tax reform of 2005 was to create a broad-based, low-rate business tax to replace the corporate franchise and tangible personal property taxes and to lower the personal income tax rate. Church testified that the new “tax was designed to benefit manufacturing, creating a favorable ‘platform for production’ in Ohio.”

“Fred’s **presentation** described accurately how the significant tax reforms have dramatically improved Ohio’s tax climate,” commented the OMA’s Ryan Augsburger.

A threat to Ohio’s manufacturing-friendly state tax policy is special interest lobbying to obtain tax exemptions, which erode the tax base. A witness representing gas station/convenience store operators testified that the industry should be exempted from the tax. There’ll be more of this coming from other groups as the study committee continues its hearings.

08/26/2011

State Outlines New Economic Development Apparatus

The Kasich administration this week **unveiled details** about the state’s new way of working with businesses to promote their growth and attract new investment in Ohio. To date, the functions of economic development have been shepherded by the Ohio Department of

Development; however, with the passage of the JobsOhio bill (House Bill 1), Governor Kasich was authorized to form a nonprofit corporation which is responsible for economic development, job creation, job retention and the recruitment of businesses to Ohio.

The **full report** details which functions should remain within the state agency structure and which functions should transfer to JobsOhio.

Officials responsible for the new structure are holding **six regional meetings** to discuss Ohio's new economic development strategy. The meetings are intended to describe the role of the Ohio Department of Development and its relationship with JobsOhio and the JobsOhio Network partners.

"This new approach, which has a regional focus, represents perhaps the most sweeping reform ever of Ohio's economic development strategy," commented the OMA's Ryan Augsburger, who will be monitoring the developments and reporting them to members via this publication and to the OMA Tax Policy Committee. Manufacturers are invited to attend the regional events and to view a **presentation** the state is using to describe JobsOhio.

08/19/2011

Taxation Legislation
Prepared by: The Ohio Manufacturers' Association
Report created on November 28, 2011

- HB1** **JOBSOHIO** (DUFFEY M) To authorize the Governor to create JobsOhio, a nonprofit economic development corporation.
Current Status: 2/18/2011 - **SIGNED BY GOVERNOR**; Eff. 2/18/2011
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_1
- HB3** **REPEAL ESTATE TAX** (GROSSMAN C, HOTTINGER J) To repeal the estate tax for the estates of individuals dying on or after January 1, 2011.
Current Status: 2/16/2011 - **REPORTED OUT**, House Ways and Means, (Fourth Hearing)
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_3
- HB8** **TAX PROMPT REMITTANCE DISCOUNT** (BLAIR T) To increase the sales and use tax prompt remittance discount and to authorize a discount for prompt remittance of income tax withholding.
Current Status: 1/11/2011 - Referred to Committee House Ways and Means
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_8
- HB10** **REMEDICATION OF CONTAMINATED SITE** (SEARS B) To authorize refundable tax credits for the completion of a voluntary action to remediate a contaminated site and for the return of such sites to productive use, and to exempt persons through 2017 who have issued covenants not to sue under the Voluntary Action Program from certain fees and penalties for one year after the issuance of such a covenant.
Current Status: 3/2/2011 - House Ways and Means, (Fifth Hearing)
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_10
- HB17** **TAX CREDIT FOR HIRING UNEMPLOYED** (BAKER N) To authorize a \$2,400 income tax withholding credit for an employer that hires and employs a previously unemployed individual.
Current Status: 1/11/2011 - Referred to Committee House Ways and Means
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_17
- HB18** **TAX CREDIT - EXPANDING BUSINESSES** (BAKER N) To authorize a nonrefundable tax credit for a business that increases payroll and expands into a vacant facility.
Current Status: 2/23/2011 - House Ways and Means, (Fifth Hearing)
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_18
- HB43** **OHIO VENTURE CAPITAL AUTHORITY** (GOYAL J, WILLIAMS S) To increase the annual and aggregate limit on the amount of tax credits the Ohio Venture Capital Authority may authorize.
Current Status: 1/26/2011 - Referred to Committee House Economic and Small Business Development
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_43
- HB44** **SMALL BUSINESS WORKING CAPITAL LOAN PROGRAM** (GOYAL J, GARLAND N) To create the Small Business Working Capitol Loan Program.
Current Status: 1/26/2011 - Referred to Committee House Economic and Small Business Development
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_44
- HB58** **INTERNAL REVENUE CODE** (BECK P) To expressly incorporate changes in the Internal Revenue Code since December 15, 2010, into Ohio law.
Current Status: 3/7/2011 - **SIGNED BY GOVERNOR**; eff. 3/7/2011
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_58
- HB81** **PERFORMANCE BUDGETING** (SNITCHLER T) To require performance budgeting by most state agencies.
Current Status: 2/22/2011 - House State Government and Elections, (Second Hearing)
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_81
- HB98** **INCOME TAX RATE FOR 70 1/2 YEARS OR OLDER** (HOLLINGTON R) To reduce the maximum effective income tax rate applicable to unearned income of persons age 70 1/2 years or older to 1% beginning in 2013.
Current Status: 3/30/2011 - House Ways and Means, (Fourth Hearing)
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_98
- HB101** **JOB CREATION/RETENTION CREDITS** (WILLIAMS S) To provide for a six-year trial period in which taxpayers

may include a limited number of the taxpayer's employees who work from home and whose rate of pay is at least three times the federal minimum wage as employees employed in the project for purposes of the job creation and retention credits if the recipient of the credit provides a specified level of capital investment, and to require the Director of Development to issue a report at the end of the six-year period.

Current Status: 6/1/2011 - House Ways and Means, (First Hearing)

More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_101

- HB111 TAX DEDUCTION-SMALL BUSINESS (WILLIAMS S)** To authorize an income tax deduction for small business owners' reinvestment of undistributed profits in business property, employee training, or research and development.
- Current Status:** 5/11/2011 - House Ways and Means, (First Hearing)
- More Information:** http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_111
- HB114 TRANSPORTATION BUDGET (MCGREGOR R)** To make appropriations for programs related to transportation and public safety for the biennium beginning July 1, 2011, and ending June 30, 2013, and to provide authorization and conditions for the operation of those programs.
- Current Status:** 7/13/2011 - HB114 had a provision amended by SB187
- More Information:** http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_114
- HB134 CAPITAL GAINS INVESTMENTS (SCHURING K)** To reduce the income tax rate on capital gains reinvested in Ohio-based investments.
- Current Status:** 6/1/2011 - House Ways and Means, (Fourth Hearing)
- More Information:** http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_134
- HB153 BIENNIAL BUDGET (AMSTUTZ R)** To make operating appropriations for the biennium beginning July 1, 2011, and ending June 30, 2013, and to provide authorization and conditions for the operation of state programs.
- Current Status:** 6/30/2011 - **SIGNED BY GOVERNOR**; Effective 6/30/2011; some sections different dates, 7 line item vetos
- More Information:** http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_153
- HB198 PROPERTY TAX COMPLAINTS (COLEY II W)** To permit property tax complaints to be initiated only by the property owner.
- Current Status:** 5/12/2011 - House Financial Institutions, Housing and Urban Development, (Second Hearing)
- More Information:** http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_198
- HB220 CAT TAX CREDIT INVESTMENT LOSSES (BECK P, BAKER N)** To allow a refundable commercial activity tax credit for investment losses recognized by foreign entrepreneur investors who invest in certain projects in Ohio.
- Current Status:** 6/23/2011 - House Economic and Small Business Development, (Sixth Hearing)
- More Information:** http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_200
- HB258 APPRENTICESHIP PROGRAMS (GROSSMAN C, DOVILLA M)** To exempt from taxation for five years the earned income of an individual who obtains journey person status or a baccalaureate degree and works in Ohio; and to prohibit the Apprenticeship Council from adopting standards for apprenticeship ratios that are stricter than those requirements specified in the federal regulations governing apprenticeship programs and from discriminating against open or merit shops.
- Current Status:** 9/27/2011 - House Ways and Means, (Second Hearing)
- More Information:** http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_258
- HB261 ALTERNATIVE FUEL FACILITY (MCGREGOR R)** To allow a credit against the personal income tax or commercial activity tax for the installation of an alternative fuel facility.
- Current Status:** 9/21/2011 - House Ways and Means, (Second Hearing)
- More Information:** http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_261
- HB310 ELECTRIC VEHICLE SALES TAX REDUCTION (GOODWIN B)** To reduce the amount of sales tax due on the purchase or lease of a qualifying electric vehicle by up to \$2,000.
- Current Status:** 11/16/2011 - House Ways and Means, (Second Hearing)
- More Information:** http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_310
- HB327 JOB CREATION-RETENTION TAX CREDIT (GONZALES A)** To provide for a six-year trial period in which taxpayers may receive a job creation or job retention tax credit for the employment of home-based employees and to require the Director of Development to issue a report at the end of the six-year period.

- Current Status:** 11/29/2011 - House Economic and Small Business Development, (Second Hearing)
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_327
- HB365** **ENHANCED FEDERAL INCOME TAX DEPRECIATION DEDUCTION** (BECK P, DOVILLA M) To allow taxpayers who claim an enhanced federal income tax depreciation deduction to reduce the amount of the deduction the taxpayer must add-back for Ohio income tax purposes if the taxpayer increases payroll in the year the enhanced federal deduction is taken.
Current Status: 11/16/2011 - House Ways and Means, (First Hearing)
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_365
- SB1** **JOBSONIO** (WAGONER M) To authorize the creation of JobsOhio, the non-profit economic development corporation.
Current Status: 2/2/2011 - Referred to Committee Senate Finance
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_1
- SB4** **PERFORMANCE AUDITS OF STATE AGENCIES** (SCHAFFER T) To require the Auditor of State to conduct performance audits of certain state agencies.
Current Status: 4/5/2011 - **SIGNED BY GOVERNOR**; Eff. 4/5/2011
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_4
- SB5** **COLLECTIVE BARGAINING REFORM** (JONES S) To make changes to Ohio's Collective Bargaining Law, which was first enacted in 1983.
Current Status: 11/8/2011 - Repealed by Voter Referendum
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_5
- SB6** **JOB RETENTION TAX CREDIT** (PATTON T) To authorize a refundable job retention tax credit.
Current Status: 2/22/2011 - SB6 became part of HB58
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_6
- SB7** **IRS TAX CHANGES** (OBHOF L) To expressly incorporate changes in the Internal Revenue Code since December 15, 2010, into Ohio law, and to declare an emergency.
Current Status: 2/17/2011 - Senate Ways & Means & Economic Development, (Second Hearing)
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_7
- SB12** **SMALL BUSINESS SET ASIDE** (KEARNEY E) To generally require that state agencies set aside a certain amount of purchases for which only small business enterprises may compete.
Current Status: 2/2/2011 - Referred to Committee Senate State & Local Government & Veterans Affairs
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_12
- SB13** **UNEMPLOYMENT MODERNIZATION TASK FORCE** (SCHIAVONI J) To allow an individual to receive unemployment compensation benefits for unemployment related to domestic abuse or compelling family circumstances, to allow an individual to receive unemployment training extension benefits under specified conditions, and to create the Unemployment Modernization Review Task Force.
Current Status: 3/22/2011 - Senate Insurance, Commerce & Labor, (First Hearing)
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_13
- SB47** **CAT TAX CREDIT GROCERY STORES** (KEARNEY E) To authorize a commercial activity tax credit for underserved community grocery stores.
Current Status: 2/17/2011 - Senate Ways & Means & Economic Development, (First Hearing)
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_47
- SB58** **TAX CREDIT EMPLOYMENT CONVICTED FELONS** (TAVARES C) To create a tax credit for the employment of individuals who have been convicted of felonies.
Current Status: 2/10/2011 - Senate Ways & Means & Economic Development, (First Hearing)
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_58
- SB90** **ESTATE TAX** (JORDAN K) To repeal the estate tax for the estates of individuals dying on or after January 1, 2011.
Current Status: 4/14/2011 - **REPORTED OUT AS AMENDED**, Senate Ways & Means & Economic Development, (Fifth Hearing)

More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_90

- SB115** **PROPERTY SALE GAINS** (KEARNEY E) To exempt from income taxation any gains from the sale of Ohio property used in a trade or business and held for at least two years.
Current Status: 3/24/2011 - Senate Ways & Means & Economic Development, (First Hearing)
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_115
- SB188** **ALTERNATIVE FUEL FACILITY** (PATTON T) To allow a credit against the personal income tax or commercial activity tax for the installation of an alternative fuel facility.
Current Status: 9/22/2011 - Senate Ways & Means & Economic Development, (First Hearing)
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_188
- SB200** **EDISON JOBS DEVELOPMENT PROGRAM** (HUGHES J) To create the Edison Jobs Development Program within the Department of Development and to make an appropriation.
Current Status: 9/20/2011 - Referred to Committee Senate Finance
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_200
- SB206** **TAX CREDIT-TEMP EMPLOYMENT AGENCY HIRES** (SCHAFFER T) To allow taxpayers to count employees employed through a temporary or professional employment agency toward the payroll and income tax withholding requirements of the job creation and job retention tax credits.
Current Status: 9/20/2011 - Referred to Committee Senate Ways & Means & Economic Development
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_206
- SB209** **ELECTRIC VEHICLE SALES TAX REDUCTION** (HITE C, TURNER N) To reduce the amount of sales tax due on the purchase or lease of a qualifying electric vehicle by up to \$2,000.
Current Status: 9/22/2011 - Senate Ways & Means & Economic Development, (First Hearing)
More Information: http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_209

Testimony of
Mark Engel

On behalf of
The Ohio Manufacturers' Association

Ohio House Study Committee on Tax Structure
September 22, 2011

Mr. Chairman and members of the Committee, my name is Mark Engel. I'm an attorney with the law firm of Bricker & Eckler LLP and I concentrate my practice in the areas of state and local taxation and economic development. I'm testifying here today on behalf of the Ohio Manufacturer's Association, urging you to remain faithful to the principles of the tax reform that was enacted in 2005, especially with respect to the Commercial Activity Tax, or CAT. The Ohio Manufacturers' Association is the state's trade association devoted to advocating on policy matters for Ohio's manufacturers. Manufacturing is the business that drives Ohio's economy.

Ohio's Previous Tax Structure

Prior to 2005, Ohio's tax structure was essentially unchanged since the 1930s. At that time, Ohio's economy was driven by agriculture and manufacturing. Its tax structure reflected that economy. The major taxes were the real property tax, the sales and use taxes, the tax on tangible personal property used in business, and the corporation franchise tax measured on net worth. Both agriculture and manufacturing enjoyed generous exemptions from the sales tax. However, the franchise tax and the tangible personal property tax, especially, both hit capital-intensive industries harder than others and had to be paid whether the entity made, or lost, money. Thus, the manufacturing sector paid an inordinately high level of state tax when compared with other segments of the economy.

As services made up a larger share of Ohio's economy over the years, the inequality in the state tax burden between manufacturing and other segments of the economy was exacerbated. Many service sector concerns operate without a significant investment in capital; hence, their tangible personal property and net worth franchise tax liabilities were minimal. Many of these services operate on more slender margins or can manipulate their finances to minimize income; as a result, little income tax was generated. In addition, many of these new service entities were organized as pass-through entities that were not subject to the franchise tax. As the demand for state services grew, the only recourse was to raise existing tax rates on existing taxpayers. In many cases, that meant an increasing tax burden for Ohio manufacturers.

Paradoxically, Ohio continued to add exemptions from, and exceptions to, the various taxes during this time. As a result, Ohio was saddled with a number of taxes that had high nominal rates, but struggled to raise sufficient levels of revenue for governmental operations. The discrepancies between taxpayers and economic segments also increased and compliance with the existing taxes became more complicated.

Calls for Reform

During the 1960s, calls for reform in Ohio's tax structure began. Over the years, various band-aids were applied to Ohio's tax structure in order to attempt to reduce its inequalities. Differences in the assessment rate applied to various types of business tangible personal property were reduced or eliminated, and the over-all assessment rate was reduced. In the early 1970s the net income tax base for the franchise tax and the personal income tax were enacted on the basis that they were perceived as "more fair" because they were based on ability to pay. Ohio's intangibles tax on investments was repealed during the early 1980s. A cap of \$150,000 was placed on the franchise tax liability of a taxpayer as measured by net worth in the early 1990s.

At the same time, Ohio continued to enact exemptions from, or exceptions to, the various taxes, thereby creating increasing disparity and complexity.

With the dawn of a new millennium, calls for tax reform increased. They were reinforced by the movement of manufacturing jobs to the sunny south and outside the borders of the United States. Ohio lost over 200,000 high-paying manufacturing jobs in the early years after the turn of the century. In addition, Dr. Ned Hill of Cleveland State University published a study that examined the impact of state tax policy on Ohio's economy and called for the elimination of the tangible personal property tax and existing dual-based franchise tax, to be replaced with a broad-based, low-rate tax based on payroll. The study also showed how capital-intensive segments of the economy, such as manufacturing, construction, and retail, paid anywhere from 3 to 11 times more state taxes than did members of many service industries. Responsive to the needs of its members, OMA financed the publication and distribution of Dr. Hill's study.

Early Tax Reform Attempts

Due in large part to Dr. Hill's study, the refrain for tax reform grew louder. Beginning in 2002, bills were introduced to consider tax and expenditure limitations, or "TEs" (A TEL typically couples limitation in the year-to-year growth in governmental expenditures with the requirement of a super-majority to enact tax increases.). Bills were introduced to make changes to the franchise tax in 2003, and 2004 saw the bills that were introduced in order to "reform" Ohio's taxes. None of these bills became law.

Tax Reform Enacted

Finally, in early 2005, true tax reform was proposed. The goals of tax reform were:

- Eliminate tax on investment and shift to the taxation of consumption;
- Broaden the tax base;
- Reduce over-all tax rates;
- Provide a more stable and predictable flow of revenue; and
- Simplify compliance.

The result was a comprehensive overhaul of Ohio's tax system by H.B. 66. As enacted, the bill:

- Eliminated the tangible personal property tax on new investment in manufacturing and phased out the tax on general business property over 4 years;
- Phased out the corporation franchise tax for most corporations over 5 years;
- Phased in a 21% reduction in personal income tax rates ratably over 5 years (the last reduction was delayed 2 years in 2009 in an effort to balance the state budget); and
- Enactment of the commercial activity tax (“CAT”), a broad-based, low-rate tax imposed upon gross receipts from virtually all business activities and entities.

H.B. 66 became law in June 2005. Although generally opposed to gross receipts taxes because of their compounding nature, most manufacturers soon found that the savings from the reduction in the onerous taxes on tangible personal property and corporation franchise more than made up for the policy misgivings regarding a gross receipts tax. Other taxpayers that initially withheld support, such as retailers and those in construction, also warmed to the tax as the savings became clear. In addition, compliance costs were slashed as taxpayers no longer had to undertake the arduous process of preparing personal property tax returns or corporation franchise tax reports.

Results of Tax Reform

Due to the phased implementation of the provisions of H.B. 66 and the general economic slowdown that has gripped the country over the past 2 years, questions have been raised regarding the effectiveness of the tax reform efforts. OMA has been at the forefront in demonstrating that, indeed, the effort was worthwhile.

- In 2009, Ohio won Site Selection magazine’s “Governor’s Cup” for an unprecedented fourth consecutive year. The Governor’s Cup is awarded annually to the state having the most major business expansions in the nation.
- A January 2009 Ernst & Young study indicated that Ohio’s business tax burden rated between 18th and 23rd best on 3 different scales of comparison. Another Ernst & Young study, conducted for the Ohio Business Development Coalition, showed that Ohio had the lowest effective tax rates on new capital investment in the Midwest.
- The Small Business & Entrepreneurship Council’s Business Tax Index in 2008 rated Ohio’s state tax system as 14th best nationally.
- In March 2010 the Federation of Tax Administrations released an analysis of new data from the U.S. Census Bureau showing that for FY 2009, Ohio’s per capital state tax burden was the 16th lowest; as a percentage of personal income, the burden was the 18th lowest.
- In April 2011, Ernst & Young and the Council on State Taxation issued a report entitled “Competitiveness of State and Local Business Taxes on New Investment” in which they concluded that Ohio had the third lowest rate of state and local taxation on new business investment. The report laid this result directly at the feet of the 2005 tax reform law.

- Finally, according to the Ohio Department of Taxation, Ohio is one of only 6 states that do not tax corporate profits, and one of 10 that do not tax business personal property.

Summary:

Since the enactment of tax reform, OMA has developed a simple, consistent approach to tax policy in Ohio. That approach insists on certainty, equity, simplicity, and transparency. The erosion of the tax reform legislation, in the form of carve-outs, exclusions, and ear-marks, reduces certainty, creates disparity by selecting winners and losers, renders the tax code more complicated, and reduces transparency as it becomes more difficult to determine who is entitled to which exclusions.

Everybody has a story; everybody has a reason why one tax or another is not fair to them. However, one cannot have an efficient and fair tax system that is different for every taxpayer. Nor is it fair to tax some segments of the economy at levels that are 10 times higher than those imposed on other segments. Every time an exclusion or exemption is created, that increases the tax burden on everybody else. The solution isn't a tax system made of Swiss cheese; we tried that already, and it didn't work. Hold fast to a broad-based, low-rate tax that is simple to enforce and simple to follow, and that treats all taxpayers the same.

Thank you. I'll be pleased to answer any questions you may have.

Ohio Third Frontier Program Talking Points

Background

Created in 2002, the Ohio Third Frontier is an unprecedented commitment to create new technology-based products, companies, industries and jobs. In May, the Ohio Third Frontier was extended by taxpayers through 2015 indicating a widely held understanding by the populace that technology and innovation will lead to economic prosperity both today and for future generations.

In early September, the Ohio Third Frontier Commission approved a portion of the investment plan for fiscal year 2012, which includes approximately \$185.6 million of investments in technology-based economic development efforts this year, of which \$76 million is expected to be directed toward entrepreneurial support programs. This proposed plan represents a shift in Ohio Third Frontier's past investment activity. Initially Ohio's entrepreneurs needed pre-seed and seed stage funding to determine the technical merit of their technologies and ideas and to develop prototypes. In light of the demand, Ohio Third Frontier funneled 60 percent of its investments into research and development projects and infrastructure, 25 percent into the entrepreneurial space, and 15 percent to talent and cluster development. As the companies grew and the state succeeded in developing a strong pipeline of early stage companies, entrepreneurs ran into a new constraint — access to later stage capital to hire employees, develop their products, and perform initial marketing and branding. In response to the progress of the state's entrepreneurial ecosystem, the Ohio Third Frontier is now placing more emphasis than ever before on making later stage investment dollars available to these growing companies while continuing to support R&D and earlier stage companies.

The program's prior focus, which relied heavily on research related investments to provide major financial and employment returns to the State within a 7-10 year timeframe; is shifting its focus to areas that might pay off sooner, within three to five years.

So let's take a look at the 3rd Frontier yearly fiscal appropriations through 2015:

| Appropriation Amounts | | | |
|------------------------------|----------------|----------------|----------------|
| FY 12 | FY 13 | FY 14 | FY 15 |
| \$225 M* | \$175 M | \$175 M | \$175 M |

**Of which \$200 M is available for new program awards in 2012*

2012's program budget is \$200 million and will be disbursed in the following manner (with \$14.4 million unallocated):

| Entrepreneurial Support | Value Chain Development | Open Innovation | Talent | Total |
|--------------------------------|--------------------------------|------------------------|---------------|-----------------|
| \$77.7 M | \$39.9 M | \$65 M* | \$3 M | \$185.6M |
| 42% | 21% | 35% | 2% | 100% |

**Includes \$8 M Research Incentive budget item*

A deeper dive into FY 2012 Budget Summary:

| <u>CATEGORY</u> | <u>PROGRAM</u> | <u>2012</u> |
|------------------------|--|----------------|
| Entrepreneurial | Entrepreneurial Signature Program | \$40.0 |
| | ONE Fund | \$1.7 |
| | Pre-seed Fund Capitalization | \$25.0 |
| | Micro Fund | \$1.0 |
| | Growth Fund | \$10.0 |
| Value Chain | Jobs Ohio Network | \$14.9 |
| | Commercial Acceleration Fund | \$25.0 |
| Open Innovation | Tech Validation & Start-up | \$6.0 |
| | Open Innovation Incentive | \$8.0 |
| | Innovation Platform Fund | \$18.0 |
| | Industrial R&D Center | \$25.0 |
| | Research Incentive | \$8.0 |
| Talent | Third Frontier Internship Program | \$3.0 |
| Total | | \$185.6 |

6 Leading Industry Sectors for the 3rd Frontier:

Based on a Battelle Study, these are the leading industry sectors that the 3rd Frontier Board and Commission will focus their time, effort and resources promoting:

- **Materials**
- **Aerospace**
- **Bio-Medical**

- **Energy**
- **Information Technology**
- **Instruments and Controls**

The Future Direction of the Ohio 3rd Frontier:

- Establish a portfolio of activities that emphasizes economic outcomes in the 3-5 year timeframe;
- Updated assessment of major Ohio market opportunities and sharper focus on six key industries in which significant growth can be catalyzed with 3rd Frontier investments, integrated with the State's overall economic development strategy;
- Identification of some potential large game-changing investments that can be pursued in the next five years;
- Explore funding alternatives [*to grants*] that shift more risk to award recipients and generate some direct return back to the 3rd Frontier for future investments;
- Metrics that improve ability to make ROI-based decisions and track success in those terms.

Program Overview

VALUE CHAIN DEVELOPMENT

Innovation Ohio Loan Fund (IOLF) was created to assist existing Ohio companies develop next-generation products and services within the six Targeted Industry Sectors by financing the acquisition, construction, and related costs of technology, facilities, and equipment. The IOLF is intended to supply capital to Ohio companies having difficulty securing funds from conventional sources due to technical and commercial risk factors associated with the development of a new product or service.

Program Parameters:

- The IOLF can finance up to 75 percent of a project's allowable costs to a maximum of \$2 million and a minimum of \$500,000.
- Applications for IOLF are accepted on a rolling basis.

Programmatic Changes:

- NONE

JobsOhio Network Program (NEW): The goal of the JobsOhio Network Program is to make job creation and economic development a high priority by enhancing Ohio's government-based economic development efforts, thus enabling more proactive and competitive responses to emerging and promising opportunities. With a focus on strategic industry sectors, the Network will aggressively pursue the retention, expansion and recruitment of businesses with

high potential for job and wealth creation in Ohio as well as the transition of technologies into new companies and products.

The Network will leverage statewide and regional strengths, within the six JobsOhio defined regions, supported by a regional network partner located within each of those regions. Those entities are as follows:

Regional Network Partners:

Toledo – Regional Growth Partnership

Cleveland – Team North East Ohio (Team NEO)

Columbus – Columbus 2020

Cincinnati – Cincinnati USA Partnership

Dayton – Dayton Development Coalition

Nelsonville (Appalachia) – Appalachian Partnership for Economic Growth

Program Parameters:

- This pilot program is funded for one year for a total of \$14.85M. Future funding will be based off the initial success of the network.
- These six entities are in varying stages of organizing and ramping up staff.

Programmatic Changes:

- None; a new program.

Commercial Acceleration Loan Program (NEW): was created to increase the technical capabilities and business competencies of Ohio value chains within key existing and emerging driver industries and pursue targeted attraction to fill gaps.

The goal of the program is to invest in projects moving products/services into meaningful market entry:

- Commercial scale demonstrations in market use conditions;
- Manufacturing scale-up beyond pilot plant;
- Final customer validation, product certification, and/or regulatory certification;
- Acquisition of exclusive IP rights;
- Launch of next generation of an existing product, service, or process;
- Design engineering/packaging.

• ***3 Commercial Acceleration Loan Funds:***

New Venture Loans - \$500k - \$1 M per loan

- Professional venture/smart money backed co.;
- Balloon loan w/ less than market rate interest;
- Warrant provision;

- 25% forgivable for successful completion and another 25% forgivable / sales of \$1 M and significant market entry.

Venture/Non-venture Loans - \$500k - \$2 M per loan

- Targeted to small, post revenue co. w/ existing product/service on market;
- Near to market project w/ high sales potential;
- Revenue participation note, deferred payments w/ min./max. payback;
- 25% forgivable w/ sales of \$1 M and another 25% forgivable w/ sales \$2 M+, and significant market entry at each milestone.

Non-venture Loans - \$500k - \$3 M per loan

- Targeted to small to established company w/existing product/service on market;
- Near to market project w/ strong financial backing;
- Loan will support up to 25% of the project;
- 5% annual interest, due monthly, principal deferred during project period.

Broader Program Parameters:

- \$25 Million dollars
- Finance up to 50% of project cash costs;
- Deferred principal and/or interest options;
- Working capital eligible;
- For-profit companies in targeted industries;
- Different loans/terms for different opportunities;
- Validated market demand through IOLF, OTF Investment Forum, Battelle forums, staff survey;

Programmatic Changes:

- This new program combines all of the former commercialization programs (advanced energy, biomedical, fuel cell, medical imaging, photovoltaic, sensors, Ohio research commercialization programs) into one.
- This program will now consist of loan and not grant awards as in prior funding rounds (although percentage of the loan can be forgivable).

ENTREPRENEURIAL SERVICES

Entrepreneurial Signature Program: The goal of the Entrepreneurial Signature Program (ESP) is to significantly increase the technology-based entrepreneurial commercialization outcomes throughout a defined geographical region and to focus the effort on strategic technology-based sectors that offer exceptional economic development prospects for the region. Each ESP represents a comprehensive, coordinated network of high-value services and assistance providers that are visible and easily accessible to technology-based entrepreneurs and small tech-based companies throughout its region. These services could include:

- Connections to a network of resources for assistance;
- Management assistance provided by a team of executives-in-residence and investment associates to help accelerate the growth of promising technology companies;
- Seed-stage investments;
- Capital formation assistance.

The six regional ESP entities are as follows:

ESP Regional organizations:

Northeast – Jumpstart Inc.

Southwest – CincyTech

Central – TechColumbus

West Central – Dayton Development Coalition

Northwest – Rocket Ventures

Southeast – TechGrowth Ohio

Program Parameters:

- \$40 M two year program budget;
- The ESP previously awarded grants up to \$10 million dollars. The 2012 RFP has yet to be released and therefore the award amount for this fiscal year has yet to be determined.

Programmatic Changes:

- Previously this program also provided **capital funding**, along with funding for entrepreneurial services, to the 6 regional ESP organizations **but that is no longer the case. Only provide funding for services.**
 - Starting this fiscal year (2012), if the ESP's want to apply for capital funding to accelerate the growth of early-stage Ohio technology companies in their regions, they will have to compete against angel and private equity entities (like the Queen City Angels for example) under the Pre-Seed Fund

Capitalization Program for funding which is a significant program shift from prior years.

Pre-Seed Fund Capitalization Program (PFCP): The goal of the Pre-seed Fund Capitalization Program is to increase the availability of professionally managed capital and associated services to accelerate the growth of early-stage Ohio technology companies. The PFCP provides grants to capitalize for-profit and nonprofit funds that have attracted the support of other non-state investors. Funds capitalized by PFCP are expected to target investments to pre-seed stage technology-based businesses.

Program Parameters:

- \$25 M program budget;
- \$500K to \$2M per fund;
- Cash match 1:1.
- The 3rd Frontier staff is currently drafting the RFP for 2012 fiscal year.

Programmatic Changes:

- Starting this fiscal year (2012), if the ESP's want to apply for capital funding to accelerate the growth of early-stage Ohio technology companies in their regions, they will have to compete against angel and private equity entities (like the Queen City Angels for example) under the Pre-Seed Fund Capitalization Program for funding which is a significant program shift from prior years.

Micro Fund (NEW): This new fund will provide awards that range between \$5,000 and \$25,000 for new sustainable community-based, non-profit investment funds, each of which will have to match the State's investments dollar for dollar.

Program Parameters:

- \$1 M program budget;
- Up to \$1M per fund (non-profit);
- Investments from \$5k to \$25k;
- Cash match 1:1.
- The 3rd Frontier staff is currently drafting the RFP for 2012 fiscal year.

Programmatic Changes:

- NONE; new program.

Growth Fund (NEW):

Program Parameters: This new fund will make two investments of \$5 million each into investment funds. It requires a private match of \$3 and an SBA match of \$8 for every \$1 of Ohio Third Frontier money. Thus, the state's \$10 million investment will make \$120 million of new capital available to Ohio companies.

\$60M Fund (2):

- \$5M State Investment;
- \$15M Private Capital;
- \$40M SBIC Leverage.

*SBIC Impact Fund targets energy, education and low to moderate income areas. Funds must deploy 50% of capital to these targets.

Program Parameters:

- \$10 M program budget;
- \$5M per fund;
- Private Cash match 1:3.
- SBA Cash Match 1:8 (2x total fund)
- The 3rd Frontier staff is currently drafting the RFP for 2012 fiscal year.

Programmatic Changes:

- NONE; new program.

TALENT

Internship Program: The Third Frontier Internship Program links Ohio students with rewarding internship opportunities that provide great hands-on experience within Ohio's private sector business community. The goal is to build a young, talented workforce for the future and assist students in gaining valuable work experiences that can lead to permanent full-time employment in Ohio after graduation.

The Ohio Third Frontier Internship is looking for participating businesses that can provide the following types of internships:

- Advanced energy;
- Advanced manufacturing;
- Advanced materials;
- Bioscience;
- Information technology;

- Instruments, controls and electronics; and
- Power and propulsion.

Program Parameters:

- \$3 M program budget;
- The program will reimburse up to 50 percent of the intern's wage, or no more than \$3,000 for a 12-month period.
- Following an intern's graduation, the company will have the opportunity to offer full-time employment to an individual who is well prepared for a future career with the organization.
- FY 2012 funding will be awarded for deployment well before the summer internship season 2012
- To apply, visit <http://thirdfrontierintern.ohio.gov>

Programmatic Changes:

- NONE

The ONE Fund: Is a program designed to aggressively recruit young entrepreneurs to Ohio to work under the guidance of seasoned entrepreneurs, industry experts, and investors to launch a new business venture. This pilot program, in collaboration with The Ohio State University's Center for Entrepreneurship at Fisher College of Business, focuses on the professional development of young entrepreneurs with the necessary ambition to commercialize new technologies.

Program Parameters:

- The teams will be made up of at least two people who are at least 18 years of age.
- Team members must be able to locate to Columbus, Ohio for the duration of the 11- week program.
- There are no nationality or residency restrictions.
- The application can be found by visiting 10xelerator.com. The application window opened on September 2, 2011 and completed applications are due no later than 11:59 pm on November 20, 2011.
- Program will have the same parameters as last year.

Programmatic Changes:

- NONE

OPEN INNOVATION

Industrial Research and Development Center Program (IRDCP): The Industrial Research and Development Center Program are designed to attract large, nationally designated and highly visible corporate, nonprofit, and federal research and development centers or laboratory facilities to Ohio. The IRDCP will achieve this by enhancing and supplementing Ohio organizations' proposals for such centers by providing funding that serves as cost share or matching dollars, thereby improving the competitiveness of the proposal and enhancing the potential for a center being located in Ohio.

Program Parameters:

- \$25M program budget;
- IRDCP contributes an 15% of the prime investment not to exceed \$5M
- Minimum corporate investment of \$15 M or federal center award of \$10 M
- For-profit and non-profit research institutions are both eligible to be lead applicants
- Fiscal Year 2012 RFP's are available.

Programmatic Changes:

- NONE.

Innovation Platform Program (NEW): The Innovation Platform Program was created to support near term commercialization projects requiring major capital acquisitions and improvements at Ohio higher education institutions and nonprofit research organizations with a secondary benefit to support technical workforce training. Collaborations, between universities and for profit entities are still encouraged and are formed to further the near-term commercialization of specific or platform technologies with significant, defined market opportunities.

Program Parameters:

- \$18 M program budget;
- \$1M to \$3M per award
- 1:1 cost share
- Operations, facilities and equipment costs are eligible
- Higher Ed and non profit research entities can be lead applicants
- 2 or more Ohio, for profit industry collaborators required to validate industrial relevance and use of the platform
- Fiscal Year 2012 RFP's are in the process of being drafted.

Programmatic Changes:

- None; new program.

Ohio Technology Validation and Start-up Fund (NEW) (TVSF): TVSF was created to stimulate greater economic growth in Ohio based on start-up companies that commercialize technologies developed by Ohio institutions of higher

education. The TVSF has been designed to: (1) Support protected technologies developed at Ohio institutions of higher education that need known validation/proof that will directly impact and enhance both their commercial viability and ability to support a start-up company and (2) Support Ohio start-up and Ohio young companies that license these validated/proven technologies from the Ohio institutions of higher education.

Program Parameters:

- 2 Phases of program:
- **Phase 1 (Technology Validation):**
 - \$3 M
 - Up to \$50K per technology
 - 1:1 cost share
 - Universities/Colleges are lead applicants
- **Phase 2 (Start Up):**
 - \$3M
 - Up to a \$100K per technology
 - No cost share requirement
 - Goal is to increase the number of new or young Ohio companies licensing Ohio university technology and are well positioned to commercialize it.
- Fiscal Year 2012 RFP's are currently being drafted and will be available soon.

Programmatic Changes:

- NONE; new program

Open Innovation Incentive: This program provides for-profit enterprises (“seekers”) with vouchers to spend with other for-profit enterprises or non-profit research institutes to address a problem prohibiting the for-profit enterprise from bringing a product to market. The product must be very close to market entry.

Program Parameters:

- \$8 M program budget
- Voucher amounts will range from \$200,000 to \$400,000.
- Seekers must contribute \$2 for every \$1 of Ohio Third Frontier money.
- Fiscal Year 2012 RFP's are currently being drafted and will be available soon.

Programmatic Changes:

- NONE; new program

Research Incentive: Details of this program have yet to be created or released and the 3rd Frontier staff is unsure, at this time, whether the program will actual be created (even though dollars have been budgeted to establish the program).

Program Parameters:

- \$8M dollar program budget

Programmatic Changes:

- NONE; new program

Pursued Outcomes of the 3rd Frontier Program:

- Produce a high level of economic return for the state in quality jobs, company growth, and wealth creation;
- Attract companies, talent and capital to Ohio;
- Create sustainable engines of economic development activity in key areas of technology and industry strengths;
- Reduce the risk of pursuing entrepreneurial, innovation and development activities in Ohio;
- Sustain best practices and relationships that lead to efficient commercialization;
- Increase the visibility and reputation of Ohio as an innovation and entrepreneurial destination.

*For more details on the programs, visit www.thirdfrontier.com.