

# Government Affairs Committee

September 20, 2012

<b>Table of Contents</b>	<b>Page #</b>
Agenda	1
Public Policy "Hot Topics"	2
Leadership News Articles	4
Miscellaneous Legislation	12
 <b>Additional Materials</b>	
• Issue Two Redistricting	21
• 21 <sup>st</sup> Century Manufacturing Task Force	28
• House Bill 380 – Asbestos Litigation Transparency Legislation	29
• Ohio Constitutional Modernization Commission Public Member Appointees	30
• OMA Candidate Endorsements	38
• President & Senate Polling Data	40
 <b>Energy</b>	 47
 <b>Environment</b>	 86
 <b>Human Resources</b>	 93
 <b>Tax</b>	 100
 <b>Workers' Compensation</b>	 133

## 2012 Government Affairs Committee Calendar

Thursday, September 20, 2012  
Wednesday, November 14, 2012

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

## OMA Government Affairs Committee Meeting Sponsor:





**OMA Government Affairs Committee**  
September 20, 2012



**AGENDA**

**Welcome & Self-Introductions**

**Jeff Fritz**  
DuPont  
Chairman

**Federal Highlights**

**Barry Doggett**  
Eaton Corporation

**OMA Counsel's Report**

**Kurt Tunnell**  
Bricker & Eckler, LLP  
OMA General Counsel

**Staff Reports**

Tax, Workers' Comp, Energy, Environment

**Ryan Augsburger**

The Ohio Manufacturers' Association

**Rob Brundrett**

The Ohio Manufacturers' Association

**Special Guests**

**Aaron Pickrell**

Obama-Biden Ohio Campaign

**Scott Jennings**

Romney-Ryan Ohio Campaign

**Discussion**



## **PUBLIC POLICY *HOT TOPICS*** **September, 2012**

### **Political Environment**

Political campaign activity remains center stage during the 2012 presidential election year. The defeat of collective bargaining reforms (state issue 2) on the ballot last November is still on the minds of policymakers, who have exercised caution on law changes that might elicit referendum or impact the general election.

### **Statehouse Activity**

Early this year, Governor Kasich outlined a “mid-biennium review” (MBR) process, resembling a budget process. Some far reaching policy changes were incorporated (education accountability), others stalled out. See policy reports.

Following months of intense legislative activity, the House and Senate began the summer recess after May 23. They returned for one day in September to complete pension reform and may return for a few weeks after the election. Bills and resolutions not completed face an uncertain fate in the post-election lame duck session.

### **Red Flags**

Since last meeting, OMA advocacy remains focused principally on energy issues and elections

### **Electric Utility Regulatory Structure Changes**

The PUCO approved a modified AEP rate plan in August. The AEP cases considered together with Duke and FirstEnergy signals a sea change in the way Ohio regulates and prices electricity for all customer classes. See energy report.

Members will recall that utility companies took to the airwaves to influence state regulators on this case, illustrating the high stakes.

### **MBR (Mid-Biennium Review)**

A package of nearly a dozen Administration-conceived bills were introduced in mid-March and dominated statehouse activity throughout the Spring. MBR issues impacting manufacturing competitiveness included: economic development, shale gas regulations, waste energy recovery.

Some MBR bills were finalized, while others such as work force development reforms and the “financial services MBR” which would have imposed new tax consequences on finance companies held by manufacturers, stalled out.

A controversial proposal to increase severance taxes on gas and petroleum in order to provide income tax relief was stripped by anti-tax legislators. We will hear more about this proposal. See energy and tax reports.

### **November Elections**

2012 is the first year for candidates to run in newly revised district boundaries. The OMA produced the [2012 OMA Election Guide](#) to spotlight state legislative and other contests.

Endorsement activity is underway by the OMA PAC. See attached list of round 1 endorsements. Previously the OMA PAC endorsed the following candidates for the Supreme Court: **Robert Cupp**, **Terrence O'Donnell** and **Sharon Kennedy**.

- **State Issue 1** allows voters to convene a convention to revise the Ohio constitution. The question is constitutionally required to be placed before the voters every 20 years.
- **State Issue 2** revises the redistricting process and has attracted a high level concern among state elected leaders who are likely to be seeking member support to defeat the measure. See attached summary.

A ballot proposal to advance statewide workplace freedom (right-to-work) has been filed by self-described TEA party leaders and may emerge in 2013. Likewise, a ballot proposal to revise the Ohio Constitution to allow for medical marijuana, impeding employers' safety and drug policies may also be on the 2013 ballot.

### **Civil Justice**

HB 380 is legislation to require additional disclosures in asbestos claims made against asbestos trusts. The legislation narrowly missed Senate passage before summer recess. Passage of this civil justice priority will be dependent on company engagement. See attached issue summary and use in legislator conversations.

The OMA had worked to advance the Transparency in Attorney Contracting (TiPAC) model legislation in Ohio. The proposal is intended as a tool to ensure the state remains in control of litigation when it hires outside counsel on contingency.

## Leadership

### OMA-PAC Awards First Round of Candidate Endorsements

This week the OMA's Political Action Committee (OMA-PAC) [board](#) awarded its endorsement to incumbents running for seats in the Ohio General Assembly this fall. Of the 118 Ohio legislative contests, the initial endorsed slate includes [75 candidates](#).

The OMA-PAC board based its endorsements on legislator voting records against a selection of issues important to manufacturing competitiveness. Generally speaking, legislators who voted the OMA position 70 percent or more of the time earned the endorsement.

The OMA-PAC board will consider a slate of first-time candidates for endorsement in the coming weeks. If you have a strong pro-manufacturing first-time candidate in your district, it is important that we hear from you. Contact OMA's [Rob Brundrett](#).

09/14/2012

### U.S. House Passes National Manufacturing Strategy Act

The U.S. House of Representatives, in a refreshing bi-partisan vote, this week passed the [National Manufacturing Strategy Act](#). Reps. Dan Lipinski (D-IL-3) and Adam Kinzinger (R-IL-11) are the lead House cosponsors of the bill.

The act would require the Commerce Secretary to conduct a comprehensive analysis of the nation's manufacturing sector and submit to Congress a "National Manufacturing Strategy." The goals of the strategy are to "increase manufacturing jobs, identify emerging technologies to strengthen U.S. competitiveness, and strengthen the manufacturing sectors in which the U.S. is most competitive."

The same legislation, co-authored by U.S. Sens. Sherrod Brown (D-OH) and Mark Kirk (R-IL), sits in the Senate. Brown and Kirk [called for](#) the Senate to follow the House and act on the measure.

09/14/2012

### Manufacturing Day Sponsors Call for Involvement

The National Institute of Standards & Technology (NIST) Manufacturing Extension Partnership (MEP) seeks to create manufacturing career awareness among middle and high school students during its Manufacturing Month, October 2012, with certain activities focused on [Manufacturing Day](#), Friday, October 5.

Ohio based organizations, including the state of Ohio, Magnet, TechSolve and others, are helping Ohio manufacturers leverage this opportunity to showcase their facilities and jobs in their communities.

[Five regional Ohio](#) contacts are available to help coordinate your plant tour or other involvement. The core element to Manufacturing Day is the schedule of manufacturers' open houses.

09/07/2012

### OMA to Supreme Court: Please Speed It Up

JobsOhio, the state's new private economic development organization, has been hamstrung by a slow-moving legal challenge to its constitutionality. The challenge was brought by the liberal think tank, Progress Ohio, and a couple of Democratic legislators.

To move the case along, JobsOhio filed a mandamus action in the Ohio Supreme Court. The OMA filed an [amicus brief](#) supporting JobsOhio. The OMA message: Speed of action, in government as well as business, is critical to success in today's fast-changing global markets.

09/07/2012

### U.S. Steel Hosts House Committee on Oil Country Tubular Goods

On Monday, U. S. Steel Lorain Tubular Operations hosted the Ohio House Agriculture and Natural Resource Committee for a field [meeting](#) and tour of the pipe manufacturing

facility. The meeting was focused on House Bill 559, which would require the Ohio Department of Natural Resources to keep record of the country of manufacture for "Oil Country Tubular Goods" (OCTG) products used in the development of the Ohio Marcellus and Utica Shale plays.

House Bill 559 has support from the building trades, the United Steelworkers, the Alliance for American Manufacturing, The Ohio Manufacturers' Association and the Ohio Steel Council. Call or write your state representative today to urge a vote on the bill before the end of the year.

08/24/2012

### **Manufacturers Invited to Ohio House Manufacturing Task Force Hearings**

The Ohio House of Representatives will continue hearings of its 21st Century Manufacturing Task Force next month. The next public hearing will take place at O-I in Perrysburg on September 27. Contact the OMA's [Ryan Augsburger](#) to learn how to participate. Here's a [schedule](#) of upcoming task force meetings.

08/24/2012

### **Youngstown Gets "National Additive Manufacturing Innovation Institute"**

The Obama administration [announced](#) the launch of a new public-private institute for manufacturing innovation in Youngstown. The National Additive Manufacturing Innovation Institute, was "selected through a competitive process, led by the Department of Defense, to award an initial \$30 million in federal funding, matched by \$40 million from the winning consortium, which includes manufacturing firms, universities, community colleges, and non-profit organizations from the Ohio-Pennsylvania-West Virginia 'Tech Belt.'"

The institute will be managed by the [National Center for Defense Manufacturing and Machining](#), which is located in Latrobe, PA. It is seen to be a pilot institute for the recently proposed National Network for Manufacturing Innovation, which eventually will consist of 15 institutes around the country.

The institute is a collaboration of forty companies, nine research universities, five community colleges, and eleven non-profit organizations. [Youngstown State University](#) will be the home of the new consortium.

08/24/2012

### **Ohio Poll Shows Races Tight**

According to the [Ohio Poll](#) released this week, President Barack Obama leads Governor Mitt Romney 49% to 46%. Senator Sherrod Brown leads State Treasurer Josh Mandel by an even smaller margin, 48% to 47%, in their battle for the U.S. Senate.

The OMA's Government Affairs Committee members hear the pollster's insights at their next [committee meeting](#) on September 20th.

08/24/2012

### **New Staff Members Join OMA**

[Robert \(Rob\) Brundrett](#), Director, Public Policy Services, comes to the OMA from the office of the Ohio Auditor of State, where he held the position of Director of Legislative Affairs. Rob has a background in government and law. He holds a B.A. in Political Science from Xavier University in Cincinnati and a J.D. from the Cleveland-Marshall College of Law at Cleveland State University.

[Daniel \(Dan\) Noreen](#), Managing Director, Development, come to the OMA from a sales background; most recently he was a Regional Sales Manager with Dwyer Marble & Stone in Farmington Hills, Michigan. Dan holds a Bachelor of Science degree in Business Administration from Carroll University in Waukesha, Wisconsin.

Ryan Augsburger, OMA Managing Director, Public Policy Services, to whom both Rob and Dan report, said, "We are so pleased that these two professionals have joined the team to strengthen OMA on behalf of its members."

08/24/2012

## **Business Roundtable releases 2012 Principles of Corporate Governance**

The Business Roundtable, an association of chief executive officers of leading U.S. companies and an advocate of best practices in corporate governance, released an updated version of its Principles of Corporate Governance. The 2012 Principles are meant to serve as guidelines for corporations and individuals on how to achieve best practices in corporate governance. The introduction of the report states nine key principles to aid in the corporate governance process. [Read more here.](#)

08/21/2012

## **Redistricting Ballot Issue Certified**

Last week we reported that the signatures were in but not certified to put a new method of deciding congressional and legislative voting districts on the November 6 ballot.

This week Ohio Secretary of State Jon Husted certified a constitutional amendment for the ballot.

According to the Columbus Dispatch: Voters First, a coalition that includes the League of Women Voters and is backed by Democrats and a variety of union supporters, turned in 406,514 valid signatures, getting it over the required threshold of 385,253 signatures.

The Ohio Bar Association (OBA) promptly [opposed](#) the passage of the amendment because of the amendment's direct impact on the Ohio judiciary. According to the OBA: The proposed amendment could force the Supreme Court of Ohio to select a plan should the commission be unable to come to an agreement, and if a court battle ensued over the proposed commission's plan, the proposal could force the Supreme Court of Ohio to choose between possibly unconstitutional plans. And OBA said: The proper role for the judiciary is not to develop any redistricting plan, but rather to review such plans should they be challenged in court.

08/10/2012

## **Lawmakers Hear from Ohio Manufacturing Leaders**

The Ohio House of Representatives' "21st Century Manufacturing Task Force" held its first [hearing](#) at The Timken Company headquarters this week. Manufacturing executives detailed for lawmakers Ohio's position of strength in multiple manufacturing sectors.

Barry Racey, Director of Government & Public Relations, AK Steel Corporation, [described](#) the prominence of steelmaking in the Buckeye state. Bill Belden, Chairman & CEO, The Belden Brick Company, spoke to the strengths of, and challenges facing, the Ohio ceramic products industries, while Scott Balogh, President & CEO, Mar-Bal, Inc., [promoted the opportunity](#) to grow Ohio plastics based on the abundance of domestic shale gas. Steve Revnew, Vice President of Product Development, The Sherwin-Williams Company, highlighted Ohio's long-standing status as the nation's leading paints and coatings manufacturer.

Keynote speaker, Dr. Edward "Ned" Hill, Dean. Maxine Goodman Levin College of Urban Affairs at Cleveland State University, presented [his assessment](#) of northeast Ohio's manufacturing competitiveness opportunities and challenges.

James Griffith, President & CEO, The Timken Company, the host, focused comments on the importance of innovation. And, a panel of energy experts discussed state electricity regulation and how federal regulations threaten affordability and reliability.

The purpose of the task force is to help lawmakers consider policies that would support manufacturing competitiveness in the state. Policy themes evoked include: workforce development, industrial co-generation of electricity, maintaining the integrity of the commercial activity tax, among others.

Four more House task force hearings will be held at manufacturing sites over coming months, the next at O-I in Perrysburg on September 27. Review the [schedule](#) and plan to attend one near you.

08/09/2012

## **Controversial Constitutional Amendment One Step Closer to Ballot**

Supporters of a proposed state constitutional amendment to revise the way Ohio draws congressional and legislative district boundaries think they have collected enough signatures to qualify for the November 6 general election ballot. The Secretary of State will determine by August 6 if that is correct.

The petition-gathering group, "Voters First," is a coalition made up of, among others, labor unions and the state Democratic and Libertarian parties, according to the [Columbus Dispatch](#). Under its plan, an unelected 12-member commission would draw new districts for the 2014 election, and then redraw them after each census.

The Ohio Republican Party opposes the proposed amendment. "Protect Your Vote Ohio," a GOP-backed organization created to defeat the amendment, said in a statement that the proposal has "serious flaws," including that the commission is not accountable to anyone.

Should it make the ballot, this one is a big deal for manufacturers, and all citizens of the state. We'll keep you informed so you can be involved effectively.

08/03/2012

### **Ohio House's Manufacturing Task Force Schedule Announced**

Representative Kirk Schuring (R – Canton) today announced the schedule for the "21st Century Manufacturing Task Force," which he will chair. The [House announcement](#) also names the lawmakers who will serve on the task force.

A total of five task force hearings will be held around the state. The initial hearing will be held on August 9 at The Timken Company in Canton. Hearings will also be held at O-I in Toledo, Pentaflex in Springfield, DuPont in Circleville, and Worthington Industries in Columbus.

The OMA is working with Chairman Schuring to design task force programming. Please contact OMA's [Ryan Augsburger](#) to contribute to planning for the hearings.

07/27/2012

### **OMA Opens Online Video Library**



If you've ever wanted to attend an OMA webinar but had a scheduling conflict, the OMA now posts its webinars on its web site for unlimited members-only access.

The OMA Video Library requires [My OMA login](#). (If you need assistance with your My OMA login, call Meg Bahr at (800) 662-4463 [or email her](#).)

The [latest webinar posted](#) is OSHA Hazard Communication 2012 and the New GHS, presented by OMA Connections Partner, Safex, from July 17.

Find additional webinars categorized by energy, environment, human resources, and safety & workers' compensation.

"In addition to webinars, OMA intends to create educational and informative video content for its members to help them with day to day problem solving," said OMA president, Eric Burkland.

07/20/2012

### **President's "Advanced Manufacturing Partnership" Releases Recommendations**

The "Advanced Manufacturing Partnership" appointed last summer by the president [produced a report](#) this week: "Capturing Domestic Competitive Advantage in Advanced Manufacturing." The report groups 16 recommendations into three categories: (1) enabling innovation, (2) securing the talent pipeline, and (3) improving the business climate.

The administration describes the partnership as a "national effort bringing together industry, universities, and the federal government to

invest in the emerging technologies and skills that will support a dynamic domestic advanced manufacturing sector that creates high quality jobs and encourages companies to invest in the United States.” It is co-chaired by Andrew Liveris of Dow Chemical and Susan Hockfield of the Massachusetts Institute of Technology.

Separately, in a campaign stop in Columbus, Vice President Biden released a campaign [document](#) titled “Ohio Manufacturing: a Comeback Story.”

07/20/2012

### **U.S. Conference of Mayors Report Highlights Manufacturing**

The U. S. Conference of Mayors released an [economic report](#) this week on the U.S. metro economies. The report matches other recent analyses projecting modest growth in the country, led by manufacturing.

The report: “Over the remainder of 2012, IHS Global Insight anticipates national job growth of 1.4%, and real GDP growth of 2.0%. We also expect the unemployment rate to fall to 8.0%. The nation’s improving economy will rely on gains in several areas including business investment across core capital goods, and in equipment and software. The expanding US recovery will also depend on lower oil prices, accelerated consumer spending, and continued growth in manufacturing activity and in regional housing and real estate markets.”

07/20/2012

### **Ohio Ranks 25th in CNBC “Top States for Business”**

In CNBC’s 2012 “Top States for Business” [rankings](#), Ohio came in 25th, down two spots from its 2011 ranking. The top ranked state? Texas. The “worst” state: Rhode Island.

[Ohio ranked](#) well in the “cost of doing business” (6th) and “infrastructure and transportation” (10th) metrics. The state was better than average in: “cost of living” (15th), “technology and innovation” (16th), “access to capital” (17th), and “education” (23th). The Buckeye State received lousy grades in: “economy” (31st), “business friendliness” (37th), “quality of life”

(44th), and “workforce” (49th).

CNBC says: “This year’s analysis is the most comprehensive yet, using 51 metrics developed with the help of the National Association of Manufacturers and the Council on Competitiveness, as well as input from the states themselves.”

07/13/2012

### **What are those Low (and the Highest) Ranked Categories for Ohio?**

Ohio ranked very low in a couple of categories in CNBC’s 2012 “Top Ranked States for Business”: “[workforce](#),” “[quality of life](#)” and “[business friendliness](#).” Here’s how CNBC says it measures these:

Workforce: “We rated states based on the education level of their workforce, as well as the numbers of available workers. We also considered union membership... We also looked at the relative success of each state’s worker training programs in placing their participants in jobs.”

Quality of Life: “We scored the states on several factors, including local attractions, the crime rate, health care, as well as air and water quality.”

Business friendliness: “(W)e graded the states on the perceived “friendliness” of their legal and regulatory frameworks to business.”

Ohio’s highest ranked category was “[cost of doing business](#)”: “We looked at the tax burden, including individual income and property taxes, as well as business taxes, particularly as they apply to new investments. Utility costs can add up to a huge expense for business, and they vary widely by state. We also looked at the cost of wages, as well as rental costs for office and industrial space.”

07/13/2012

### **State Offer Low Rate Assistance for Weather-Related Rebuilding Capital**

State Treasurer Josh Mandel continues the [Renew Ohio and Rebuild Ohio](#) programs for Ohioans whose businesses, farms, and homes

were damaged by severe weather this year. Ohioans who suffered severe damage or loss as a result of severe weather are eligible for an interest rate reduction on new or existing loans at eligible banks. The Renew Ohio and Rebuild Ohio programs are allocated \$25 million through the Ohio Treasury's linked deposit programs.

07/13/2012

### Honda's Schostek to Lead OMA Board



At its meeting this week, the OMA board of directors elected [Rick Schostek](#), Senior Vice President, Honda of America Manufacturing to a two-year term as the organization's chairman. Bill Sopko, president of William Sopko and Sons Co., Inc. and

Stamco Industries, Inc., Cleveland, was elected first vice chairman. And, Rick Jones, Vice President Finance, Worthington Steel, was elected treasurer.

Ending his term as chairman was Jeff Hollister, president Vanguard Paints & Finishes, Inc., Marietta. Schostek thanked Hollister for his volunteer service noting that a great contribution was helping OMA maintain stability and financial soundness during trying economic times over his term of office.

OMA's board and board leadership positions serve without compensation. Eric Burkland, OMA president said, "The OMA's effectiveness is dependent on the support, subject matter expertise, experience and wisdom given freely by its members and volunteer leaders. It's what the OMA has been about for more than 100 years."

06/29/2012

### Kasich Visits OMA Board

This week Governor Kasich visited with the OMA board of directors at its quarterly meeting. The governor responded to directors' questions on a wide range of topics from the work of JobsOhio to the controversial AEP Ohio cases pending before the Public Utility



Commission of Ohio to crackdown activities on illicit drug use.

The governor left the board with a request to back his initiative to lower the Ohio income tax rate. The measure is intended to be financed with increases to the state's severance tax scheme.

OMA board leadership welcomes [member input](#) on the severance tax proposal.

06/29/2012

### Batchelder Dialogues with OMA Leaders



Ohio Speaker of the House William Batchelder joined a group of manufacturing leaders for an OMA Manufacturers' Evening dialogue this week. The discussion ranged from energy policy to civil justice to possible constitutional revisions.

Speaker Batchelder, a long-time friend of manufacturing, outlined his vision for the recently announced [21st Century Manufacturing Task Force](#). OMA members interested in engaging with the task force should contact OMA's [Ryan Augsburger](#).

06/29/2012

### Quinnipiac Poll: Obama up 9 Percent on Romney in Ohio

According to the newest (June 27) Quinnipiac University [Swing State Poll](#), "Voters in Florida, Ohio and Pennsylvania support President Barack Obama's new immigration policy and are divided on whether the president or Gov. Mitt Romney would be better for their personal economic future, as they give Obama leads in these three critical swing states, a razor thin 4 points in Florida, a healthy 9 points in Ohio and 6 points in Pennsylvania."

This compares to the results of a May 3 Swing State Poll, showing Obama with an 8 point lead in Pennsylvania with Florida and Ohio too close

to call.

Matching Obama against Romney in each of these key states (no one has won the White House since 1960 without taking at least two of them) shows: in Florida, Obama edges Romney 45 to 41 percent; in Ohio, Obama leads Romney 47 to 38 percent; and in Pennsylvania, Obama tops Romney 45 to 39 percent.

In Ohio, the president leads his Republican challenger among the critical independent vote, 45 to 36 percent.

Read the [crosstabs](#).

06/29/2012

### **OMA PAC Board Endorses Sharon Kennedy for Ohio Supreme Court**

This week the board of The Ohio Manufacturers' Association political action committee (OMA PAC) voted to endorse Butler County Domestic Relations Court judge, [Sharon Kennedy](#), for the Ohio Supreme Court. Kennedy will face Justice Yvette McGee Brown in the November general election. Brown was appointed to the bench by Governor Strickland.

Kennedy has experience in private law practice, was special counsel to Ohio Attorney General, Betty Montgomery, held various legal positions in Butler County and served as a police officer in the Hamilton, Ohio police department. She earned her law degree at the University of Cincinnati.

The OMA PAC board has also endorsed Justices Robert R. Cupp and Terrence O'Donnell in their fall races.

06/29/2012

### **Regents Release Innovation Recommendations**

The Ohio Board of Regents this week released a [report](#) on "Advancing Ohio's Innovation Economy." The report was developed over eight months by a "commercialization task force" of the regents. Its aim is to "devise effective solutions to address issues that inhibit the state from reaching its full innovative potential and achieving the commercialization success we

seek."

The report's recommendations cluster around eight themes, including promoting higher education, industry, government and community collaboration in support of regional economic development.

06/29/2012

### **Speaker Batchelder Creates Manufacturing Task Force**

Speaker of the Ohio House William G. Batchelder (R-Medina) this week [announced](#) the creation of the 'Ohio House's 21st Century Manufacturing Task Force,' which is "designed to facilitate discussion and interaction between Ohio's manufacturing community, public policy makers and interested parties regarding the state of manufacturing in Ohio and what can be done to improve Ohio's manufacturing competitiveness in the 21st century."

Speaker Batchelder picked Rep. Kirk Shuring (R-Canton) to chair the committee. Shuring is a strong and long-time supporter of Ohio manufacturing.

The speaker tasked the group with identifying:

- Resources to assist manufacturing;
- Impediments that curtail manufacturing;
- Future challenges to manufacturing;
- The unique characteristics of each section of the state that could facilitate new manufacturing opportunities;
- Ways for manufacturing to partner with higher education research and development;
- Trends in manufacturing and specific ways to address those trends; and
- Any general manufacturing issues that are brought before the task force.

The task force will consist of five Republicans and four Democrats. It will conduct five hearings around the state, and must report its recommendations to the speaker no later than December 31 of this year.

The OMA is working with Chairman Shuring on programming for the task force. Please contact OMA's [Ryan Augsburger](#) to become part of Ohio manufacturers' planning for the hearings.

06/22/2012

### **NAM Releases Study on Effect of Defense Cuts On U.S. Economy**

The National Association of Manufacturers (NAM) this week released [a new report](#), "Defense Spending Cuts: The Impact on Economic Growth and Jobs." The study highlights the potential impact defense spending cuts under the Budget Control Act (BCA) of 2011 will have on U.S. jobs and economic growth.

The study projects a job loss in Ohio of 4,000 in 2012, 20,000 in 2013, 27,000 in 2014, 26,000 in 2015, and 20,000 in 2016 from current and pending defense expenditure reductions.

Nationally, the study says the cuts will result in a loss of about 130,000 manufacturing jobs, and 1 million private sector jobs, in 2014.

[Read the summary.](#)

06/22/2012

## Miscellaneous Legislation of Interest to Manufacturers

Prepared by: The Ohio Manufacturers' Association

Report created on September 13, 2012

- 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](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](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](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_9)
- HB48**      **CORPORATIONS** (MECKLENBORG R) 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:* 2/2/2012 - **SIGNED BY GOVERNOR**; Eff. 5/4/2012  
*More Information:* [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_48](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](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](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](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 & Technology, (Fourth Hearing)

**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_102](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](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](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](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](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](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](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](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](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](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](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_200)

**HB238 REFINERS/WHOLESALEERS 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](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](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:** 12/21/2011 - **SIGNED BY GOVERNOR**; Eff. 3/22/2012

**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_250](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](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](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](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, and establishing texting while driving as a serious traffic violation, to exclude certain components from the prohibited length dimensions of specified types of vehicles, to revise the law governing self-sufficiency contracts established under the Ohio Works First program, to eliminate requirements that the Department of Job and Family Services employ, contract with, or designate only attorneys to make decisions in appeals regarding family services programs, to temporarily extend the look-back period from two years to three years for determining whether a state "on" indicator exists based on the total unemployment rate for purposes of state extended unemployment benefits, and to declare an emergency.  
**Current Status:** 1/27/2012 - **SIGNED BY GOVERNOR**; Eff. 1/27/2012  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_337](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" within 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](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:** 5/22/2012 - Senate Judiciary, (Seventh Hearing)  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_380](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_380)
- HB412**      **HEALTH BENEFIT EXCHANGE AGENCY** (ANTONIO N, CARNEY J) To establish the Ohio Health Benefit Exchange Agency and to establish the Ohio Health Benefit Exchange Program consisting of an exchange for individual coverage and a Small Business Health Options Program.  
**Current Status:** 1/17/2012 - Referred to Committee House Health and Aging  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_412](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_412)
- HB421**      **PHYSICIANS CIVIL IMMUNITY** (SLABY L, O'BRIEN S) To grant civil immunity to physicians who report a patient's use of a drug of abuse or other condition not involving such use to specified persons or entities, to exclude the making of those reports from the grounds for disciplinary action against physicians, and to apply the civil immunity of physicians who report to an employer in the business of public transportation an employee's use of a drug of abuse or other condition not involving such use to any violation of a patient's privacy rights.

**Current Status:** 5/23/2012 - **REPORTED OUT AS AMENDED**, House Criminal Justice, (Seventh Hearing)

**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_421](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_421)

**HB479 OHIO LEGACY TRUST ACT** (HAGAN C, BLESSING L) To adopt the Ohio Legacy Trust Act.

**Current Status:** 6/13/2012 - **PASSED BY HOUSE**; Amended Vote 86-0

**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_479](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_479)

**HB487 MBR-MID-BIENNIUM REVIEW BUDGET** (AMSTUTZ R) To make operating and other appropriations, to levy taxes and provide for implementation of those levies, and to provide authorization and conditions for the operation of state programs.

**Current Status:** 6/11/2012 - **SIGNED BY GOVERNOR**; Eff. 6/11/2012 Others 9/10/2012

**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_487](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_487)

**HB489 STATE DEVELOPMENT OMNIBUS REORGANIZATION** (DOVILLA M, HAGAN C) To rename the Department of Development the "Development Services Agency"; to establish the Office of TourismOhio within the Development Services Agency, create the TourismOhio Advisory Board, and establish a pilot program to test a new funding mechanism for the state's travel and tourism marketing; to modify the operation of JobsOhio; to make changes to the Capital Access Loan Program Fund and to allow transfers to the Capital Access Loan Program Fund from the Minority Business Enterprise Loan Fund; to increase the membership of the Ohio Tax Credit Authority and provide for projects that were started prior to receiving a tax credit; to modify reporting requirements under the Voluntary Action Program; to require the Director of Development Services to administer federal funds received for Brownfields revitalization purposes; to terminate the Water and Sewer Commission; to terminate the Development Financing Advisory Council as of July 1, 2012; to increase the membership of the Third Frontier Commission; and to make an appropriation.

**Current Status:** 5/1/2012 - Referred to Committee Senate Finance

**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_489](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_489)

**HB539 STATE WORKFORCE POLICY BOARD-ONE-STOP SYSTEM** (DERICKSON T, THOMPSON A) To make changes to the composition and responsibilities of the State Workforce Policy Board and to the One-stop System of workforce development.

**Current Status:** 5/10/2012 - House Economic and Small Business Development, (First Hearing)

**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_539](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_539)

**HB540 GOVERNOR'S OFFICE OF WORKFORCE TRANSFORMATION** (NEWBOLD C, SLABY M) To authorize the Governor's Office of Workforce Transformation to create a web site to help link energy companies with trained workers.

**Current Status:** 5/10/2012 - House Economic and Small Business Development, (First Hearing)

**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_540](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_540)

**HB559 DISCLOSURE-STEEL PRODUCTS ORIGIN COUNTRY** (LANDIS A, HAGAN C) To require operators and pipeline companies to disclose the country in which oil country tubular goods steel products were manufactured.

**Current Status:** 6/6/2012 - House Agriculture and Natural Resources, (Second Hearing)

**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_559](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_559)

- HB579 BUY OHIO LAW (WINBURN R)** To specify new criteria for the Buy Ohio Law.  
**Current Status:** 9/12/2012 - Referred to Committee House State Government and Elections  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_579](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_579)
- 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/bills.cfm?ID=129\\_HCR\\_3](http://www.legislature.state.oh.us/bills.cfm?ID=129_HCR_3)
- 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](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:** 3/28/2012 - **REPORTED OUT AS AMENDED**, House Health and Aging, (Second Hearing)  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HCR\\_21](http://www.legislature.state.oh.us/bills.cfm?ID=129_HCR_21)
- HCR33 FEDERAL WORKFORCE INVESTMENT ACT (DERICKSON T)** To urge the Congress of the United States to take action on the federal Workforce Investment Act to allow states greater flexibility to address current economic realities.  
**Current Status:** 6/13/2012 - **REPORTED OUT**, Senate Ways & Means & Economic Development, (Second Hearing)  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HCR\\_33](http://www.legislature.state.oh.us/bills.cfm?ID=129_HCR_33)
- HR292 SKILLED WORKFORCE RECOGNITION MONTH (ADAMS R)** To designate the month of March 2012 as "Skilled Workforce Recognition Month" in Ohio.  
**Current Status:** 3/28/2012 - **ADOPTED BY HOUSE**; Vote 86-0  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HR\\_292](http://www.legislature.state.oh.us/bills.cfm?ID=129_HR_292)
- HR384 CHINESE CURRENCY MANIPULATION (DOVILLA M)** To memorialize the President and Congress of the United States of the effect of Chinese currency manipulation and to urge the President to cite China as a currency manipulator.  
**Current Status:** 6/12/2012 - **ADOPTED BY HOUSE**; Vote 90-0  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HR\\_384](http://www.legislature.state.oh.us/bills.cfm?ID=129_HR_384)
- 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](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](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](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](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](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](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](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:** 5/8/2012 - Senate Judiciary, (Sixth Hearing)  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_SB\\_143](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](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:** 6/26/2012 - **SIGNED BY GOVERNOR**; Eff. 9/28/2012  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_SB\\_193](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:** 12/6/2011 - Senate Finance, (First Hearing)  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_SB\\_200](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](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:** 6/26/2012 - **SIGNED BY GOVERNOR**; Eff. 9/28/2012  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_SB\\_224](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](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](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:** 5/1/2012 - Senate Agriculture, Environment & Natural Resources, (Third Hearing)  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_SB\\_253](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:** 12/13/2011 - Senate Insurance, Commerce & Labor, (First Hearing)

**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_SB\\_256](http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_256)

**SB289**      **COGENERATION TECHNOLOGY** (COLEY W) To include cogeneration technology using waste or byproduct gas from an air contaminant source as a renewable energy resource.

**Current Status:** 4/13/2012 - **SIGNED BY GOVERNOR**; Eff. 7/16/2012

**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_SB\\_289](http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_289)

**SB361**      **BISPHENOL-A SALE** (TAVARES C) To prohibit the sale or manufacture of certain products containing bisphenol-A.

**Current Status:** 7/19/2012 - Introduced

**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_SB\\_361](http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_361)

**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](http://www.legislature.state.oh.us/bills.cfm?ID=129_SCR_10)

**SR198**      **SKILLED WORKFORCE RECOGNITION MONTH** (WIDENER C, BEAGLE B) To designate the month of March 2012 as "Skilled Workforce Recognition Month" in Ohio.

**Current Status:** 3/21/2012 - **ADOPTED BY SENATE**; Vote 33-0

**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_SR\\_198](http://www.legislature.state.oh.us/bills.cfm?ID=129_SR_198)



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## MEMORANDUM

To: The Ohio Manufacturers' Association  
Government Affairs Committee

From: Bricker & Eckler LLP  
Kurtis A. Tunnell

Date: September 18, 2012

Re: Issue 2 – 2012 Redistricting Constitutional Amendment

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### I. Issue 2 (Redistricting Amendment to the Ohio Constitution).

In the spring of 2012, Voters First – an Ohio coalition of mostly liberal interest groups (Progress Ohio, Common Cause Ohio, Ohio Citizen Action, the Ohio League of Women Voters, and assorted labor unions) filed a proposed amendment to the Ohio Constitution to create the “Ohio Citizens Independent Redistricting Commission.” The Commission would replace the current method of apportionment of General Assembly districts with a twelve-member citizen-led panel for drawing such district boundaries.

Upon the collection of several hundred thousand signatures from Ohio voters, the proposed Constitutional amendment was certified by the Ohio Secretary of State and the Ohio Ballot Board as state Issue 2 for the November 6, 2012 general election ballot.

Issue 2 has recently been the focus of litigation before the Ohio Supreme Court, as well as receiving endorsements and noted opposition from various groups in Ohio. The litigation activities and current opposition groups are as follows:

### II. Issue 2 – Recent Litigation & Ballot Board Activities.

The Ohio Ballot Board on August 15, 2012, certified the ballot language for Issue 2 by a party-line vote. Voters First subsequently sued the Ohio Ballot Board in the Ohio Supreme Court claiming the language prescribed by the Ballot Board initially for Issue 2 did not accurately describe the amendment. The Ohio Supreme Court, in a September 12, 2012 ruling, agreed with the Voters First arguments and ordered Secretary of State Husted to reconvene the Ballot Board with direction to write new Issue 2 ballot language.

On Thursday, September 13, 2012, the Ohio Ballot Board met and redrafted the ballot language for Issue 2, including the arguments for and against the proposed amendment as well as the overall summary voters will read on November 6, 2012.

III. Issue 2 – Opponents.

To date, myriad entities have announced their opposition to Issue 2. One of the most notable opponents is the Ohio State Bar Association. The OSBA stated, in its announced opposition, that it is “...inappropriate for the judiciary to be involved in the political process that initiates and proposes legislative boundaries...” and therefore “...the amendment should not be adopted.”

Also of note is the stated opposition of the Ohio Court of Appeals Judges Association. Judge Shelia Farmer, a Judge of the Ohio Fifth District Court of Appeals and current President of the Ohio Court of Appeals Judges Association, said the proposal is “rife with conflict” for judges and “erodes the integrity and non-political nature of the judiciary...we are certainly against it.”

Various Ohio newspaper editorial boards have opined in opposition to Issue 2 including the Columbus Dispatch, Cleveland Plain Dealer, Akron Beacon Journal, and Coshocton Tribune. Business groups such as the Ohio Chamber of Commerce, Ohio Farm Bureau Federation, Associated Builders and Contractors, among others, have expressed their public opposition to Issue 2.

IV. Issue 2 – Overview of Provisions.

- A. Creates the Ohio Citizens Independent Redistricting Commission.
  - a. 12-member Commission.
  - b. Commission members selected by an 8-judge panel of Court of Appeals judges who are appointed by the Chief Justice of the Ohio Supreme Court.
    - i. 3 member from the state’s largest political party.
    - ii. 3 members from the second largest political party.
    - iii. 3 members not affiliated with a political party – (these 9 members will select the final 3 members).
  - c. Commission members may not be removed by Governor or legislature.
  - d. Persons ineligible to serve on Commission.
    - i. Any person not voting in two of last three general elections in even-numbered years.
    - ii. Elected office holder within 10 years or immediate family of same.

- iii. Paid employees of legislature, Congressional office, state elected official within 10 years.
- iv. State agency director within 10 years.
- v. Paid lobbyists within 10 years.
- vi. Candidates for office within 5 years.
- vii. Paid employee or consultant of political campaign within 5 years.
- viii. Employee of political party within 5 years.
- ix. Contributors of more than \$5,000 to political campaigns over two-year cycle.

B. Commission Duties.

- a. Establish boundaries for state legislative and Congressional districts.
- b. District shall comply with state and federal Constitutional provisions, including community preservation, minority voting rights, competitiveness, fair political party representation (not to exceed 5% for any one party), compactness.
- c. Commission will provide opportunity for public to submit redistricting plans.
- d. 7 members of 12 required to adopt redistricting plan.
- e. If no plan adopted – jurisdiction given to Ohio Supreme Court to establish redistricting proposal from plans submitted most closely meeting requirements of Ohio Constitution.

C. Effective Date of Proposed Amendment (if approved).

- a. If approved in November 2012, redistricting lines shall be redrawn for November 2014 election cycle.

V. Current Ohio Apportionment & Redistricting Impact.

Issue 2 would repeal Ohio's current system of redistricting and apportionment of state General Assembly and Congressional district boundaries. Article XI of the Ohio Constitution provides that the Governor, Auditor of State, Secretary of State, and members of the Ohio House and Ohio Senate make up the current Ohio Apportionment Board. Issue 2 would repeal the current system and replace it with the Ohio Citizens Independent Redistricting Commission.

The new Commission would have exclusive jurisdiction to redraw Ohio Congressional district boundaries, whereas under the current system, Congressional district boundaries are enacted by passage of a legislative measure through the Ohio General Assembly and signed by the Governor.

VI. Analysis – Issue 2 Provisions.

A. “Nonpartisan Member Composition”.

Certainly, Issue 2 makes wholesale changes to the manner in which Ohio legislative and Congressional district boundaries are drawn. The Commission appears designed to be nonpartisan, but manipulations may occur. The judges from the Ohio’s Courts of Appeal may include no more than four (4) from one political party. However, the Chief Justice could appoint a judge elected as an “independent” or third party candidate, which could shift the balance of power to one political ideology or the other.

Additionally, in selection of the twelve (12) members of the proposed Commission, gamesmanship seems inevitable given the division of members between political parties, “peremptory challenge” authority given to the Speaker of the House and Minority Leader to eliminate certain candidates for the Commission, and selection by “lot” of nine (9) members from the final approved list, and final selection of three (3) remaining members.

B. Political Index – R versus D.

The current deviation of population within Ohio House and Senate districts would be reduced from ten (10) percent (95% - 105%) to four (4) percent (98% - 102%). As well, the ratio determinations for Ohio House districts that may deviate to include one single district are expanded to a ratio of ninety-five (95) percent to one-hundred five (105) percent.

C. Effective Date – 2014 Elections.

Two changes also seem destined to have tremendous impact. First, with the approval the proposal, new district boundaries, including for Ohio Congressional districts, will result in new districts for the 2014 election cycle. And, second, with the modifications to the reduced in-district ratios of populations and single-county ratio of populations, the political “index” of districts seems destined to change dramatically thereby making more “competitive” districts overall.

Meaning, in the current system, a single county where one or more districts (typically a more urban county) can be confined within that county boundary, tends to create a political “index” indicative of that county. Under the proposal, it seems that some populations that previously were confined to a single district or county could be shifted to surrounding districts (typically a suburban district) thereby reducing the political “index” of that suburban district. In result, you potentially have a very safe urban district with a very high political “index” and a suburban district with a very close “index” or an index, by the virtue of shifting population

ratios, which could “flip” from its current index to a political “index” similar to its urban counterpart.

Under the current apportionment and redistricting system, the ability to manipulate district lines varies widely depending on what political party is in control of the Ohio General Assembly and Governor’s Office (for Congressional redistricting) and the Ohio Apportionment Board (for state legislative district boundaries). Still, under the current system, the process for redrawing lines – with both state and federal Constitutional requirements in mind – can still result in the “index” of a district changing every ten (10) years following a decennial census and the redrawing of lines.

Issue 2 modifies the structure of the redistricting system such that both the prospects for political manipulation still exist as well as providing a means, through changes in the Ohio Constitution, whereby district boundaries are inherently designed to be “more competitive”, but in reality could alter the more suburban districts greatly with a political “index” more closely aligned with adjacent urban districts. This shift would be immediate and long term.

#### D. Commission Member Accountability & Budget.

Additional unresolved issues surround the accountability for Commission members as it is unclear how and/or if appointment members of the Commission may be removed from their position. The proposed amendment language clearly states that members may not be removed by the Governor or the legislature. It is unclear whether other actions, ethics measures, or accountabilities directly apply. Moreover, the proposed amendment language does not specify a budget for the Commission except to say that “the legislature shall make appropriations necessary to adequately fund the activities of the Commission...” There appears to be no cap on such expenses and no apparent limit or process for restricting such funding proposed by the Commission to the legislature.

#### VII. Conclusion.

This document is merely an overview of Issue 2 to this point. Clearly, the efforts to the change Ohio’s redistricting and apportionment process is garnering significant attention and political interest and figures to continue through the fall of 2012. We will continue to monitor Issue 2’s continuing developments and would be happy to provide the OMA Government Affairs Committee with updates. If you have questions or need more information, please let us, and thank you.

## Voters First proposal on redistricting is a partisan con job: Brent Larkin

Published: Saturday, August 25, 2012, 9:00 AM  
Updated: Saturday, August 25, 2012, 9:35 AM



By **Brent Larkin, The Plain Dealer**



**View full size**Marvin Fong/The Plain DealerThe redistricting proposal on Ohio's ballot as State Issue 2 masquerades as a good-government idea, but it's really a partisan gambit that violates constitutional separation of powers, Brent Larkin writes.

A creative toddler with an Etch A Sketch could draw more rational boundaries than the ones Ohio's Republican leadership produced for this year's congressional elections.

That's why you've gotta hand it to organized labor, its colony of trained seals disguised as Democrats and a cadre of callow good-government types:

It's no small feat to take an abominable process and concoct an altogether different one with the potential to inflict even more damage on the political process. But that's what labor, the Democrats and the League of Women Voters seem to have done with a phony reform issue known as **Voters First Ohio**.

The scheme **will appear on the ballot** as State Issue 2. And if Ohioans are thinking

clearly on Election Day, they'll reject this idea and drive leaders of both parties back to the bargaining table to devise a system that actually serves the public.

Ohio's constitution currently provides that the party that controls the legislature draws new congressional boundaries, usually every 10 years. The power to craft new districts for the state legislature rests with a board consisting of members of the legislature, the governor, the secretary of state and the auditor.

Last year, the entire mapmaking process was controlled by Republicans, who did a lousy job, saving their worst work for Greater Cleveland.

What Republicans did was, with the secret support of some extremely powerful Democrats, virtually guarantee that for the next 10 years people who live on Cleveland's West Side and in some western suburbs will be represented in Congress by someone who lives 100 miles away -- either in or near Toledo.

But the way to exact revenge for the legislature's unconscionable congressional redistricting plan is to punish the guilty parties at the ballot box, or to replace the present process with one that actually makes sense -- not to degrade the U.S. Constitution by trampling on the separation of powers doctrine.

If approved by voters, State Issue 2 would create a convoluted process by which a commission essentially created by Ohio Court of Appeals judges would draw new legislative and congressional boundaries after every U.S. census.

Dragging judges into the process reeks of stupidity.

The Ohio Court of Appeals Judges Association is appalled at the idea. So is the respected Ohio State Bar Association - a group that will never be confused with being a puppet for Republican causes. The bar's position statement says the Voters First Ohio initiative "politicizes the judicial branch of government" because it "inappropriately takes executive and legislative appointment authority and moves it to the judiciary."

The irony is that in 2010, an ideal plan to bring real reform to the drawing of congressional and legislative boundaries was killed by some of the same labor leaders now pushing this absurd idea.

That 2010 plan was crafted by then-House Speaker Jon Husted, a Republican who is now secretary of state. Although many Democrats recognized that the Husted plan was a good one, they lacked the guts to support it because of opposition from organized labor.

Husted's plan would have taken effect for this year's elections. And it would have resulted in the drawing of congressional boundaries for Greater Cleveland that would have been far more equitable than the mishmash created by the Republican-run legislature.

Why would labor and Democrats balk at a plan that reeked of fairness? Because for

them to be shut out of the redistricting process would have required that Democrats lose both the governor's race and control of the Ohio House in the 2010 election.

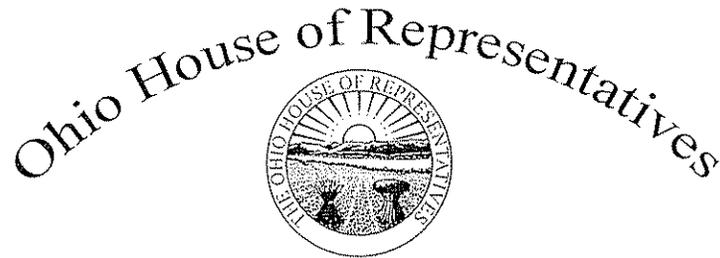
They viewed the likelihood of that happening as extremely remote. But their political thinking was frighteningly wrong, as Republicans swept every statewide office and retook the House by a big margin.

So, having passed up the chance to support a logical plan, labor cooked up one that would undermine the independence of Ohio's elected judiciary. And to make their motives seem pure, they conned the League of Women Voters into providing them with a cover of legitimacy.

In 2011, labor and the Democrats won a historic victory when voters repealed a law that would have eliminated many collective-bargaining rights for public-sector employees -- notably police, firefighters and teachers.

Last November's triumph came when Ohioans overwhelmingly voted "no" on State Issue 2.

This November, they should do the same.



**For Immediate Release:**  
July 27, 2012

**Contact:** Emily Williams  
(614) 752-2438

## **Rep. Schuring Announces Schedule, Membership of 21<sup>st</sup> Century Manufacturing Task Force**

COLUMBUS—Chairman of the 21<sup>st</sup> Century Manufacturing Task Force Kirk Schuring (R-Canton) has announced the hearing schedule and membership of the task force, which is designed to facilitate discussion and interaction between Ohio's manufacturing community, public policy makers and interested parties regarding strategies to improve Ohio's manufacturing competitiveness.

In addition to Chairman Schuring, the task force will consist of Vice Chairman Ross McGregor (R-Springfield), Rep. Christina Hagan (R-Alliance), Rep. Anne Gonzales (R-Westerville), Rep. Barbara Sears (R-Monclova Twp.), Rep. Denise Driehaus (D-Cincinnati), Rep. Jack Cera (D-Bellaire), Rep. Sean O'Brien (D-Brookfield), and Rep. Nickie Antonio (D-Lakewood).

Hearings will be held on the following dates:

- Thursday, August 9<sup>th</sup> at Timken Company (Canton)
- Thursday, September 27<sup>th</sup> at Owens Illinois (Maumee)
- Thursday, October 11<sup>th</sup> at Pentaflex (Springfield)
- Thursday, October 18<sup>th</sup> at Dupont (Circleville)
- Thursday, November 15<sup>th</sup> at Worthington Industries (Columbus)
- *Friday, November 30<sup>th</sup> at TBD (Cleveland)*

Each session will begin with a tour of a local manufacturing facility for the task force members starting at 10 a.m. Hearings will commence at 1:30 p.m. and conclude at 5 p.m.

There will be an emphasis at each location on a specific aspect of manufacturing in Ohio with the goal of showcasing its diversity and importance to the state. The hearings will have prepared presentations from manufacturing experts across Ohio and the United States. Time will be made available for the public to offer comments.

The media is welcome to attend the hearings.

## House Bill 380 – Asbestos Litigation Transparency Legislation

- **What are Asbestos Bankruptcy Trusts?** Sixty bankrupt companies have, through the federal bankruptcy code, created personal injury settlement trusts to compensate present and future asbestos claimants for their alleged injuries. Nearly all of the companies most responsible for asbestos injuries—the miners and manufacturers of asbestos—have established trusts. Many of the companies being sued today were only peripherally involved in the asbestos business. Collectively, the asbestos trusts manage in excess of \$36 billion, and they distribute billions of dollars to hundreds of thousands of claimants every year. The trusts paid \$3 billion to over 460,000 claimants in 2010 alone.
- **The Dual Compensation System:** Individuals who file (or could file) claims with the asbestos trusts routinely secure compensation for their injuries through a second channel—suits against solvent defendants in the courts. Reports by the Government Accountability Office and RAND Institute confirm that there is very little communication between these two channels and that there are very real problems with today’s asbestos compensation system.
- **The Fraud Problem:** The dual compensation system promotes fraudulent and inconsistent claims. It is evident that asbestos claimants are presenting the trusts with one set of facts while telling solvent defendants something entirely different. For example, in *Kananian v. Lorillard Tobacco Company* a claimant told a trust he was exposed to its asbestos as a World War II shipyard worker. But in his tort suit he claimed he only “passed through” the shipyard and that his injuries were the result of exposure to asbestos-containing cigarette filters. Similar cases have arisen outside of Ohio, and it is all but certain that fraud of this sort continues today.
- **The Fairness Problem:** By filing trust claims after lawsuits have concluded and otherwise hindering access to the exposure information presented to trusts, the plaintiffs’ bar is denying businesses an opportunity to fully and fairly defend themselves by, for example, arguing that a particular plaintiff’s condition was caused by extensive exposure to a bankrupt asbestos manufacturer’s products.
- **The Double Dipping Problem:** Claimants who delay their trust filings are also able to “double dip” by receiving a full recovery in the tort system and then approaching the trusts for additional payments. This is unfair to solvent defendants who end up paying more than their fair share of liability.
- **The Impact on Ohio Businesses:** Myriad Ohio-based companies, including many small and medium sized businesses, are being hurt by the current lack of trust claims transparency. As a state with a strong manufacturing sector, Ohio feels the impact of abusive asbestos litigation more directly than many other states.
- **The Solution:** House Bill 380 ensures that defendants have access to the exposure information contained in the plaintiff’s asbestos trust claims and requires plaintiffs in asbestos suits to file their trust claims before proceeding to trial. Together, these measures will effectively end double dipping and fraudulent claiming in Ohio. The legislation is designed to encourage transparency; all plaintiff rights and remedies and judicial discretion regarding evidentiary rules are maintained. The Legislature should enact H.B. 380.

**Janet Gilligan Abaray** (Cincinnati, Ohio)

Janet Abaray is an attorney from Cincinnati practicing in the area of complex civil litigation. She graduated Phi Beta Kappa and summa cum laude from the University of Cincinnati McMicken College of Arts and Science in 1979, with high departmental honors in English literature. She graduated Order of the Coif from the University of Cincinnati College of Law in 1982, where she also served as Business Manager of the Law Review. A member of the Ohio Bar since 1982, Ms. Abaray has focused her practice on complex civil litigation, with a particular emphasis on pharmaceutical mass tort. She has served as national lead or liaison counsel in numerous multidistrict litigations involving medical products, has been appointed lead counsel in class actions involving contract disputes, and has acted as trial counsel in major class action and pharmaceutical litigations. Ms. Abaray has argued before the Ohio Supreme Court concerning the constitutionality of tort reform, and has litigated significant issues concerning employment law, federal preemption, admissibility of expert testimony, arbitration clauses and class action certification. She practices in Cincinnati, where she is the managing shareholder of the Ohio office of Burg Simpson Eldredge Hersh Jardine, P.C.

**Herb Asher** (Columbus, Ohio)

Dr. Herb Asher is professor emeritus of political science at The Ohio State University, counselor to the university president, and Senior Vice President for Government Affairs. He previously served as special assistant to the university president for government relations and founding director of the John Glenn Institute for Public Service and Public Policy. He is frequently called upon as an expert political analyst by local and national media. Dr. Asher earned his degrees at Bucknell University (B.S. Mathematics) and the University of Michigan (M.A. and Ph. D. in political science). Dr. Asher has authored numerous books and articles, his most recent book being: Polling and the Public: What Every Citizen Should Know, 8th edition, 2011. Dr. Asher serves as faculty adviser to several student organizations, including the Undergraduate Student Government, the College Democrats, and two fraternities. He also serves on the Executive Committee and Board of Trustees of Hillel and formerly served as faculty adviser to the College Republicans. Dr. Asher is a former member and chair of the Ohio Ethics Commission and a Member of the Mid-Ohio Regional Planning Commission. He is a former member of the Board of Trustees of Community Research Partners, a former member of the Board of Trustees of the Columbus Metropolitan Club, and former president of the Ohio State University Faculty Club.

**Roger L. Beckett** (Ashland, Ohio)

Roger L. Beckett is Deputy Director of the Ashbrook Center at Ashland University, where he has worked for the past 15 years to develop programs for teachers and students across America about constitutional self-government. Among other activities, Roger was appointed to the Ohio Humanities Council by the Governor in 2007 and was a part of the 179th Airlift Wing Committee, a Mansfield, Ohio community committee that successfully saved the base from closing during the Pentagon's Base Realignment and Closing process in 2004. He received his

undergraduate degree from Ashland University and Master of Arts from The Ohio State University. He is currently co-editing of a new edition of Madison's *Debates in the Constitutional Convention of 1787*.

**Karla L. Bell** (Shaker Heights, Ohio)

Karla Bell most recently served as a Visiting Professor at the Case University School of Law, where she taught appellate practice and coached the moot court teams. She also served as an Adjunct Professor of Political Science at Cleveland State University and Chapman University in California. Her legal practice includes working at Good Weise Miller, LLP in Cleveland and Partner at McKittrick, Jackson, Demarco and Peckenpaugh, where she focused on civil business litigation. She has given presentations at the Biennial Conference of the Legal Writing Institute and the Northeast Chapter of the American Constitution Society. She received her J.D. from the University of Chicago Law School and her B.A. from Wesleyan University.

**Paula Brooks** (Upper Arlington, Ohio)

Franklin County Commissioner Paula Brooks, a ninth-generation Ohioan and attorney, is a recognized leader for securing her county's fiscal sustainability, balanced with her prioritization on preparing children for a global job market, expanding access to quality health care, preserving natural resources, and creating a business climate for greater economic opportunity. Her distinguished legal career includes work as a Special Assistant to the Ohio Attorney General, an antitrust and charitable fraud investigator, and director of the Ohio Attorney General's Women's Law Project. At the state level, she has served in the past as Chief Counsel for the Ohio Department of Liquor Control and Assistant Director of the Department of Administrative Services. In the early 1990s, the Ohio State Bar Association tapped Ms. Brooks as its representative on Attorney General Lee Fisher's Open Government Task Force. In 2000, the U.S. Secretary of Defense appointed her as a 3-star civilian advisor on the Defense Advisory Committee on Women in the Services. Prior to her election in 2004 to the Franklin County Board of Commissioners, Ms. Brooks was elected to a City Council seat in the Columbus suburb of Upper Arlington and later served as Vice Mayor. Now in her 8th year as Franklin County Commissioner - and third term as Board President - Ms. Brooks' commitment to prudent financial planning has allowed Franklin County to maintain its double AAA bond rating - the best credit rating for any Ohio county. Commissioner Brooks also currently leads a national task force on International Economic Development for the National Association of Counties.

**Douglas R. Cole** (Upper Arlington, Ohio)

Doug Cole is a named partner at Organ Cole + Stock, a Columbus-based litigation boutique that he formed with two other former Jones Day partners in 2011. Before that, he was a partner at Jones Day's Columbus office where he participated in the firm's appellate and intellectual property practices. He joined Jones Day after serving as Ohio's State Solicitor from 2003 through 2006. As State Solicitor, Doug was Ohio's chief appellate attorney. He has also served as a tenure-track law professor at the Moritz College of Law at the Ohio State University. He started his career as a clerk to the Honorable Frank H. Easterbrook, United States Court of Appeals for the Seventh Circuit, and then became an associate at Kirkland & Ellis, a Chicago-

based law firm. Doug has nearly twenty years of litigation experience in complex civil matters. He has argued five cases in the United States Supreme Court and more than twenty cases in the Ohio Supreme Court and federal circuit courts of appeal, and has appeared in state and federal trial courts across the country. He has litigated cases in a wide variety of subject-matter areas including, but not limited to, intellectual property, antitrust law, the First Amendment, statutory interpretation, the dormant Commerce Clause, and various provisions of the Ohio Constitution. Doug frequently speaks and writes on subjects including the U.S. Supreme Court, intellectual property trends, and securities law. Doug is active in the Ohio State Bar Association, having served on the board of editors for the *Ohio State Bar Journal*.

**Jo Ann Davidson** (Reynoldsburg, Ohio)

Jo Ann Davidson currently serves as Chair of the Ohio Casino Control Commission. In addition, she has her own consulting group, JAD and Associates. Davidson had a distinguished career in the Ohio House of Representatives, serving in leadership and eventually becoming Ohio's first woman Speaker of the House (1995-2000). Davidson also served as Minority Leader and was recognized for her expertise on the state budget, economic development, local government and education issues. Davidson's local government public service included ten years as a member of Reynoldsburg City Council and service as Clerk for Truro Township. Davidson also worked as Vice President of Special Programs for the Ohio Chamber of Commerce prior to 1994. She is a member of the Board of Trustees for the University of Findlay and Franklin University and is a filmier member of The Ohio State University Board of Trustees. She holds honorary degrees from Ohio University, The Ohio State University, Franklin University, Capital University and the University of Findlay.

**Patrick F. Fischer** (Cincinnati, Ohio)

Currently serving as a Judge for the First District Court of Appeals in Hamilton County, Patrick F. Fischer is the first judge to serve as president to the Ohio State Bar Association in 15 years. He has been in the practice of law for nearly 30 years. A graduate of Harvard Law School, prior to being elected a judge, he had been named to Best Lawyers in America®, as one of the Top 50 Lawyers in Cincinnati by Cincinnati Magazine, and as one of the Top 100 Lawyers in Ohio. He also was regularly named to Ohio Super Lawyers. Judge Fischer began his legal career with a clerkship for U.S. District Court Judge William Bertelsman, and in 1987 he began working for the law firm of Keating Muething & Klekamp in the trial department and became partner four years later. He has always had a deep and abiding interest in ethics and professionalism matters, and presents at seminars each year on those subjects. Judge Fischer chaired the Cincinnati Bar Association's Ethics and Professional Responsibility Committee, as well as its Professionalism Committee. He also served two terms on the Ohio Supreme Court's Commission on Professionalism, including serving as its vice chair. The late Chief Justice of the Supreme Court of Ohio, Thomas Moyer, named then attorney Pat Fischer to co-chair a task force that has made Ohio's judicial system more efficient and just. In his free time, Judge Fischer has been a dedicated public servant who served on numerous local boards including the Hamilton County Mental Health & Recovery Services Board and St. Ursula Villa, and was a founding member of the Cincinnati Children's Museum Board. He currently serves on the board of VISIONS Community Services. Judge Fischer and his wife, Jane, live in Pleasant Ridge, where he served

as president of the Pleasant Ridge Community Council. He is an active member of St. Xavier Catholic Church in downtown Cincinnati, where he serves as both a Eucharistic minister and lector.

**Judith L. French** (Grandview Heights, Ohio)

Judith L. French is the Presiding Judge on the Ohio Tenth District Court of Appeals. Governor Taft appointed her to this position and she took office in October of 2004. She was elected on Judge French received her B.A. (political science), M.A. (military history and strategic studies) and J.D. degrees from Ohio State University in 1984, 1988 and 1988, respectively. Judge French began her legal career in 1988 as an associate of the firm Porter, Wright, Morris & Arthur. In 1992, she became Associate Counsel to Steelcase, Inc. The following year, she left to work for the Ohio Environmental Protection Agency as the Deputy Director of Legal Affairs. She then worked as Chief Counsel and Assistant Attorney General for the Ohio Attorney General's Office from 1997 to 2002. From 2002 to 2004, she was Chief Legal Counsel to Governor Taft, who later appointed her to the Court of Appeals.

**Edward L. Gilbert** (Akron, Ohio)

Mr. Gilbert graduated from Zanesville High School in Zanesville, Ohio in 1969. He went on to Wooster College in Wooster, Ohio where he studied Theoretical Economics and Speech, played on the varsity football team and served as an officer of the Black Student Union. He earned his degree in 1973 having received the Schwartz Award for general excellence in college work. Mr. Gilbert attended the University of Akron School of Law where he served as President of the Black American Law Students of America, Akron Branch. He earned his Juris Doctorate in 1976. Attorney Gilbert has been a principal in the law firms of Parmis, Purnell, Stubbs & Gilbert; Slater, Zurz & Gilbert and is presently practicing in Akron, Ohio at Edward L. Gilbert Co., L.P.A. His practice focuses on civil rights litigation and constitutional law violations. Since he began practicing law in 1976, Mr. Gilbert has won more than 50 million dollars in verdicts for civil rights and constitutional law violations. Mr. Gilbert is president of The Akron-Canton Barristers Association, a group of approximately 75 African American attorneys in Stark and Summit Counties. He is a member of the Akron Bar Association and the Ohio Bar Association and serves on the NAACP Legal Redress Committee covering five Northeastern Ohio counties.

**Charles F. Kurfess** (Perrysburg, Ohio)

A graduate of Bowling Green State University and the Ohio State University Moritz School of Law, Charles Kurfess served in the U.S. Army Counter Intelligence Corp in the Far East during the Korean Conflict and operated a general law practice for 33 years in Bowling Green. His long career as a public servant included two terms as a Wood County Common Pleas Judge and 11 terms as a state representative, during three of which he served as Speaker of the House. Kurfess has been active nationally in organizations supporting the work of state legislatures, having been one of the founders of the National Council of State Legislatures and serving on the Governing Board of the Executive Committee of the Council of State Governments. Kurfess serves on several committees and task forces for the Ohio Judicial Conference, the Ohio Supreme Court, and the Ohio State Bar Association. He was awarded Honorary Life Fellowship by the Ohio State Bar Foundation and Distinguished Alumnus Award from Bowling Green State University,

and was appointed by Presidents Nixon and Ford to the Advisory Commission on Intergovernmental Relations. Speaker Kurfess is married to former Helyn Rudolph; father to three, grandfather to five, and great-grandfather to one; and a lifelong member of St. John's Lutheran Church in Stony Ridge.

**Larry L. Macon** (Richfield, Ohio)

Dr. Larry L. Macon has been an Assistant Professor of Religion at Cleveland State University since 1995. He also serves as the Senior Administrator and CEO of Mt. Zion in Oakwood Village, where he administers programs and projects of the religious institution through staffing, lecturing, creating studies in religion, and community outreach programs. He holds a Doctor in Ministry and an M.A. from Ashland University, a Doctor of Divinity from St. Thomas College, and a B.A. from Cleveland State University. He is the author of several recent books and articles. He is a member of the Association for Study of African American Life and History, Presiding Bishop of the Ohio Ecumenical Alliance of International Fellowship, Chairman and Past President of the United Pastors in Mission. He is the recipient of a number of awards, including a Lifetime Award from Angelnets of Greater Cleveland, the Good Shepherd Award from Boy Scouts of American, the NAACP Freedom Award, and the United Pastors in Mission Greater Cleveland Praisefest Award.

**Frederick E. Mills** (Upper Arlington, Ohio)

Mr. Mills is a partner in the Vorys Columbus office and the leader of the firm's government relations group. He provides counsel on legislative matters and governmental relations to Ohio, regional, national and international clients. He represents clients in many industries, including the retail, restaurant, technology, telecommunications, chemical and energy sectors, in front of the General Assembly, local jurisdictions and administrative agencies. His career highlights include serving as the Chief of Staff, Clerk and majority Counsel for the Ohio House of Representatives; Ohio Superintendent of Banks; and a legislative assistant to former Ohio Governor James Rhodes. Mr. Mills received his J.D. from Capital University Law School and his B.S. from The Ohio State University and is a member of the Columbus Bar Association.

**Dennis P. Mulvihill** (Hudson, Ohio)

A partner with Lowe Eklund Wakefield & Mulvihill, Dennis Mulvihill's practice is primarily in the areas of product liability, medical malpractice, motor vehicle accidents and workplace injuries. Dennis has received many statewide honors in recent years. In 2012, Dennis was named one of the top 50 lawyers in Cleveland and one of the top 100 lawyers in Ohio, by *Super Lawyers, Cincinnati Magazine*. Dennis has been named an Ohio Super Lawyer by Cincinnati Magazine every year since 2008, honoring the top five percent of all lawyers in Ohio; and prior to that, was named a Rising Star by *Cincinnati Magazine*, honoring the best young lawyers in the state. These recognitions are based on the results of statewide surveys of lawyers and peer evaluation. He is a frequent lecturer, educating attorneys on matters relating to civil litigation, including such topics as: how to communicate effectively with juries, how to identify and develop product liability claims, and how to select an unbiased jury. In 2010-2011 Dennis was the President of the Ohio Association for Justice, the only state-wide association of trial

attorneys who devote their practices to representing people who have been injured by the negligence of others. He has been a member of the OAJ Board of Trustees since 1999. He is a member of the American Association for Justice (AAJ), the Ohio Association for Justice (OAJ), the Cleveland Academy of Trial Attorneys (CATA), and the Cleveland Metropolitan and Ohio State Bar Associations. Dennis was born in Grand Rapids, Michigan and graduated from Kenyon College in 1988. In college he was an All-American swimmer and participated in the 1988 and 1992 Olympic swimming trials, in an effort to make the United States Olympic Swimming Team. He taught high school history for two years at University School in Hunting Valley, Ohio, and graduated from Cleveland-Marshall College of Law, *cum laude*, in 1994.

**Chad A. Readier** (Columbus, Ohio)

As an appellate and trial litigation partner in the law firm Jones Day, one of the world's largest law firms, Chad Readier has argued numerous cases before the Ohio Supreme Court and federal appellate courts, and has assisted with six cases argued before the United States Supreme Court. Prior to joining Jones Day, Chad earned his undergraduate and law degrees (with honors) from the University of Michigan, followed by a year of service as a law clerk to the Honorable Alan E. Norris, United States Court of Appeals for the Sixth Circuit. In 2009, Chad was named a recipient of the American Marshall Memorial Fellowship awarded by the German Marshall Fund of the United States, travelling to Europe for three weeks to meet with European political, business and civic leaders. Last year, he traveled to Nairobi, Kenya to participate in a Lawyers Without Borders program focused on improving the trial skills of Kenyan lawyers. In Ohio, Chad was appointed by the two most recent Chief Justices to chair the Ohio Supreme Court's Commission on the Thomas J. Moyer Ohio Judicial Center, which works to enhance the artistic, legal and historic legacies of the Moyer Judicial Center, home of the Ohio Supreme Court. Previously, Chad was a gubernatorial appointment to the Ohio State Dental Board. Chad is a founding board member and past board chair of the Crittenton Community School, a Columbus-based charter school specializing in educating challenged students in grades 6-9. He is also an active member of the United Way of Central Ohio, which in 2011 awarded him the Robert S. Crane Jr. Young Philanthropist Award.

**Joseph P. Rugola** (Westerville, Ohio)

Joseph P. Rugola has served as the Executive Director of the Ohio Association of Public School Employees (OAPSE) since 1988. Prior to his appointment as Executive Director, Joe served as the union's Field Director and as a Field Representative. Under his leadership OAPSE has grown from just over 25,000 members to more than 38,000, which is one of the most successful organizing records in the labor movement today. Since 1988, Joe has served as an International Vice President of the American Federation of State, County and Municipal Employees (AFSCME). Joe served as Chairman of the Ohio AFL-CIO's Task Force on Political Action where he created the "Take Back Ohio" program which has helped to reshape the way labor influences electoral politics in Ohio. He served as Vice President of the Ohio AFL-CIO until April of 2007 when he was elected as the new federation President, and served in that position until 2010. Joe is recognized in the trade union movement and among educators as one of Ohio's most vocal and effective advocates for working families and strong public education. He is a graduate of The Ohio State University earning his degree in Political Science in 1972.

**Richard B. Sapphire** (Dayton, Ohio)

Professor Richard Sapphire received his BA degree from the Ohio State University in 1967, his JD degree from Chase Law School (now, Northern Kentucky State University), in 1971, and an LL.M degree from Harvard Law School in 1975. After law school, he worked as a staff attorney for the Legal Aid Society of Cincinnati. In 1975 he began his law teaching career at Oklahoma City University, and since 1976 has been on the faculty of the University of Dayton School of Law. He has also been a visiting professor at the University of San Diego School of Law and at Northern Kentucky State University College of Law. Professor Sapphire's primary areas of teaching and scholarship have been United States and Ohio constitutional law, civil rights, complex litigation, professional responsibility, judicial administration, homelessness and the law, voting rights, human rights, and law and religion. Professor Sapphire has been married for 41 years to Patricia. They have two sons: Daniel and Douglas.

**Robert A. Taft** (Springfield, Ohio)

Bob Taft began his career in public service as a Peace Corps Volunteer, working as a schoolteacher in Tanzania, East Africa right after graduating from college. He went on to get a masters degree in government from Princeton and a law degree from the University of Cincinnati. His first job in government was with the Bureau of the Budget in the State of Illinois. He has served as an elected official in Ohio for 30 years, as a member of the state legislature, a county commissioner, Ohio Secretary of State and, most recently, as Governor of Ohio. In his role as Governor, he focused on improving schools, reforming Ohio's tax system, attracting advanced, high paying jobs and helping communities clean up polluted properties and provide better recreational opportunities for their citizens. He is currently a Distinguished Research Associate with the University of Dayton, lecturing in a number of different classes, teaching a political science course on the U.S. Congress and working with the School of Education on special projects.

**Kathleen M. Trafford** (Columbus, Ohio)

Kathleen Trafford is a Partner at the Law Firm of Porter Wright Morris & Arthur LLP and serves as Chair of the Firm's Appellate Practice Group. She graduated cum laude from Capital University Law School and also holds a Master of Arts degree from Kent State University. She is a Fellow in the American College of Trial Lawyers, a past President of the Columbus Bar Association, and served as Co-Chair of the American Constitutional Society Columbus Lawyer's Chapter. Based in Columbus, she concentrates her practice in the area of governmental and regulatory litigation and constitutional law. She represents private parties in disputes with governmental agencies and also serves as special counsel to a number of state and local government agencies. She handles cases involving constitutional challenges to state and local laws or orders, First Amendment claims, rate making and price discrimination, licensing disputes, trademarks, professional ethics, public records, injunctions, and special writs in the Ohio Supreme Court. She has practiced law in Ohio for thirty-two years and has been privileged throughout her career to have handled more than a dozen cases involving significant Ohio constitutional issues. Prior to joining the firm in 1988, Kathleen was Deputy Chief Counsel to

the Ohio Attorney General, She had primary responsibility for defending the State of Ohio in litigation resulting from the Ohio savings and loan crisis. She argued before the United States Supreme Court in *Ohio Civil Rights Commission v. Dayton Christian Schools*, 477 U.S. 614 (1986).

**Richard S. Walinski** (Toledo, Ohio)

Richard is the third generation of the Walinski family, which has been practicing law in Toledo since 1908. He practices now with the firm of Thacker & Martinsek. Twice in his 43 years of practice as a trial lawyer, Richard took sabbaticals to serve as Chief Counsel — the top legal advisor — to two of Ohio's attorneys general: Democratic Attorney General William J. Brown and Republican Attorney General Betty D. Montgomery. He is the only person in Ohio to have been appointed as Chief Counsel by attorneys general from both major political parties. Richard served as a Consultant to the General Assembly's Select Committee on Evidence (1979-80). He has also served two full terms on Supreme Court's Rules Advisory Committee (now known as the Commission on the Rules of Practice & Procedure), where he served as Chairman of the Committee and also as Chairman of the Evidence Rules Subcommittee. Richard received a Bachelor of Arts degree in philosophy from The University of Toledo. Before entering law school, he did graduate work in philosophy at Duquesne University. Richard received a law degree from The University of Toledo College of Law, where he was the founding Editor-in-Chief of The University of Toledo Law Review. He is a member of the Order of the Coif and a life member of the American Society of Writers on Legal Subjects. Richard and his wife, Shelley, make their home in Toledo, Ohio.

First Name	Last Name	District #	House or Senate	Party
John	Adams	85th	House	Republican
Richard	Adams	80th	House	Republican
Ron	Amstutz	1st	House	Republican
Marlene	Anielski	6th	House	Republican
Nan	Baker	16th	House	Republican
William	Batchelder	69th	House	Republican
Peter	Beck	54th	House	Republican
Terry	Blair	42nd	House	Republican
Terry	Boose	57th	House	Republican
Kevin	Boyce	25th	House	Democrat
Andrew	Brenner	67th	House	Republican
Jim	Buchy	84th	House	Republican
Jim	Butler	41st	House	Republican
Margaret	Conditt	52nd	House	Republican
Rex	Damschroder	88th	House	Republican
Timothy	Derickson	53rd	House	Republican
Anthony	DeVitis	36th	House	Republican
Mike	Dovilla	7th	House	Republican
Mike	Duffey	21st	House	Republican
Ronald	Gerberry	59th	House	Democrat
Anne	Gonzales	19th	House	Republican
Cheryl	Grossman	23rd	House	Republican
Robert	Hackett	74th	House	Republican
Christina	Hagan	50th	House	Republican
Dave	Hall	70th	House	Republican
Bill	Hayes	72nd	House	Republican
Michael	Henne	40th	House	Republican
Brian	Hill	97th	House	Republican
Jay	Hottinger	71st	House	Republican
Matt	Huffman	4th	House	Republican
Terry	Johnson	90th	House	Republican
Casey	Kozlowski	99th	House	Republican
Al	Landis	98th	House	Republican
Matt	Lynch	76th	House	Republican
Ron	Maag	62nd	House	Republican
Dale	Mallory	32nd	House	Democrat
Jeffrey	McClain	87th	House	Republican
Ross	McGregor	79th	House	Republican
Craig	Newbold	5th	House	Republican
Dorothy	Pelanda	86th	House	Republican
Alicia	Reece	33rd	House	Democrat
Kristina	Roegner	37th	House	Republican
Cliff	Rosenberger	91st	House	Republican
Margaret Ann	Ruhl	68th	House	Republican
Gary	Scherer	92nd	House	Republican
Kirk	Schuring	48th	House	Republican

Barbara	Sears	47th	House	Republican
Marilyn	Slaby	38th	House	Republican
Stephen	Slesnick	49th	House	Democrat
Ryan	Smith	93rd	House	Republican
Robert	Sprague	83rd	House	Republican
Peter	Stautberg	27th	House	Republican
Gerald	Stebelton	77th	House	Republican
Matt	Szollosi	46th	House	Democrat
Louis	Terhar	30th	House	Republican
Andy	Thompson	95th	House	Republican
Lynn	Wachtmann	81st	House	Republican
Ron	Young	61st	House	Republican
<b>First Name</b>	<b>Last Name</b>	<b>District #</b>	<b>House or Senate</b>	<b>Party</b>
Troy	Balderson	20th	Senate	Republican
Dave	Burke	26th	Senate	Republican
Capri	Cafaro	32nd	Senate	Democrat
Bill	Coley	4th	Senate	Republican
John	Eklund	18th	Senate	Republican
Keith	Faber	12th	Senate	Republican
Randy	Gardner	2nd	Senate	Republican
Cliff	Hite	1st	Senate	Republican
Jim	Hughes	16th	Senate	Republican
Peggy	Lehner	6th	Senate	Republican
Larry	Obhof	22nd	Senate	Republican
Thomas	Patton	24th	Senate	Republican
Bob	Peterson	17th	Senate	Republican
Tom	Sawyer	28th	Senate	Democrat
Bill	Seitz	8th	Senate	Republican
Chris	Widener	10th	Senate	Republican
Joseph	Uecker	14th	Senate	Republican

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# BATTLE FOR WHITE HOUSE

RCP ELECTORAL MAP STATE CHANGES NO TOSS UPS MAP STATE CHANGES RCP SENATE MAP RACE CHANGES SENATE NO TOSS UPS RACE CHANGES RCP HOUSE MAP (COMING SOON)

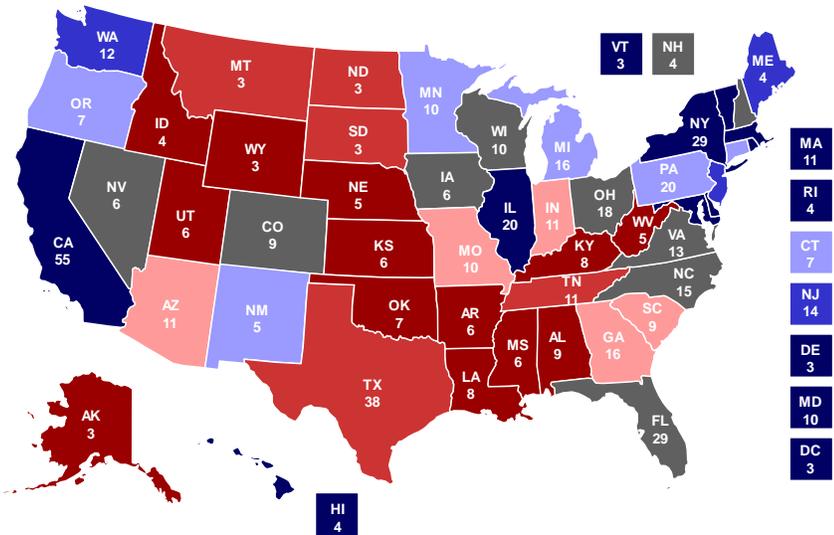
**237** Obama/Biden **110** Toss Ups **191** Romney/Ryan

142 30 65 110 57 58 76

270 Electoral Votes Needed To Win (Recent Race Changes)

Recent Elections: 2008 | 2004 | 2000 | 1996 | 1992 | 1988 | 1984 | 1980 | 1976 | 1972

- |  |  |  |   |  |
|--|--|--|---|--|
| <b>Likely Obama (30)</b><br>Maine (4)<br>New Jersey (14)<br>Washington (12)<br>Solid Obama | <b>Leans Obama (65)</b><br>Connecticut (7)<br>Michigan (16)<br>Minnesota (10)<br>New Mexico (5)<br>Oregon (7)<br>Pennsylvania (20) | <b>Toss Up (110)</b><br>Colorado (9)<br>Florida (29)<br>Iowa (6)<br>Nevada (6)<br>New Hampshire (4)<br>North Carolina (15)<br>Ohio (18)<br>Virginia (13)<br>Wisconsin (10) | <b>Leans Romney (57)</b><br>Arizona (11)<br>Georgia (16)<br>Indiana (11)<br>Missouri (10)<br>South Carolina (9) | <b>Likely Romney (58)</b><br>Montana (3)<br>North Dakota (3)<br>South Dakota (3)<br>Tennessee (11)<br>Texas (38)<br>Solid Romney |
|--|--|--|---|--|

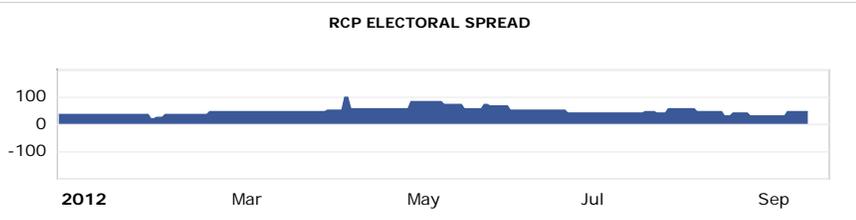


CREATE YOUR OWN MAP

OBAMA/BIDEN		ROMNEY/RYAN	
	Solid		Solid
	Leans		Leans
	Toss up		Toss up

DATE	STATE	PREVIOUS STATUS		NEW STATUS	RCP ELECTORAL COUNT	RCP NATIONAL AVG.
9/12	Michigan	Toss Up	>>>	Leans Obama	Obama 237 - Romney 191	Obama +3.5
8/30	Missouri	Toss Up	>>>	Leans Romney	Obama 221 - Romney 191	Obama +0.6
8/24	Missouri	Leans Romney	>>>	Toss Up	Obama 221 - Romney 181	Obama +1.0
8/23	Connecticut	Likely Obama	>>>	Leans Obama	Obama 221 - Romney 191	Obama +1.0
8/23	Montana	Leans Romney	>>>	Likely Romney	Obama 221 - Romney 191	Obama +1.0

[Click Here for More Electoral College Map Changes](#)



STATE	OBAMA	ROMNEY	RCP AVERAGE	RCP STATUS	2008	2004	2000
Virginia (13)	49.2	46.2	Obama +3.0	Toss Up	Obama +6.3	Bush +8.2	Bush +8.1
Florida (29)	47.8	46.4	Obama +1.4	Toss Up	Obama +2.8	Bush +5.0	Bush +0.1
Iowa (6)	45.0	44.8	Obama +0.2	Toss Up	Obama +9.5	Bush +0.7	Gore +0.3

Click Headers to Sort Columns

STATE	OBAMA	ROMNEY	RCP AVERAGE	RCP STATUS	2008	2004	2000
Ohio (18)	48.5	44.3	Obama +4.2	Toss Up	Obama +4.6	Bush +2.1	Bush +3.5
Wisconsin (10)	49.0	46.3	Obama +2.7	Toss Up	Obama +13.9	Kerry +0.4	Gore +0.2
North Carolina (15)	45.0	49.8	Romney +4.8	Toss Up	Obama +0.3	Bush +12.4	Bush +12.8
Colorado (9)	47.3	46.0	Obama +1.3	Toss Up	Obama +9.0	Bush +4.7	Bush +8.4
Nevada (6)	49.0	45.7	Obama +3.3	Toss Up	Obama +12.5	Bush +2.6	Bush +3.5
New Hampshire (4)	48.0	44.0	Obama +4.0	Toss Up	Obama +9.6	Kerry +1.3	Bush +1.3
Missouri (10)	43.0	50.3	Romney +7.3	Leans GOP	McCain +0.1	Bush +7.2	Bush +3.3
Michigan (16)	48.0	41.8	Obama +6.2	Leans Dem	Obama +16.4	Kerry +3.4	Gore +5.2
Minnesota (10)	50.5	42.0	Obama +8.5	Leans Dem	Obama +10.3	Kerry +3.5	Gore +2.4
Arizona (11)	42.7	53.0	Romney +10.3	Leans GOP	McCain +8.5	Bush +10.5	Bush +6.3
Pennsylvania (20)	49.0	40.7	Obama +8.3	Leans Dem	Obama +10.3	Kerry +2.5	Gore +4.2
Connecticut (7)	52.0	42.7	Obama +9.3	Leans Dem	Obama +22.4	Kerry +10.3	Gore +17.5
Georgia (16)	41.0	50.3	Romney +9.3	Leans GOP	McCain +5.2	Bush +16.6	Bush +11.7
New Mexico (5)	50.0	40.0	Obama +10.0	Leans Dem	Obama +15.1	Bush +0.7	Gore +0.1
Oregon (7)	50.0	41.5	Obama +8.5	Leans Dem	Obama +16.4	Kerry +4.2	Gore +0.5

Click Headers to Sort Columns

SOLID STATES			
OBAMA/BIDEN (142)		ROMNEY/RYAN (76)	
California (55)	Delaware (3)	Alabama (9)	Alaska (3)
District of Columbia (3)	Hawaii (4)	Arkansas (6)	Idaho (4)
Illinois (20)	Maryland (10)	Kansas (6)	Kentucky (8)
Massachusetts (11)	New York (29)	Louisiana (8)	Mississippi (6)
Rhode Island (4)	Vermont (3)	Nebraska (5)	Oklahoma (7)
		Utah (6)	West Virginia (5)
		Wyoming (3)	

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- [Let Them Eat Crab Cake](#)  
Maureen Dowd, New York Times
- [World Turns Against the Man of the World](#)  
Noemie Emery, DC Examiner

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# Ohio: Romney vs. Obama

Key 2012 Races: [Senate, OH6, OH7, OH10, OH16](#) | President: **2008: Obama +4.6, 2004: Bush +2.1**

Polling Data						
Poll	Date	Sample	MoE	Obama (D)	Romney (R)	Spread
<b>RCP Average</b>	<b>9/7 - 9/12</b>	--	--	<b>48.5</b>	<b>44.3</b>	<b>Obama +4.2</b>
Rasmussen Reports	9/12 - 9/12	500 LV	4.5	47	46	Obama +1
NBC/WSJ/Marist	9/9 - 9/11	979 LV	3.1	50	43	Obama +7
PPP (D)	9/7 - 9/9	1072 LV	3.0	50	45	Obama +5
Gravis Marketing	9/7 - 9/8	1548 LV	2.7	47	43	Obama +4

[See All Ohio: Romney vs. Obama Polling Data](#)

**Recent Comments**

- [Romney Tells Truth, Sets Up Clash Over Govt](#)  
Michael Goodwin, NY Post
- [The 53 Percenters Are Moochers, Too](#)  
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Rick Santelli, CNBC
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- [World Turns Against the Man of the World](#)  
Noemie Emery, DC Examiner

[See All Comments](#)

Polling Data						
Poll	Date	Sample	MoE	Obama (D)	Romney (R)	Spread
<b>RCP Average</b>	<b>9/7 - 9/12</b>	--	--	<b>48.5</b>	<b>44.3</b>	<b>Obama +4.2</b>
Rasmussen Reports	9/12 - 9/12	500 LV	4.5	47	46	Obama +1
NBC/WSJ/Marist	9/9 - 9/11	979 LV	3.1	50	43	Obama +7
PPP (D)	9/7 - 9/9	1072 LV	3.0	50	45	Obama +5
Gravis Marketing	9/7 - 9/8	1548 LV	2.7	47	43	Obama +4
Gravis Marketing	9/2 - 9/2	1381 RV	2.9	44	47	Romney +3
Gravis Marketing	8/27 - 8/27	1397 RV	3.0	45	44	Obama +1
Columbus Dispatch*	8/15 - 8/25	1758 LV	2.1	45	45	Tie
Ohio Poll/Univ of Cin.	8/16 - 8/21	847 LV	3.4	49	46	Obama +3
CBS/NYT/Quinnipiac	8/15 - 8/21	1253 LV	3.0	50	44	Obama +6
Purple Strategies	8/13 - 8/14	600 LV	4.0	44	46	Romney +2
Rasmussen Reports	8/13 - 8/13	500 LV	4.5	45	45	Tie
PPP (D)	8/9 - 8/12	961 LV	3.2	48	45	Obama +3
CBS/NYT/Quinnipiac	7/24 - 7/30	1193 LV	3.0	50	44	Obama +6
WeAskAmerica*	7/24 - 7/24	1115 LV	3.0	48	40	Obama +8
Rasmussen Reports	7/18 - 7/18	500 LV	4.5	47	45	Obama +2
Purple Strategies	7/9 - 7/13	600 LV	4.0	48	45	Obama +3
Quinnipiac	6/19 - 6/25	1237 RV	2.8	47	38	Obama +9
PPP (D)	6/21 - 6/24	673 RV	3.8	47	44	Obama +3
Purple Strategies	5/31 - 6/5	600 LV	4.0	45	48	Romney +3
Rasmussen Reports	5/29 - 5/29	500 LV	4.5	44	46	Romney +2
NBC News/Marist	5/17 - 5/20	1103 RV	3.0	48	42	Obama +6
Quinnipiac	5/2 - 5/7	1069 RV	3.0	45	44	Obama +1
PPP (D)	5/3 - 5/6	875 RV	3.3	50	43	Obama +7
Quinnipiac	4/25 - 5/1	1130 RV	2.9	44	42	Obama +2
Purple Strategies	4/19 - 4/23	600 LV	4.1	49	44	Obama +5
Rasmussen Reports	4/18 - 4/18	500 LV	4.5	46	42	Obama +4
FOX News	4/15 - 4/17	606 RV	4.0	45	39	Obama +6
Rasmussen Reports	3/26 - 3/26	500 LV	4.5	48	40	Obama +8
Quinnipiac	3/20 - 3/26	1246 RV	2.8	47	41	Obama +6
NBC News/Marist	2/29 - 3/2	1573 RV	2.5	50	38	Obama +12
FOX News	2/11 - 2/13	505 RV	4.5	38	44	Romney +6

Quinnipiac	2/7 - 2/12	1421 RV	2.6	46	44	Obama +2
Rasmussen Reports	2/8 - 2/8	500 LV	4.5	45	41	Obama +4
PPP (D)	1/28 - 1/29	820 RV	3.4	49	42	Obama +7
Quinnipiac	1/9 - 1/16	1610 RV	2.4	44	42	Obama +2
Quinnipiac	11/28 - 12/5	1437 RV	2.6	42	43	Romney +1
PPP (D)	11/4 - 11/6	1022 LV	3.1	50	41	Obama +9
Quinnipiac	10/31 - 11/7	1312 RV	2.7	45	42	Obama +3
Quinnipiac	10/17 - 10/23	1668 RV	2.4	45	41	Obama +4
PPP (D)	10/13 - 10/16	581 RV	4.1	46	46	Tie
Quinnipiac	9/20 - 9/25	1301 RV	2.7	44	42	Obama +2
PPP (D)	8/11 - 8/14	792 RV	3.5	45	43	Obama +2
Quinnipiac	7/12 - 7/18	1659 RV	2.4	45	41	Obama +4
PPP (D)	5/19 - 5/22	565 RV	4.1	46	42	Obama +4
PPP (D)	3/10 - 3/13	559 RV	4.1	46	40	Obama +6
PPP (D)	12/10 - 12/12	510 RV	4.3	44	42	Obama +2

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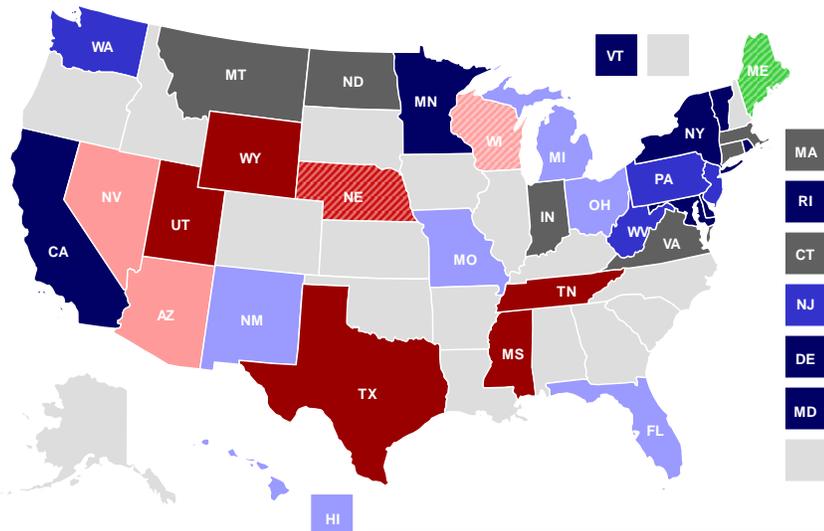
# BATTLE FOR THE SENATE

Current Senate: 53\* Democrats | 47 Republicans

RCP ELECTORAL MAP STATE CHANGES NO TOSS UPS MAP STATE CHANGES RCP SENATE MAP RACE CHANGES SENATE NO TOSS UPS RACE CHANGES RCP HOUSE MAP (COMING SOON)

**48** Democrats\* **6** Toss Ups **46** Republicans  
 37 Safe or Not Up 5 6 6 3 1 42 Safe or Not Up  
 51 Seats Needed For Majority (Recent Race Changes)

- |   |  |   |  |  |
|---|--|---|--|--|
| <b>Likely Dem</b><br>*ME: Open (R)<br>NJ: Menendez (D)<br>PA: Casey (D)<br>WA: Cantwell (D)<br>WV: Manchin (D)<br><b>Safe Dem Seats</b> | <b>Leans Dem</b><br>FL: Nelson (D)<br>HI: Open (D)<br>MI: Stabenow (D)<br>MO: McCaskill (D)<br>NM: Open (D)<br>OH: Brown (D) | <b>Toss Up</b><br>CT: Open (D)<br>IN: Open (R)<br>MA: Brown (R)<br>MT: Tester (D)<br>ND: Open (D)<br>VA: Open (D) | <b>Leans GOP</b><br>AZ: Open (R)<br>NV: Heller (R)<br>WI: Open (D) | <b>Likely GOP</b><br>NE: Open (D)<br><b>Safe GOP Seats</b> |
|---|--|---|--|--|



DEMOCRATS		REPUBLICANS	
Safe	Likely	Safe	Likely
Leans	Toss up	Leans	Toss up
Pick-ups (ME*)		Pick-ups (NE · WI)	

\* Sen. Joseph Lieberman (I-CT) & Sen. Bernard Sanders (I-VT) currently caucus with the Democrats and former Gov. Angus King is likely to caucus with the Democrats if he wins the open Maine seat in November.

### BATTLE FOR THE SENATE - RACE CHANGES

DATE	STATE	PREVIOUS STATUS	NEW STATUS	DEMS	TOSS UPS	GOP
9/15	Ohio	Toss Up	Leans Dem	48	6	46
9/9	Michigan	Toss Up	Leans Dem	47	7	46
8/27	Michigan	Leans Dem	Toss Up	46	8	46
8/23	Florida	Toss Up	Leans Dem	47	7	46
8/23	Missouri	Toss Up	Leans Dem	47	7	46
8/23	Nevada	Toss Up	Leans GOP	47	7	46
8/23	Ohio	Leans Dem	Toss Up	47	7	46
8/22	Connecticut	Leans Dem	Toss Up	46	9	45
8/22	Wisconsin	Toss Up	Leans GOP	46	9	45
8/3	Indiana	Leans GOP	Toss Up	47	9	44

[View Full Race Change Page >](#)

### SAFE RACES

DEMOCRATS		REPUBLICANS	
CA: Feinstein (D)	DE: Carper (D)	MS: Wicker (R)	TN: Corker (R)
MD: Cardin (D)	MN: Klobuchar (D)	TX: Open (R)	UT: Hatch (R)
NY: Gillibrand (D)	RI: Whitehouse (D)	WY: Barrasso (R)	

# Ohio Senate - Mandel vs. Brown

## Candidates



Sherrod Brown (D)\*  
[Bio](#) | [Campaign Site](#)



Josh Mandel (R)  
[Bio](#) | [Campaign Site](#)

## Ohio Snapshot

**RCP Average: Brown +7.2**  
**RCP Ranking: Leans Dem**  
**2012 Key Races: President | OH-6 | OH-7 | OH-10 | OH-16**

-----PAST KEY RACES-----

**2010: Governor | Senate | OH-1 | OH-6 | OH-10 | OH-12 | OH-13 | OH-15 | OH-16 | OH-18**  
**2008: President | OH-1 | OH-2 | OH-15 | OH-16**  
**2006: Sen | Gov | OH-1 | OH-2 | OH-15 | OH-18**  
**2004: President | Senate**

Polling Data					
Poll	Date	Sample	Brown (D)	Mandel (R)	Spread
<b>RCP Average</b>	<b>9/7 - 9/12</b>	--	<b>48.5</b>	<b>41.3</b>	<b>Brown +7.2</b>
Rasmussen Reports	9/12 - 9/12	500 LV	49	41	Brown +8
NBC/WSJ/Marist	9/9 - 9/11	979 LV	49	42	Brown +7
PPP (D)	9/7 - 9/9	1072 LV	48	40	Brown +8
Gravis Marketing	9/7 - 9/8	1548 LV	48	42	Brown +6

[See All Ohio Senate - Mandel vs. Brown Polling Data](#)

### Race Analysis

The Buckeye State is a microcosm of the country as a whole. It contains everything: a slice of Appalachia in the southeast, farmland in the northwest, decaying industrial centers and new growth cities. For much of the past few decades, it has been a few points more Republican than the rest of the country, including 2008 when it went for Barack Obama by three points fewer than Obama's national average. The Republicans it has produced have been conservative, but they have generally been of the establishment-oriented sort who have substantial breaks with the conservative orthodoxy, like Mike DeWine and George Voinovich.

DeWine was defeated handily by liberal Democrat Sherrod Brown in 2006 -- a bad Republican year. Brown has cut a very liberal profile in Washington, yet his approval ratings have held up fairly well in this swing state. His opponent is state Treasurer Josh Mandel, a 33-year-old boy wonder of Republican politics.

Mandel has proved remarkably adept at fundraising, and Brown is probably too liberal for his state. But Mandel is no moderate, and his youthful looks may cause some to question whether he is really up for the job of senator at such an early stage in his career. Brown is a skilled politician, whose district was spared redistricting in 2000 because Gov. Bob Taft was afraid Brown would run against him. Even if the national situation deteriorates significantly for the Democrats, he will probably retain an edge.

- ### Recent Commentary & News Stories
- [Romney Tells Truth, Sets Up Clash Over Govt](#)  
Michael Goodwin, NY Post
  - [The 53 Percenters Are Moochers, Too](#)  
Jonathan Cohn, The New Republic
  - [I'll Deliver Recovery, Not Dependency](#)  
Mitt Romney, USA Today
  - [Let Them Eat Crab Cake](#)  
Maureen Dowd, New York Times
  - [World Turns Against the Man of the World](#)  
Noemie Emery, DC Examiner
- [See All Commentary & News Stories](#)

Polling Data					
Poll	Date	Sample	Brown (D)	Mandel (R)	Spread
<b>RCP Average</b>	<b>9/7 - 9/12</b>	--	<b>48.5</b>	<b>41.3</b>	<b>Brown +7.2</b>
Rasmussen Reports	9/12 - 9/12	500 LV	49	41	Brown +8
NBC/WSJ/Marist	9/9 - 9/11	979 LV	49	42	Brown +7
PPP (D)	9/7 - 9/9	1072 LV	48	40	Brown +8
Gravis Marketing	9/7 - 9/8	1548 LV	48	42	Brown +6
Gravis Marketing	9/2 - 9/2	1381 RV	44	44	Tie
Gravis Marketing	8/27 - 8/27	1397 RV	44	41	Brown +3
Columbus Dispatch*	8/15 - 8/25	1758 LV	44	44	Tie

Ohio Poll/Univ of Cin.	8/16 - 8/21	847 LV	48	47	Brown +1
CBS/NYT/Quinnipiac	8/15 - 8/21	1253 LV	48	41	Brown +7
Rasmussen Reports	8/13 - 8/13	500 LV	44	44	Tie
PPP (D)	8/9 - 8/12	961 LV	47	37	Brown +10
CBS/NYT/Quinnipiac	7/24 - 7/30	1193 LV	51	39	Brown +12
Rasmussen Reports	7/18 - 7/18	500 LV	46	42	Brown +4
Quinnipiac	6/19 - 6/25	1237 RV	50	34	Brown +16
PPP (D)	6/21 - 6/24	673 RV	46	39	Brown +7
Rasmussen Reports	5/29 - 5/29	500 LV	47	42	Brown +5
NBC News/Marist	5/17 - 5/20	1103 RV	51	37	Brown +14
Quinnipiac	5/2 - 5/7	1069 RV	46	40	Brown +6
PPP (D)	5/3 - 5/6	875 RV	45	37	Brown +8
Rasmussen Reports	4/18 - 4/18	500 LV	44	41	Brown +3
Rasmussen Reports	3/26 - 3/26	500 LV	43	43	Tie
Quinnipiac	3/20 - 3/26	1246 RV	46	36	Brown +10
NBC News/Marist	2/29 - 3/2	3079 RV	47	37	Brown +10
Quinnipiac	2/7 - 2/12	1421 RV	48	35	Brown +13
Rasmussen Reports	2/8 - 2/8	500 LV	44	40	Brown +4
PPP (D)	1/28 - 1/29	820 RV	47	36	Brown +11
Quinnipiac	1/9 - 1/16	1610 RV	47	32	Brown +15
PPP (D)	11/4 - 11/6	1022 LV	49	34	Brown +15
Quinnipiac	10/17 - 10/23	1668 RV	49	34	Brown +15
PPP (D)	10/13 - 10/16	581 RV	48	40	Brown +8
Quinnipiac	9/20 - 9/25	1301 RV	49	36	Brown +13
PPP (D)	8/11 - 8/14	792 RV	48	33	Brown +15
Quinnipiac	7/12 - 7/18	1659 RV	49	34	Brown +15
PPP (D)	5/19 - 5/22	565 RV	48	31	Brown +17
Quinnipiac	5/10 - 5/16	1379 RV	45	31	Brown +14
PPP (D)	3/10 - 3/13	559 RV	48	32	Brown +16

To: OMA Government Affairs Committee  
From: Ryan Augsburger  
Rob Brundrett  
Re: Energy Policy Report  
Date: September, 2012

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Energy policy has been a hot topic during throughout the past few years. It looks to continue to be an area of top focus as electricity transitions away from the traditional state regulated model. At the same time exploration and production of Ohio's shale gas continues to ramp up even with the deflated commodity prices.

### **Electricity Rates**

The PUCO approved a modified AEP rate plan in August. This decision described in detail on the attached memo by counsel, paves the way for unlimited shopping while compensating the utility for the transition. Manufactures will be required to pay transition costs. The OMA Energy Group intervened in all cases to advocate for policies to protect the manufacturing sector as a whole and has filed appeals on many fronts, many of which are still pending.

While their rate plan was previously approved and in effect, Duke Energy recently filed to change (increase) capacity pricing, emulating the AEP decision.

The AEP cases considered together with Duke and FirstEnergy signals a sea change in the way Ohio regulates and prices electricity for all customer classes.

### **Electricity Transmission Constraints Around Cleveland**

Earlier this month Steve Herling, Vice President, Planning, for PJM Interconnection described to the OMA Energy Group the significant transmission constraints facing the greater Cleveland region. The constraints will require some combination of costly investments in new transmission lines and new generation. If you have operations in the region, you'll want to pay attention to this issue.

### **Shale Gas**

Ohio continues to be hub for shale development. While natural gas markets are low and expected to stay that way resulting in gas wells being uneconomic, Ohio's abundant Utica shale is expected to continue to drive growth in the sector. The Utica shale is thought to contain vast reserves of oil and other materials that provide for more lucrative revenue.

Ohio Department of Natural Resources and the Public Utilities Commission have been implementing law changes contained in Senate Bill 315 to facilitate production and transportation of gas and gas liquids.

The OMA has held some meetings with industry leaders of the American Natural Gas Association. They are working to promote policies to increase demand and usage of natural gas. Possible areas for expanded utilization: power generation, transportation propulsion, fuel cell, fleet transportation. ANGA will present at the October 24 meeting of the OMA Energy Committee. Save the date and join the discussion.

Severance tax revision is among the most controversial issues being discussed around capitol square. In March the Governor proposed a new severance tax structure largely intended to levy a competitive tax on horizontal drilling. The new revenue would be used to fund personal income tax reductions. The General Assembly took a dim view of the Governor's proposal and

stripped it from the mid-biennium review, HB 487. Many members have signed a pledge against any form of new taxes. Nonetheless, Governor Kasich presses onward with a revamped severance tax structure.

HB 559 is expected to advance in the post-election session. The bill requires oil and gas producers to report to ODNR the country of origin of steel pipe and related material used down-hole. The bill is intended to ensure public protection from inferior pipe sourced from overseas. Oil and Gas industry groups have opposed the legislation. The Senate already passed a similar bill and awaits action by the House.

Two rounds of pipeline infrastructure upgrades and investment have been announced over the past few months. Billions of dollars of system upgrades are literally in the pipeline to serve the abundant new supply.

### **Governor's Energy Bill**

Before lawmakers left for the summer, the General Assembly concluded work on the Governor's energy bill, [Senate Bill 315](#) (Jones, R-Springboro). The bill was the vehicle for many of the oil and gas regulation updates, but it also contained language intended to encourage more broad utilization of waste energy recovery and combined heat and power. A detailed analysis of SB 315 by counsel was included in the June 6 meeting materials. Contact staff for another copy.

## Energy Management

09/14/2012

### FirstEnergy Energy Efficiency Plans Insufficient for Manufacturers

FirstEnergy has filed with the Public Utilities Commission of Ohio (PUCO) an application for approval of its 2013-2015 energy efficiency and peak demand reduction program portfolios for the purpose of complying with energy reduction mandates established in Senate Bill 221.

The OMA Energy Group has intervened in the case to complain that energy efficiency incentive programs for manufacturers are insufficient and cumbersome to adopt. If you have firsthand knowledge of using or attempting use a FirstEnergy energy efficiency incentive program, please share your experience with [us](#) to inform OMA advocacy in the case.

09/14/2012

### OMA Advocates for Combined Heat and Power Improvements

OMA energy engineering consultant, John Seryak, this week shared manufacturing concerns at a PUCO [workshop](#) on combined heat and power (CHP) and the effect of standby power rates. [View](#) John's presentation (he is the third speaker). Energy efficiency and CHP will be discussed in detail at the October 24 OMA Energy Committee meeting.

09/14/2012

### New \$1.5 Billion Pipeline to Move Utica Gas to Markets

Last week three energy companies [announced plans](#) to construct a new pipeline in northern Ohio. The pipeline project will transport gas supplied from the Ohio Utica shale to markets in Ohio, Michigan and Ontario.

The system will include 250 miles of large diameter pipe and is expected to transport one billion cubic feet per day of natural gas. The project is expected to serve local distribution companies, power generators and industrial users in these markets.

### Workshop Set for Combined Heat and Power

The Public Utilities Commission of Ohio (PUCO) will conduct a [workshop](#) designed to help industrial boiler operators learn how combined heat and power (CHP) can help them meet changing U.S. EPA Clean Air Act regulations. The "CHP & Standby Rates Workshop" is scheduled for September 13 at 9:30 a.m. and will explore barriers to entry for CHP facilities posed by standby power rates and provide a forum for discussion regarding potential regulatory and market solutions. Interested members should contact the OMA's [Ryan Augsburger](#).

09/07/2012

### September 18 Conference for Energy Info Seekers

On September 18 in Columbus, the Ohio University Voinovich School's Consortium for [Energy, Economics & the Environment will host the full-day event: Energy Choices for Ohio: Impacts of Efficiency, Technology and Carbon Management](#).

The event has attracted keynote speaker [Thomas E. Kiser](#), known as "America's Energy Coach." Ohioans will be interested to note that Kiser's firm, PSI Energy Solutions, LLC, has teamed up with Ohio based metals manufacturing company, Worthington Industries, Inc.

Registration is just \$25.

09/07/2012

### Ohio Grid Operator Talks about Regional Markets

The OMA Energy Group, developing strategies for Ohio manufacturers in the emerging Ohio market-based electric generation system, [heard](#) from Andrew Ott, Sr. Vice President, Markets, PJM Interconnection, this week. PJM is the regional transmission operator for Ohio, Pennsylvania, New Jersey, Maryland, and parts of a few other states.

As the regulator of the region's wholesale electricity market and provider of various cost-saving services, PJM's relevance to Ohio manufacturers will grow as Ohio moves to fully competitive markets for generation. PJM and the OMA Energy Group plan regular meetings to exchange information.

09/07/2012

### **Cleveland Facing Power Constraints and Costs**

Steve Herling, Vice President, Planning, for PJM Interconnection [described](#) to the OMA Energy Group the significant transmission constraints facing the greater Cleveland region. The constraints will require some combination of costly investments in new transmission lines and new generation.

If you have operations in the region, you'll want to pay attention to this issue. Contact [Ryan Augsburger](#) to become engaged in it.

09/07/2012

### **Duke Follows Seeks Increased Cost Recovery for Capacity**

Following the PUCO's recent decision granting AEP-Ohio capacity prices above market rates, Duke [filed an application](#) to establish a deferral for the difference between its costs and the market price for capacity. Duke seeks approval of a new tariff ("Rider Deferred Recovery") which will enable it to collect the deferred costs. This is what the PUCO just authorized AEP-Ohio to do.

Specifically, Duke requests to defer more than \$258 per year for the next three years. The OMA will contest the application in a filing before the PUCO. Join the [OMA Energy Group](#) to impact utility rate design.

09/07/2012

### **OU Builds Oil & Gas Supply Chain Database – How to Enter Your Company**

The Ohio University Voinovich School's Consortium for Energy, Economics & the Environment (CE3) is currently developing the

Shale Energy Supply Chain Database which will identify current and potential regional shale energy companies and promote their unique capabilities. The project utilizes a Geographic Information System (GIS) to visually represent and [map](#) supply chain opportunities for buyers and suppliers in the shale energy industry.

According to Scott Miller, Director of Energy and Environmental Programs at the Voinovich School, "By completing the supply chain [survey](#), your business can increase its chance for business- to- business connectivity and growth." For more information contact [Scott](#) at (740) 593-0827.

08/24/2012

### **FirstEnergy's Costs for Alternative Energy Questioned**

Last week, an external auditor filed a report with the PUCO finding that FirstEnergy overcharged customers for renewable energy generation. Under Ohio law, each utility must achieve 12.5% of sales from renewable energy resources by 2025. The utilities need not comply with the requirement if the reasonably expected cost of that compliance exceeds, by 3% or more, its reasonably expected cost of otherwise producing or acquiring the requisite electricity.

The audits of FirstEnergy's process of acquiring renewable energy credits (RECs) to achieve its goals found that, while FirstEnergy technically complied with Ohio law, FirstEnergy paid "unreasonably high prices" for RECs that it purchased in comparison to prices paid by other utility companies.

The expenses FirstEnergy incurred by overpaying for its RECs were passed on to customers through the alternative energy resource rider (Rider AER), in addition to interest payments. Accordingly, the audit reports recommend that the PUCO consider not allowing FirstEnergy to pass on the excessive costs to customers. The [OMA Energy Group](#) is monitoring this case.

08/24/2012

### **And What Did AEP Think of the PUCO's Order?**

In its [statement](#) about the August 8 Public Utilities Commission of Ohio (PUCO) order on AEP-Ohio's Electric Security Plan (ESP), AEP acknowledged that the decision grants many of the components necessary to address distribution reliability, economic development, and energy efficiency; however, the company reported key issues remain unresolved.

Chief among them is that the PUCO did not rule on the company's proposal to corporately separate its generation and wires assets in Ohio.

The company "is concerned that the Commission did not decide corporate separation, but ordered AEP Ohio to double the competitive auction amount in 2013 and significantly advance the timing of subsequent auctions (as it transitions to market). The company's proposed modified ESP also included significant additional revenues that the Commission denied."

Nicholas K. Akins, AEP president and chief executive officer: "We are disappointed that the overall value in the Commission's order falls short of the reasonable proposal the Company offered."

08/10/2012

### **AEP-Ohio Case Concludes with a Mixed Bag of Costs**

This week the Public Utilities Commission of Ohio (PUCO) issued a decision on AEP-Ohio's high profile electric security plan (ESP) that approves the ESP with modifications.

A detailed [summary](#) of the case, and related relevant cases, has been prepared by OMA energy counsel, Lisa McAlister of Bricker & Eckler LLP. She concludes: The PUCO decision has multiple moving parts and creates significant costs for future recovery. Generally, the base generation rates remain frozen, and, given that the capacity costs for shopping customers are based upon the PJM RPM auction prices, there are opportunities for customers to shop at favorable generation rates. However, the PUCO increased the nonbypassable charges that will appear on the distribution portion of customers' bills by increasing the Rate Stability Rider (RSR) and

adding immediate deferred capacity cost recovery. Additionally, the Phase In Recovery Rider (PIRR) cost recovery will begin. Also, several new cost categories have been created where AEP-Ohio is accumulating costs and carrying charges for future recovery that have not and cannot be quantified. In other words, when market costs are projected to increase, the recovery of costs currently being deferred will begin.

Among the many moving parts in the case are these provisions:

1) Customer rate increases are capped at 12% over the current rate plan bill for the entire term of the ESP. The cap is determined on an individual customer basis, not by class. Any overages will be put into a deferral bucket and dealt with in a future proceeding.

2) On AEP-Ohio's transition to market, the PUCO directs AEP-Ohio to hold an energy-only auction for 10 percent of its Standard Service Offer (SSO) load right away, for 60 percent of the SSO load for service starting on June 1, 2014 and 100 percent of its load on June 1, 2015, when pricing will be 'fully market.'

3) PUCO grants AEP-Ohio its Retail Stability Rider (RSR) but reduces the resulting target revenue level and fixes the amount to ensure that AEP-Ohio earns a return of at least 7 percent but no more than 11 percent.

OMA is in process of developing sample bill impacts of the order to demonstrate the impact on varying customer types, and we will be reporting on our findings.

08/10/2012

### **PUCO Authorizes AEP Fuel Cost Recovery**

The Public Utilities Commission of Ohio (PUCO) [authorized](#) AEP-Ohio to begin collection of fuel costs incurred from 2009 to 2011. This implements a previous PUCO action in AEP-Ohio's 2009 electric security plan (ESP).

AEP will collect the costs on a non-bypassable basis (meaning customers cannot "shop" around the charges) through the end of 2018. The new rates will take effect upon the completion of AEP-Ohio's pending ESP case.

08/03/2012

### **OMA Files for Rehearing of AEP Capacity Case**

Together with the Ohio Hospital Association (OHA), the OMA this week [asked](#) the Public Utilities Commission of Ohio (Commission) to rehear its recent decision on the AEP capacity case.

The request says: "The Commission's authorization for AEP-Ohio to defer for future recovery the difference between \$189/megawatt-day and the then-current PJM reliability pricing model ("RPM") auction price is unlawful and unreasonable and substantially harms Ohio manufacturers, hospitals and other customers. Additionally, the Commission's finding that an 11.15% return on equity was appropriate was unjust and unreasonable."

The OMA and OHA "respectfully request that the Commission grant rehearing and revoke the deferral authority granted to AEP-Ohio."

08/03/2012

### **PJM Transmission Grid to Be Improved: OMA to Monitor Cost Allocation to Industry**

High heat, wind storms, and a slow economic recovery are all revealing weaknesses in Ohio's electricity grid. The Columbus Dispatch recently [reported](#) that PJM, the regional grid operator, called on its "demand response" customers to shut down when the temperatures soared. ("Demand response" refers to an arrangement whereby an electric customer voluntarily agrees to shut down operations or reduce usage when the grid becomes strained due to high demand.)

Recent wind storms showed what mother nature can do to old transmission lines. And, due to ever-tightening EPA regulations, power plants are scheduled for shut down.

In response to these factors, PJM [announced](#) it has approved \$2 billion in upgrades to its 13-state system. The \$2 billion will go to some 130 projects to replace old equipment, install new lines, and upgrade old lines. How the cost will flow to your bill will be determined through

processes involving PJM and the Federal Energy Regulatory Commission (FERC).

The OMA Energy Group will be monitoring the process to protect manufacturers' interests. Contact [John Laughman](#) at the OMA to find out how to participate.

07/27/2012

### **\$800 Million Gas Pipeline and Processing Investment Announced**

Responding to the forecasted abundant supply of natural gas and gas liquids from the Marcellus and Utica shale formations in the region, NiSource's transmission company [announced plans](#) for \$500 million of pipeline upgrades.

Reporting on the announcement, the [Columbus Dispatch](#) interviewed University of Houston Economist Ed Hirs, who said, "(F)or the Utica formation to reach its full potential, it will need a big increase in pipeline capacity. Without adequate ways to transport the resource, the investment in gas drilling is kind of like building a Starbucks in the middle of a farm field with no roads."

[The company said on Monday](#) that it also will work with a partner on a \$300 million plan that will include a processing plant for natural-gas liquids. The plant will be built in either western Pennsylvania or eastern Ohio.

07/20/2012

### **PUCO Approves FirstEnergy Rate Plan**

The Public Utilities Commission of Ohio (PUCO) this week adopted an agreement establishing an electric security plan (ESP) for FirstEnergy. The ESP will be in effect from June 1, 2014 through May 31, 2016. The OMA, as well as a wide range of stakeholders, supported the plan.

According to the [PUCO release](#), FirstEnergy will continue to secure generation resources for its default service customers through a series of competitive bidding auctions. An independent bid manager will conduct four auctions between October 2013 and January 2015. Auctions previously scheduled to occur in October 2012 and January 2013 will now be for a three year

period and blended with subsequent auctions.

PUCO Chairman Todd A. Snitchler explained the significance of these auctions, "By blending upcoming auctions we're able to mitigate potential future market fluctuations, ensuring more favorable rates for FirstEnergy customers over the long term."

Throughout the term of the ESP, FirstEnergy's base distribution rates will remain frozen. The company will commit nearly \$3 million to support energy efficiency, economic development and job retention activities within their service territory.

07/20/2012

### **OMA Files Brief Against AEP Ohio's Generation Rate Proposal**

The OMA Energy Group filed a [brief](#) this week opposing AEP Ohio's Electric Security Plan (ESP), the generation rate case before the Public Utilities Commission of Ohio (PUCO).

The OMA Energy Group requested that the PUCO deny AEP Ohio's proposed ESP. In the alternative, the OMA Energy Group asked the commission to require AEP Ohio to charge the market price for capacity, to eliminate the "Rate Stability Rider" (RSR), and to not incorporate any deferrals.

The RSR is a nonbypassable rider that is intended to replace a portion of AEP Ohio's lost generation revenues resulting from customers shopping at "discounted" capacity pricing. The RSR is designed to collect \$284.1 million over the ESP period.

07/13/2012

### **PUCO Sets Price of AEP Ohio Capacity at \$188.88**

The PUCO issued an [order](#) in AEP Ohio's capacity case that declared that AEP Ohio will receive a cost-based price (rather than a market price) for its generation capacity and that its capacity costs are \$188.88 per megawatt day. AEP Ohio had pegged its capacity costs at \$355 per megawatt day. Market prices for capacity are \$20 per megawatt day. Capacity refers to the charge customers pay to ensure

there are adequate power plant capabilities to serve their needs.

Customers who are shopping won't feel the sting of the increase in capacity costs right away, as the PUCO also directed AEP Ohio to only charge third-party competitive suppliers the market price of \$20 and collect the remaining \$168 in a yet-to-be determined rider, a deferral. The OMA has calculated the potential costs customers will pay through this deferral to be in excess of \$700 million.

The OMA is weighing its legal options and may file an appeal through its PUCO intervention group, the OMA Energy Group. If you are concerned about your electricity rates, contact Kevin Schmidt.

07/13/2012

### **"Separating Frack from Fiction"**

OMA Connections Partner, Roetzel & Andress, recently hosted a conference about hydraulic fracturing, which continues to be a central theme to Ohio's economic development. Roetzel has compiled this [report](#) to share some of the firm's major findings and critical thinking on the issue.

07/13/2012

### **OMA Analyzes Potential Financial Impact of AEP Capacity Proposals**

Thousands of industrial and commercial customers in AEP Ohio's service territory could lose out on historic opportunities for saving hundreds of millions of dollars on their electric bills over the next three years if state regulators approve the utility's proposed cost-based price increases for electric generation capacity.

The OMA [analyzed data](#) for 15 communities in AEP Ohio's service territory and found that total "lost savings" for industrial and commercial customers in those communities over the next three years could range from \$132 million to \$492 million if any of AEP Ohio's capacity price proposals are approved by the Public Utilities Commission of Ohio (PUCO). The OMA's calculations are based on data for 22,717 non-residential "shopping" customers that had switched from AEP Ohio to a competitive supplier of electricity generation as of March 31,

2012.

“By functioning essentially as a tax on shopping, the AEP Ohio capacity price proposals would hold ‘shopping’ customers captive to higher prices over the next three years by denying them access to millions of dollars in savings presented by historic low prices for capacity – prices available to customers in all other utilities’ service territories in Ohio,” said Kevin Schmidt, the OMA’s Director of Energy Services.

The Columbus Dispatch ran a [story](#) using the OMA data for Franklin County. The Akron Beacon Journal published an [editorial](#) noting the OMA testimony on potential economic development impacts of the case.

06/29/2012

## Energy Legislation

Prepared by: The Ohio Manufacturers' Association  
Report created on September 13, 2012

- 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](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](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**; Eff. 9/9/2011  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_95](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](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](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:** 4/18/2012 - House Agriculture and Natural Resources, (First Hearing)  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_297](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:** 4/18/2012 - House Agriculture and Natural Resources, (First Hearing)  
**More Information:** [http://www.legislature.state.oh.us/res.cfm?ID=129\\_HB\\_304](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](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](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:** 4/18/2012 - House Agriculture and Natural Resources, (First Hearing)

**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_345](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](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:** 12/21/2011 - **SIGNED BY GOVERNOR**; Eff. 3/22/2012

**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_364](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_364)

**HB418**      **FRACKING MORATORIUM** (HAGAN R) To establish a moratorium until January 1, 2015, on the disposal by injection into an underground formation of brine and other waste substances associated with the exploration or development of oil and gas resources.

**Current Status:** 4/18/2012 - House Agriculture and Natural Resources, (First Hearing)

**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_418](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_418)

**HB443**      **RENEWABLE ENERGY RESOURCE** (CONDITT M) To include cogeneration technology using waste or byproduct gas from an air contaminant source as a renewable energy resource.

**Current Status:** 3/28/2012 - House Public Utilities, (Fourth Hearing)

**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_443](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_443)

**HB464**      **WELL STIMULATION REQUIREMENTS** (FOLEY M) To prohibit well stimulation unless all methane gas released as a result of the proposed stimulation of the well is captured by the owner of the well or the owner's authorized representative and to revise other requirements governing well stimulation.

**Current Status:** 4/18/2012 - House Agriculture and Natural Resources, (First

Hearing)

**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_464](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_464)

**HB528 OIL-GAS LEASES (CARNEY J, OKEY M)** To require the lessee of an oil and gas lease to provide monthly oil and gas production statements, to specify the minimum information that must be included in a monthly statement, and to establish procedures and requirements in accordance with which a lessor may conduct an audit of the lessee's records and documents related to production or post-production costs under the lease.

**Current Status:** 5/8/2012 - Referred to Committee House Agriculture and Natural Resources

**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_528](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_528)

**HB537 SAFETY STANDARDS ENFORCEMENT-OIL AND GAS DRILLING (HAGAN R)** To authorize a political subdivision to enact and enforce health and safety standards for oil and gas drilling and exploration, and to revise the setback requirements in the Oil and Gas Law.

**Current Status:** 5/8/2012 - Referred to Committee House Agriculture and Natural Resources

**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_537](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_537)

**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](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](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](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](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_97)

- HR305 OIL AND GAS EXPLORATION (DOVILLA M)** To urge the Administration of President Barack Obama to allow oil and natural gas production off the northern coast of Alaska, to grant permits for oil and natural gas exploration in the Gulf of Mexico on a timely basis, and to grant a presidential permit to allow the construction of the Keystone XL pipeline project.  
**Current Status:** 5/24/2012 - **ADOPTED BY HOUSE**; Votes 60-36  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HR\\_305](http://www.legislature.state.oh.us/bills.cfm?ID=129_HR_305)
- 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](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](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](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](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](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](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:** 3/28/2012 - Senate Energy & Public Utilities, (First Hearing)  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_SB\\_242](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:** 1/24/2012 - Referred to Committee House Public Utilities  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_SB\\_248](http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_248)

**SB289**      **COGENERATION TECHNOLOGY (COLEY W)** To include cogeneration technology using waste or byproduct gas from an air contaminant source as a renewable energy resource.

**Current Status:** 4/13/2012 - **SIGNED BY GOVERNOR**; Eff. 7/16/2012  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_SB\\_289](http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_289)

**SB296**      **OIL & GAS INDUSTRY JOB TRAINING (BALDERSON T)** To establish state funding for job training related or ancillary to the oil and gas industry and to make an appropriation.

**Current Status:** 2/14/2012 - Referred to Committee Senate Finance  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_SB\\_296](http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_296)

**SB315**      **MBR-MID-BIENNIUM REVIEW - ENERGY (JONES S)** To make changes to the energy and natural resources laws and related programs of the state.

**Current Status:** 6/11/2012 - **SIGNED BY GOVERNOR**; Eff. 9/10/2012 Other Sections Eff. 6/11/2012  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_SB\\_315](http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_315)

**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](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:** 1/18/2012 - **ADOPTED BY SENATE**; Vote 25-7  
**More Information:** [http://www.legislature.state.oh.us/res.cfm?ID=129\\_SR\\_69](http://www.legislature.state.oh.us/res.cfm?ID=129_SR_69)



## **MEMORANDUM**

**TO:** The OMA Energy Group  
**FROM:** Lisa McAlister  
**DATE:** August 10, 2012  
**RE:** **Summary of the Public Utilities Commission of Ohio's ("PUCO") Order Approving AEP-Ohio's Revised Electric Security Plan ("ESP"), Case No. 11-346-EL-SSO *et al.***

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### **I. PURPOSE**

The purpose of this memorandum is to summarize the PUCO's Opinion and Order issued on August 8, 2012, approving, with modifications, AEP-Ohio's ESP application. This memorandum also provides a summary of the lengthy history of this and related proceedings for context.

### **II. BACKGROUND**

In January 2011, AEP-Ohio filed an application for a 29-month ESP beginning on January 1, 2012, based upon a quasi-cost based default rate. A new, market-based rate settlement offer emerged in August 2011. The settlement would have resolved multiple related cases that became consolidated with the ESP. On September 7, 2011, 22 of the parties agreed to a settlement framework under which AEP-Ohio would have merged its operating companies and transitioned to full market for generation by June 1, 2015. During the transition (1/1/2012 – 6/1/2015) the rate structure would have had fixed generation rate increases and limited shopping available at the low market capacity price (21% of AEP-Ohio's load in 2012; 31% in 2013; 41% in 2014 and 100% in June 2015).

On December 14, 2011, the PUCO adopted the settlement with several significant modifications. However, on January 23, 2012, the PUCO issued an Entry that modified the shopping allowances (originally set at 21% of AEP's load for 2012) by allowing any municipal aggregation program approved in November 2011 or earlier to exist outside of the shopping caps. Additionally, industrial customers who are located within a community that approved an aggregation program could opt-into the aggregation programs and be outside of the shopping cap. Preliminary estimates pegged the potential increase in the shopping cap at 20% (or a combined 41% if all municipal programs and customers exercise their right to aggregate).

On February 23, 2012, the PUCO issued a unanimous Entry on Rehearing that reversed its initial Order and rejected the ESP stipulation in its entirety. The ESP settlement rejection had the effect of splitting apart the consolidated cases and restarting them where they left off prior to the ESP settlement. Additionally, the PUCO directed AEP-

Ohio to file new tariffs by February 28, 2012, that reset the rates back to those that were in effect in 2011 with several exceptions.

On February 27, 2012, AEP-Ohio filed a Motion for Relief and Expedited Ruling. In the Motion, AEP-Ohio stated that if the PUCO's Entry on Rehearing stands without modification, it would have a significant financial impact on AEP-Ohio. AEP-Ohio requested interim relief that maintained the two-tiered capacity pricing that limited the pool of customers eligible for PJM reliability pricing model ("RPM") capacity to 21% of AEP-Ohio's total load that shopped prior to September 7, 2011. All other shopping customers would receive capacity at \$255/Megawatt-day ("MW-D").

On March 7, 2012, the PUCO approved AEP-Ohio's tariffs that reverted standard service offer ("SSO") rates for non-shopping customers back to the rates, terms and conditions that were in effect prior to the rejection of the ESP settlement. Additionally, the PUCO granted AEP-Ohio the interim relief it requested (maintaining the two-tiered capacity cost structure) until the PUCO issued a substantive order on the capacity cost case.

On March 30, 2012, AEP-Ohio filed its revised ESP proposal ("Revised ESP") and supporting testimony. The Revised ESP is described below.

#### **A. Summary of the Revised ESP as filed by AEP-Ohio**

AEP-Ohio's Revised ESP would begin upon PUCO approval (estimated late summer 2012) and end on June 1, 2015. Under the plan, there would be no base generation rate increases but AEP-Ohio created a host of new, nonbypassable charges and limited shopping, among other things. The specific components of the Revised ESP are outlined below.

##### **1. SSO Generation Rates**

**Non-Fuel Generation Rates:** AEP-Ohio proposed to freeze the non-fuel portion of the generation rates through 2014 and the Environmental Investment Carrying Charge Rider ("EICCR") would be bundled into the base generation rates.

**FAC:** The Fuel Adjustment Clause ("FAC") rider would continue but would separate out the renewable energy credits ("RECs") for renewable fuel and recover those costs through a new Alternative Energy Rider ("AER"). Further, bundled purchased power products would be divided into the REC and non-REC components. The REC component would be recovered through the AER and the non-REC component would be recovered through the FAC.

AEP-Ohio proposed to combine the FAC for the operating companies into one FAC as of June 1, 2013. Combining the FAC would raise the fuel cost for OP customers and lower it for CSP customers. However, AEP-Ohio was also seeking to delay the implementation of the Phase In Recovery Rider ("PIRR") to recover the costs of deferred fuel from 2009-2011 until June 1, 2012, and recover the PIRR as one rate for OP and CSP, which would lower the cost for OP

customers and raise the rate for CSP customers. Together, the combination of these two riders is almost a wash for both companies.

**Generation Resource Rider:** The Generation Resource Rider (“GRR”), is a nonbypassable placeholder to recover the costs of renewable and alternative capacity additions approved by the PUCO. The Turning Point solar project will be the first capacity resource recovered under the GRR if approved. First, the PUCO would have to determine that the project is needed and, second, the PUCO would have to approve the level of the cost recovery and authorize AEP-Ohio to begin its collection.

**Interruptible Service Rates:** AEP-Ohio would continue the interruptible service but not as a rate schedule – it would be a rider (Rider IRP-D) that provides a credit to offset firm service rates. The IRP-D credit would be the base generation rate demand charge discount adjusted upward for the roll-in of the EICCR. However, if the Retail Stability Rider (“RSR”, discussed below) was approved, AEP-Ohio would increase the credit to \$8.21 per KW-month. The difference would be recovered through the RSR.

Additionally, AEP-Ohio would modify its other interruptible service offerings by permitting customers to participate in PJM demand response programs. AEP-Ohio would eliminate the Rider Emergency Curtailable Service (“ECS”) and Rider Price Curtailable Service (“PCS”) from Case Nos. 10-343-EL-ATA and 10-344-EL-ATA. However, customers with reasonable arrangements that provide a demand response incentive and whose demand response clears in the PJM auction must commit the demand response to AEP-Ohio at no extra cost.

**Capacity Costs:** As discussed below, AEP-Ohio had a separate case before the PUCO (Case No. 10-2929-EL-UNC) where it requested a \$355/MW-D capacity rate for all shopping customers. However, AEP-Ohio proposed in its Revised ESP proposal that if the total Revised ESP package and the corporate separation case are adopted without modification, AEP-Ohio would implement a two-tiered capacity cost approach (even if it was successful in obtaining authorization for a \$355/MW-D capacity charge in the 10-2929 case). Under the Revised ESP proposal, the capacity pricing would be:

<b>Period</b>	<b>Tier 1</b>	<b>Rate</b>	<b>Tier 2</b>	<b>Rate</b>
2012	21% of all load by customer class <i>PLUS</i> all governmental aggregation customers	\$146/MW-D	All others	\$255/MW-D
2013	31% of all load by customer class <i>including all NON-</i>	\$146/MW-D	All others	\$255/MW-D

	<i>MERCANTILE</i> governmental aggregation customers			
2014- May 31, 2015	41% of all load by customer class <i>including all NON- MERCANTILE</i> governmental aggregation customers	\$146/MW-D	All others	\$255/MW-D

Under this proposal, a queuing process would still be required, based upon a first-come, first-served process controlled by AEP-Ohio.

AEP-Ohio offered an alternative proposal whereby competitive retail electric service (“CRES”) providers are charged \$355/MW-D for all shopping customers. Under this alternative, AEP-Ohio would not request any base generation rate increase for SSO customers, would not request the RSR, and would provide a “meaningful” shopping credit.

**Retail Stability Rider (“RSR”):** The RSR is a nonbypassable rider that is intended to stabilize AEP-Ohio’s earnings by replacing a portion of AEP-Ohio’s lost generation revenues resulting from customers shopping at “discounted” capacity pricing. The rider is designed to collect \$284.1 million over the ESP period. However, the rider amount will fluctuate and may increase or decrease depending on a number of other factors, like the price that AEP-Ohio is permitted to recover for its capacity costs. The RSR will be first allocated to customer classes based upon the class average contribution to peak and then on a kWh basis. This results in the following rates:

Residential	Commercial (GS-1)	GS-2, GS-3 and GS-4
\$0.0026578/kWh	\$0.001707/kWh	\$0.0016948/kWh

**Transition to Market:** AEP-Ohio plans to be fully separated into a wires company and spin off its generating assets by June 1, 2015. If AEP-Ohio’s Interconnection Agreement (aka the “AEP Pool”) can be terminated and its corporate separation plan is approved early, AEP-Ohio will conduct an auction for 100% of its SSO load for service beginning on January 1, 2015. AEP-Ohio also stated that it is willing to conduct an energy-only auction for 5% of its SSO load before January 2015 on the express condition that it is made whole. The energy-only auction could be for service beginning six months after the PUCO approves its ESP and corporate separation case without modification through December 2014.

**Corporate Separation:** AEP-Ohio filed a separate application in Case No. 12-1126-EL-UNC to spin off its generating assets at net book value. AEP-Ohio made clear that two of its units will be transferred to affiliated distribution companies who will put them in rate base, rather than bid them into the PJM RPM market.

Also, AEP-Ohio will dissolve the AEP East Pooling Agreement with an estimated date of January 1, 2015. If the costs to AEP-Ohio of the AEP pool exceed \$35 million, AEP-Ohio would have a pool termination rider that would recover 100% of the costs.

## **2. Transmission Rates**

AEP-Ohio proposed to unify the OP and CSP transmission cost recovery rider ("TCRR") but otherwise maintain it as is.

## **3. Distribution Rates**

**Distribution Investment Rider ("DIR"):** This rider was intended to provide capital funding for distribution assets for increased capacity and continued implementation of advanced technologies. The amount of revenue the DIR would be scheduled to collect is \$86 million in 2012; \$104 million in 2013; \$124 million in 2014; and \$51.7 million in 2015 (1/2 year). It would expire on June 1, 2015.

**Phase In Recovery Rider ("PIRR"):** As noted above, AEP-Ohio would defer recovery of the PIRR until June 1, 2013 with the end date remaining as of December 31, 2018, while continuing to accrue a weighted average cost of capital carrying charge during the continued deferral period (from now until May 31, 2013).

**GridSmart, Energy Efficiency/Peak Demand Reduction Rider, Economic Development Rider and Enhanced Service Reliability Riders:** These rider rates would be unified but otherwise remain the same.

## **4. Rate design**

In order to avoid the pitfalls of the prior ESP settlement, AEP-Ohio would maintain the current rate structure with only the minor modifications to the IRP described above. Also, there would be neither a load factor provision nor a market transition rider. However, AEP-Ohio indicated that it may need to examine and modify the rate design prior to going to a competitive bidding process for SSO load in 2015.

## **5. Tariff, Terms and Conditions of Service**

AEP-Ohio would add customers' peak load contribution ("PLC") and network service peak load ("NSPL") to the Master Customer List provided to CRES providers. They would eliminate the 90-day notice requirement to shop. On January 1, 2015, AEP-Ohio would eliminate the 12-month stay for customers who shop and return to SSO service.

## **6. Other**

Customers who shop and return to AEP-Ohio would pay the SSO rate, rather than a market rate.

### **B. Summary of AEP-Ohio's Cost of Capacity Case (Case No. 10-2929-EL-UNC)**

As noted above, this case was consolidated with the AEP ESP case until the PUCO rejected the ESP settlement, at which time this case proceeded on its own. The purpose of this case was to establish the price that CRES providers must pay AEP-Ohio for using its capacity to serve shopping customers by establishing a state compensation mechanism for AEP-Ohio. AEP-Ohio requested permission from the PUCO to charge CRES providers AEP-Ohio's fully embedded cost of capacity at \$355/MW-D for all shopping customers, which is significantly higher than the PJM RPM price for capacity that otherwise would apply.

As discussed above, until the PUCO issued a substantive decision on the capacity cost compensation mechanism, the PUCO approved AEP-Ohio's requested two-tier capacity pricing scheme. In other words, the first 21% of each customer class (residential, commercial and industrial) that shopped on or before September 7, 2011, was entitled to receive capacity at \$146/MW-D, while all other shopping customers were required to pay \$255/MW-D. By comparison, the PJM RPM auction price, which bottomed out this PJM planning year, is \$20/MW-D.

On July 2, 2012, the PUCO issued an order on the merits of AEP-Ohio's request to charge shopping customers its fully embedded cost of generating capacity. The PUCO struck a middle ground between the positions of AEP-Ohio and its customers and CRES providers by holding that AEP-Ohio's costs of generating capacity are not as high as what AEP-Ohio stated and are actually \$188.88/MW-D. The PUCO found that the state compensation mechanism should be cost based and, thus, AEP-Ohio is entitled to recover its costs of capacity at \$188.888. However, in order to stabilize the market and encourage shopping, the PUCO found that AEP-Ohio is permitted to charge competitive suppliers only the PJM RPM price, which is currently \$20/MW-D. The PUCO authorized AEP-Ohio to defer the difference between the \$188.88/MW-D and the PJM RPM price plus carrying costs for future recovery. This total deferred amount is dependent on the number of customers who shop, or switch to a CRES provider. The PUCO indicated that the deferral would be addressed in AEP-Ohio's ESP case. PUCO Chairman Snitchler said that permitting AEP-Ohio to recover the difference would help stabilize

the market and AEP-Ohio's transition to market. The new capacity charge will take effect on August 8, 2012.

Commissioners Porter and Slaby issued a separate, concurring opinion. Commissioner Roberto issued a partial dissent. She stated that she agrees with the \$188.88/MW-D and permitting AEP-Ohio to charge only the auction-based prices. However, she disagreed with the deferral of the difference and believes that deferring costs "is an unnecessary, ineffective, and costly intervention into the market that [she] cannot support."

### III. SUMMARY OF THE PUCO ORDER ON AEP-OHIO'S REVISED ESP

On August 8, 2012, the PUCO issued its order on AEP-Ohio's Revised ESP approving the plan with modifications.

#### 1. SSO Generation Rates

**Non-Fuel Generation Rates:** The PUCO approved AEP-Ohio proposal to freeze the non-fuel portion of the generation rates. However, as several parties identified that there may be a disproportional rate impact on some customers as a result of class rates being set by auction, the PUCO directed the attorney examiners (administrative law judges) to open a new docket to consider means to mitigate any potential adverse rate impacts for customers upon rates being set by auction. The PUCO also reserved the right to change the base generation rate design any time during the ESP, on a revenue neutral basis.

**FAC:** The PUCO approved AEP-Ohio's proposal to maintain the FAC. However, the PUCO rejected AEP-Ohio's proposal to merge the FAC into one FAC and directed AEP-Ohio to maintain two separate FACs by rate zone. The PUCO also approved AEP-Ohio's proposal to separate out the RECs for renewable fuel and recover those costs through a new AER.

**Generation Resource Rider:** The Commission approved the GRR that will serve as a nonbypassable placeholder to recover the costs of the Turning Point solar project. The PUCO rejected arguments that it must determine need for the project in this case. There is a separate case pending before the PUCO on need for the project. Additionally, the PUCO noted that the GRR is set at zero and in order to begin recovering costs through this rider, AEP-Ohio must seek PUCO permission through yet another case.

**Interruptible Service Rates:** The PUCO adopted AEP-Ohio's proposal to continue interruptible service as a rider (Rider IRP-D) that provides a credit to offset firm service rates. Further, the PUCO held that the credit amount should be \$8.21/kW-month and that it should not be tied to the RSS. The PUCO found that Staff's proposal to reduce the credit to \$3.34/kW-month understated the value that interruptible service provides to AEP-Ohio and its customers.

**Capacity Costs:** As noted above, the PUCO held in the capacity cost case that AEP-Ohio's fully embedded capacity costs are \$189/MW-D but AEP-Ohio may only recover the PJM RPM price from CRES providers for shopping customers. However, AEP-Ohio was authorized to defer the difference for future recovery. Accordingly, in this case, the PUCO held that AEP-Ohio's two-tiered capacity cost approach was moot.

The PUCO did address the deferral of the delta between AEP-Ohio's fully embedded cost of capacity at \$189/MW-D and the PJM RPM cost that it is permitted to recover from CRES providers for shopping customers in this Order. As the deferral amount is necessarily based upon actual customer shopping, the full amount of the deferral will not be known until the end of the ESP period (May 31, 2015).

Nonetheless, the PUCO held that AEP-Ohio should begin recovering the deferral through the RSR immediately. The PUCO directed AEP-Ohio to begin recovering the deferral through the RSR at a recovery amount of \$1.00/MWh for the term of the ESP.

In the meantime, AEP-Ohio should file its actual monthly shopping statistics in this docket. At the conclusion of the ESP term (May 31, 2015), the PUCO will determine the deferral amount and make adjustments based upon AEP-Ohio's actual shopping statistics. If there is still a balance on May 31, 2015, it will be amortized and recovered over three years.

**Retail Stability Rider ("RSR"):** The PUCO made several modifications to the RSR and approved it. Ultimately, the PUCO's changes lock in the RSR total amount for recovery, but increase it from AEP-Ohio's proposed amount (which was subject to fluctuation). AEP-Ohio's proposed amount would have recovered \$284.1 million over the three year term. The PUCO's Order increases the amount to \$508 million over the same term.

First, the PUCO held that the RSR is statutorily justified under the ESP statute that permits an ESP to include terms, conditions or charges that have the effect of stabilizing retail electric service or provide certainty regarding retail electric service. In other words, the PUCO agreed with AEP-Ohio that having the RSR allows AEP-Ohio to freeze base generation rates and allows customers to shop for generation. The PUCO said that it understands that the nonbypassable charge will result in additional costs to customers but the effects are mitigated by the stabilization of non-fuel base generation rates and the promise that AEP-Ohio will base SSO prices on auction results in less than three years.

Second, the PUCO found that the RSR should not serve as a decoupling mechanism. Thus, the RSR target amount will be static.

Third, the PUCO held that it is not appropriate to provide a guaranteed return to AEP-Ohio. Rather, it is more appropriate to establish a revenue target that will allow AEP-Ohio the opportunity to earn a reasonable rate of return between 7% and 11%. The PUCO found that a total revenue target of \$826 million, rather than AEP-Ohio's

proposed target of \$929 million, more appropriately reflected the opportunity to earn a reasonable rate of return.

Finally, the PUCO also found that AEP-Ohio's shopping estimates, upon which the RSR was based, were too high. The PUCO reduced the shopping estimates to 52% in 2012, 62% in 2013 and 72% in 2015.

When the shopping assumptions and the revenue target are modified, the effect is to actually increase the RSR amount as follows:

	Planning Year 2012/13		Planning Year 2013/14		Planning Year 2014/15		AEP Total	PUCO Total
	AEP	PUCO	AEP	PUCO	AEP	PUCO	AEP	PUCO
<b>Retail Non-Fuel Generation Revenues</b>	\$403	\$528	\$310	\$419	\$182	\$308	\$895	\$1,255
<b>CRES Capacity Revenues</b>	\$391	\$32	\$413	\$65	\$400	\$344	\$1,204	\$441
<b>Credit for Shopped Load</b>	\$91	\$75	\$103	\$89	\$120	\$104	\$314	\$268
<b>Subtotal</b>	\$885	\$636	\$826	\$574	\$792	\$757	\$2,503	\$1,967
<b>Revenue Target</b>	\$929	\$826	\$929	\$826	\$929	\$826		
<b>Retail Stability Rider Amount</b>	\$44	\$189	\$103	\$251	\$137	\$68	\$284	\$508

The PUCO directed AEP-Ohio to begin recovering an RSR amount of \$2.50/MWh through May 31, 2014 and \$3.00/MWh between June 1, 2014 and May 31, 2015.

Given that the capacity deferral amount is also to be recovered through the RSR immediately, the total RSR amount is \$3.50/MWh through May 31, 2014 and \$4.00/MWh from June 1, 2014 through May 31, 2015.

The PUCO directed the RSR to be collected as a nonbypassable rider to recover charges per kWh by customer class. Thus, this rider will not be avoided by any customers, shopping, under a reasonable arrangement or otherwise.

**Transition to Market:** As the first step in AEP-Ohio's transition to market, AEP-Ohio proposed to conduct an energy-only auction for 5% of its SSO load before January 2015 on the express condition that it is made whole. The PUCO directed AEP-Ohio to conduct an energy-only auction for 10% of its SSO load with service to commence 6 months after the PUCO approves AEP-Ohio's corporate separation plan. Also, the PUCO directed AEP-Ohio to hold an energy-only auction for 60% of its SSO load for service beginning on June 1, 2014, and 100% beginning on January 1, 2015. AEP-Ohio will then price the energy and capacity for 100% of its SSO load beginning on June 1, 2015. AEP-Ohio or any of its affiliates may bid into any of the auctions.

**Pool Termination Rider:** The PUCO approved AEP-Ohio's proposal to create a placeholder rider that could ultimately be used to recover any costs associated with the termination of the AEP East Pooling Agreement. If and when AEP-Ohio seeks to recover any costs, there will be a separate case where AEP-Ohio must demonstrate that the costs were prudent and reasonable and benefitted Ohio customers.

**Corporate Separation:** The PUCO did not approve AEP-Ohio's corporate separation plan in this case as AEP-Ohio filed a separate application in Case No. 12-1126-EL-UNC to spin off its generating assets at net book value. However, the PUCO noted that the primary issue to be considered in this case is how the divestiture of the generation assets and the agreement between AEP-Ohio and the newly proposed generation company ("GenCo") will impact SSO rates. The PUCO noted that although AEP-Ohio proposed to enter into a contract with GenCo for GenCo to provide AEP-Ohio with capacity at \$255/MW-D, AEP-Ohio will not receive any more than the state compensation capacity charge of \$189/MW-D from Ohio customers during the term of the ESP. Although Staff raised concern with the implementation of corporate separation whereby AEP-Ohio does not transfer all debt and intercompany notes to GenCo, the PUCO still approved AEP-Ohio's requests to retain the pollution control bonds contingent on a filing with the PUCO demonstrating that AEP-Ohio ratepayers have not and will not incur any costs associated with the cost of servicing the associated debt. Additionally, the PUCO holds that, once corporate separation is effective, it is appropriate for most revenues to pass-through AEP-Ohio to the GenCo. Thus, the PUCO essentially approved the corporate separation plan but said it will review any remaining issues in the corporate separation case.

## **2. Transmission Rates**

The PUCO approved AEP-Ohio's proposal to unify the OP and CSP TCRR.

## **3. Distribution Rates**

**Distribution Investment Rider ("DIR"):** The PUCO approved AEP-Ohio's DIR as proposed with two modifications. First, the DIR may not include any gridSmart costs, which must be separate and apart from DIR projects. Second, the PUCO directed AEP-Ohio to reduce the amount of the DIR to account for accumulated deferred income taxes ("ADIT"), as it is not appropriate to establish the DIR rate mechanism in a manner that provides AEP-Ohio with the benefit of ratepayer supplied funds. AEP-Ohio is directed to work with PUCO Staff to develop a plan to focus spending on where it will have the greatest impact on maintaining and improving reliability for customers. AEP-Ohio must file a separate plan by December 1, 2012.

**Phase In Recovery Rider ("PIRR"):** As delaying the recovery of the PIRR until June 1, 2013 with the end date remaining as of December 31, 2018, while continuing to accrue a weighted average cost of capital carrying charge during the continued deferral period (from now until May 31, 2013), would have the effect of increasing the amount

due by \$40-\$70 million, the PUCO directs AEP-Ohio to begin recovering the PIRR, by separate rate zone, immediately. Also, the PUCO directs AEP-Ohio to securitize the balance to reduce the total amount as quickly as possible.

**GridSmart, Energy Efficiency/Peak Demand Reduction Rider, Economic Development Rider and Enhanced Service Reliability Riders:** The PUCO approved AEP-Ohio's proposal to move forward with phase 2 of the gridSmart project by filing a new application. However, only the integrated voltage variation control ("IVVC") costs shall be recovered through the DIR rider. Any other costs will need to be recovered through a new rider on an "as spent" basis.

The PUCO also approved AEP-Ohio's proposed merger of the rate zones and the continuation of the Enhanced Service Reliability Rider ("ESSR") through the term of the ESP over Staff's recommendation to end the ESSR in 2014.

The PUCO approved the merger of the rate zones and the continuation of the Energy Efficiency/Peak Demand Reduction Rider ("EE/PDR"). As noted above, the IRP-D credit will be collected through the EE/PDR rider.

Finally, the PUCO rejected OCC's request to change the Economic Development Rider ("EDR") to shift costs away from residential customers. The PUCO approved the merger of the rate zones and continuation of the EDR as a nonbypassable rider.

Finally, the PUCO directed AEP-Ohio to reinstate the Ohio Growth Fund with shareholder dollars at \$2 million per year for economic development projects, to attract new investment and improve job growth in Ohio.

**Storm Damage Recovery Mechanism:** AEP-Ohio sought to recover \$5 million per year for incremental storm damage recovery. However, AEP-Ohio did not demonstrate how recovery of the deferred asset would work or when it would occur. Thus, the PUCO authorized AEP-Ohio to begin deferral of any incremental distribution expenses above or below \$5 million per year so long as AEP-Ohio maintains a detailed accounting of all storm expenses within its storm deferral account and provide the information annually for Staff to audit. If AEP-Ohio experiences unexpected, large scale storms, AEP-Ohio must file a new case by December of the same year for incremental costs.

#### **4. Tariff, Terms and Conditions of Service**

The PUCO directed AEP-Ohio to develop an electronic system to provide CRES providers access to pertinent customer data including, but not limited to, customers' peak load contribution ("PLC") and network service peak load ("NSPL"), no later than May 31, 2014. AEP-Ohio had committed to eliminating the 90-day notice requirement to shop. The PUCO did not address this issue, thus, it is unclear whether the 90-day notice remains.

## **5. Significantly Excessive Earnings Test (“SEET”)**

The PUCO established a SEET threshold of 12% for AEP-Ohio.

## **6. Customer Rate Impact Cap**

In order to mitigate any customer rate changes, the PUCO instituted a cap on customer rate increases at 12 percent over the current ESP rates for the entire term of the ESP. The cap is to be determined not by overall customer rate classes, but on an individual customer by customer basis. The cap does not include any changes that arise as a result of past proceedings, including the distribution rate case that recently went into effect, the PIRR, or subsequent proceedings (like the Pool Termination Rider). Any amounts that exceed the 12% cap should be deferred for future recovery. AEP-Ohio must file a detailed accounting of its deferral impact created by the 12% cap on May 31, 2013, at which time the PUCO will determine whether to adjust the 12% cap.

## **7. Outstanding FERC Requests**

The PUCO noted that AEP-Ohio still has several requests for the Federal Energy Regulatory Commission (“FERC”) to take action on its capacity cost case. The PUCO stated that, in the event that FERC takes action that significantly alters the balance of this Order, the PUCO will make appropriate adjustments as necessary.

## **8. Is the ESP more favorable in the aggregate than the expected results of an MRO?**

In order for the PUCO to approve an ESP, it must be more favorable in the aggregate than the expected results of a market rate offer (“MRO”, or an auction process). AEP-Ohio argued that the greatest financial benefit of the proposed ESP was the “discount” on capacity from AEP-Ohio’s claimed cost of \$355/MW-D to its two-tiered approach of \$255 or \$146/MW-D. Nearly all parties argued that the “benefit” was illusory at best and that the MRO was more favorable by far when the “discount” is removed. The PUCO held that on quantifiable price alone, when substituting \$189/MW-D for either AEP-Ohio’s claimed “discount” or other parties’ PJM RPM price for capacity, the ESP is more favorable than the MRO by \$9.8 million over from June 1, 2013 through June 1, 2015. However, when the GRR and the RSR are added to the ESP, the ESP is less favorable than the MRO by \$386 million.

In spite of this nearly \$400 million deficit, the PUCO holds that there are non-quantifiable benefits of the ESP, specifically, going to market faster than an MRO would allow, that make the ESP more favorable in the aggregate than the MRO.

## **9. Roberto's dissent**

Commissioner Roberto issued a lone dissent that simply said that the non-quantifiable benefits cannot overcome a \$386 million deficit and, thus, she does not believe that the ESP is more favorable in the aggregate than the expected results of an MRO.

## **IV. CONCLUSION**

The Commission's decision has multiple moving parts and creates significant costs for future recovery. Generally, the base generation rates remain frozen, and, given that the capacity costs for shopping customers are based upon the PJM RPM auction prices, there are opportunities for customers to shop at favorable generation rates. However, the PUCO increased the nonbypassable charges that will appear on the distribution portion of customers' bills by increasing the RSR and adding immediate deferred capacity cost recovery. Additionally, the PIRR cost recovery will begin. Also, several new cost categories have been created where AEP-Ohio is accumulating costs and carrying charges for future recovery that have not and cannot be quantified. In other words, when market costs are projected to increase, the recovery of costs currently being deferred will begin.

We are in process of developing sample bill impacts to demonstrate the impact for varying customer types of the Order and will provide them as quickly as possible.

In the meantime, please do not hesitate to contact us if you have any questions regarding this matter. Thank you.

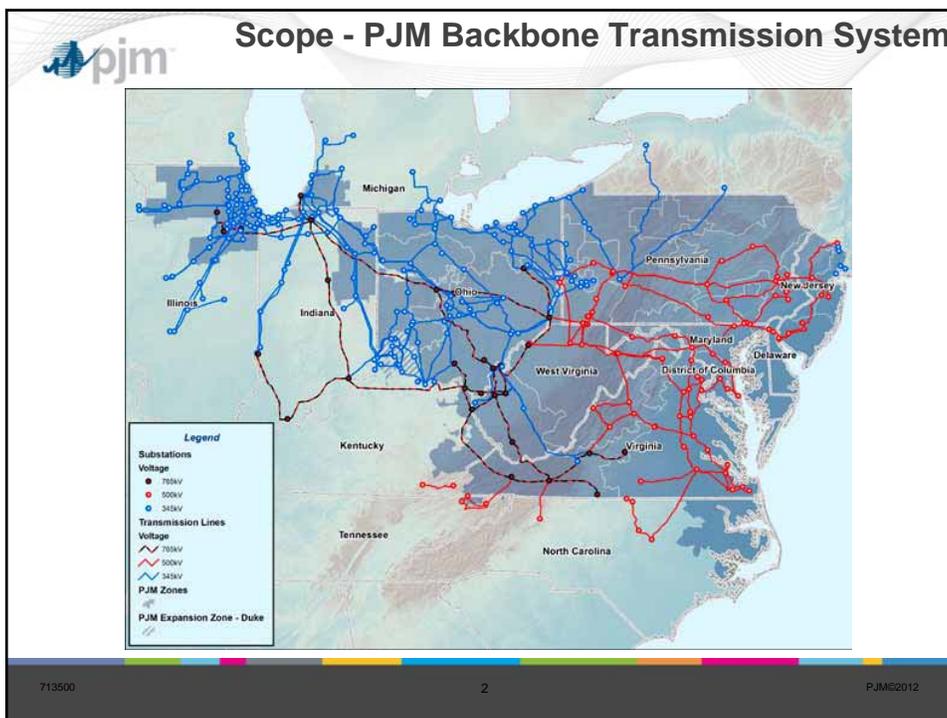


# An Introduction to PJM: Focus on Markets, Planning, and Their Implications for Ohio *for* The Ohio Manufacturers' Association

## PJM Regional Transmission Expansion Plan (RTEP) Overview

Steve Herling  
Vice President, Planning  
PJM Interconnection  
September 5, 2012

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**pjm** RTEP Process Characteristics

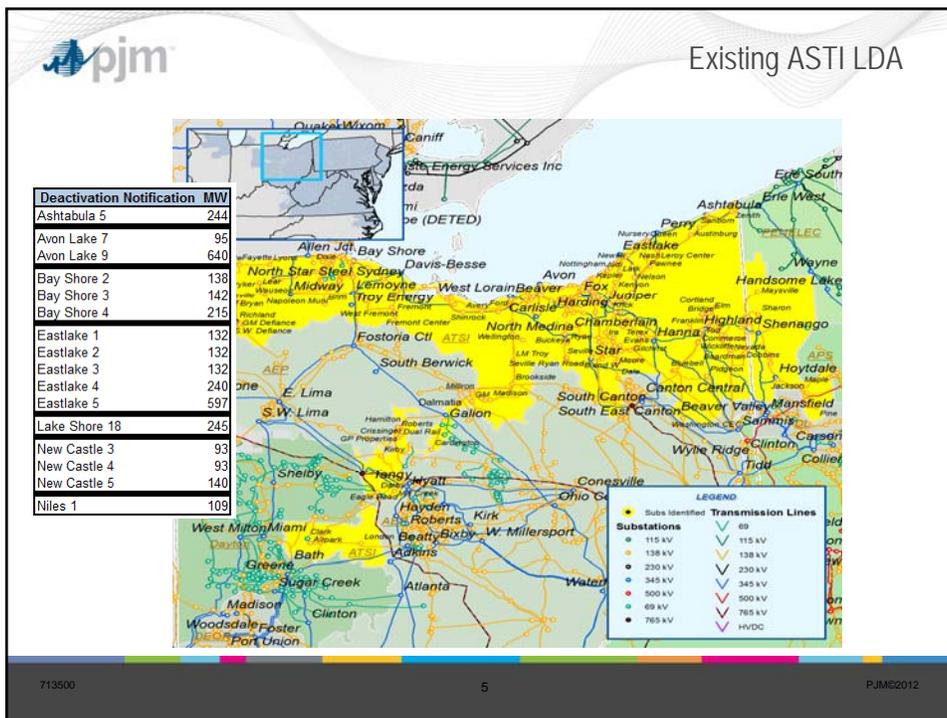
- ❖ Ongoing and cyclical
- ❖ Collaborative
- ❖ 15 year planning horizon
- ❖ NERC, RFC, PJM compliance
- ❖ Comprehensive and Holistic
- ❖ FERC-approved

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## LDA Evaluation – Cleveland Area

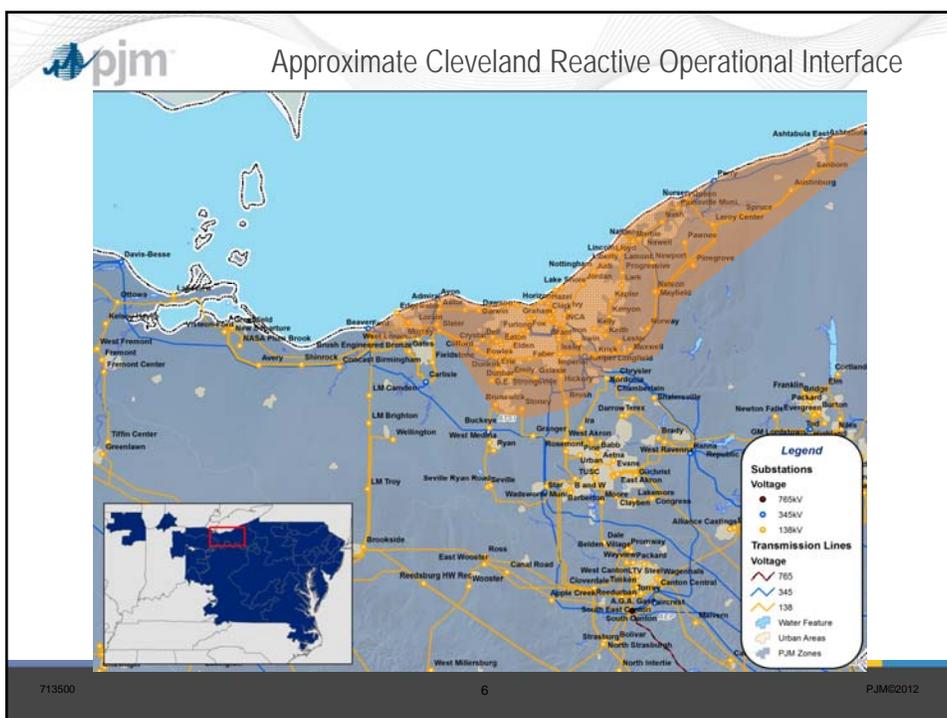
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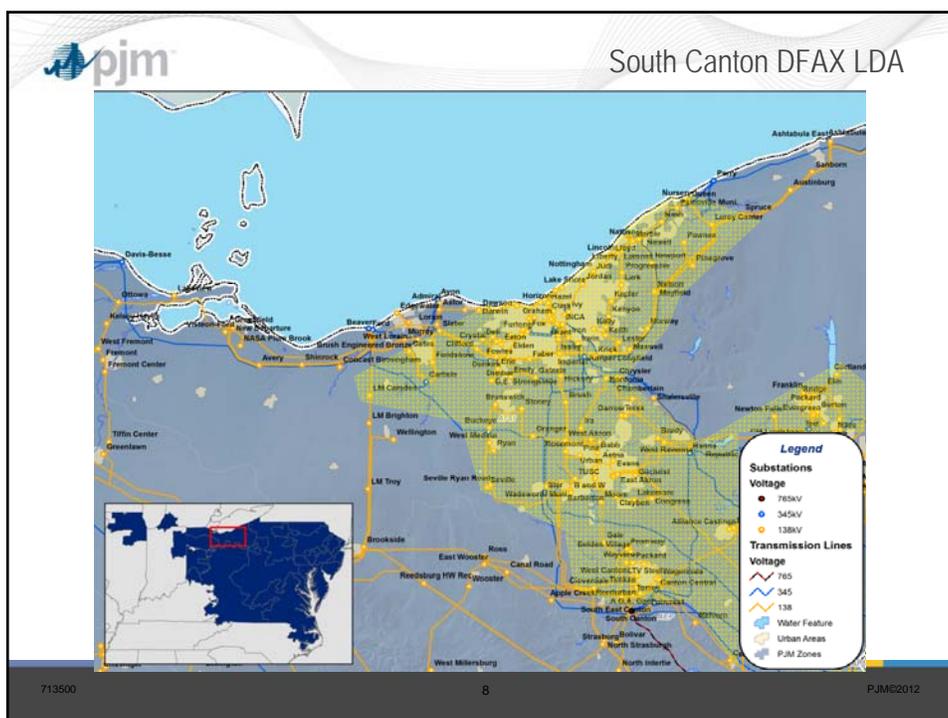
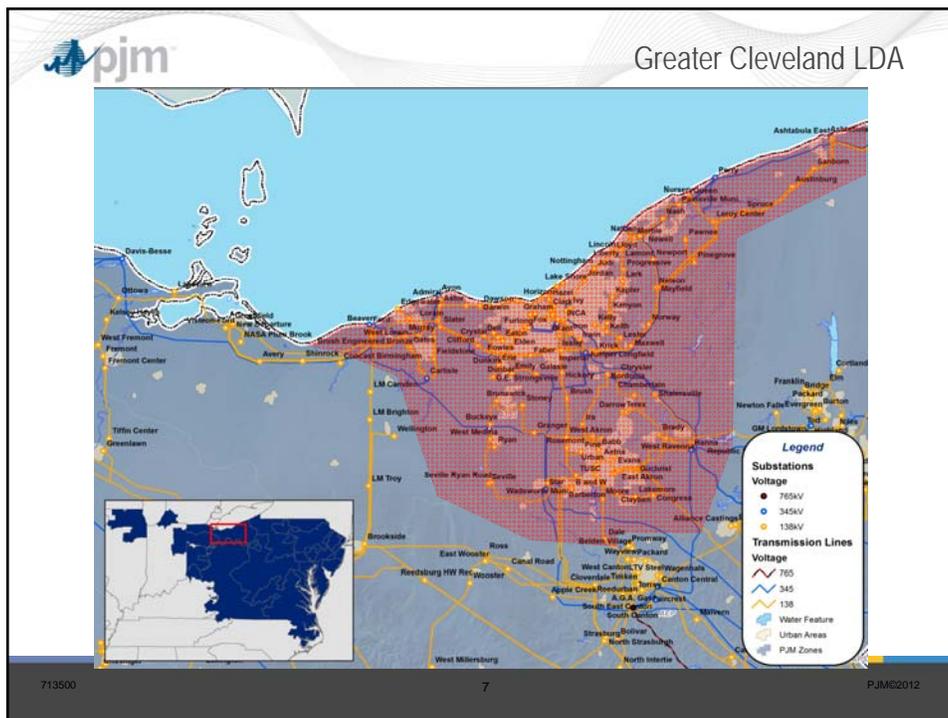
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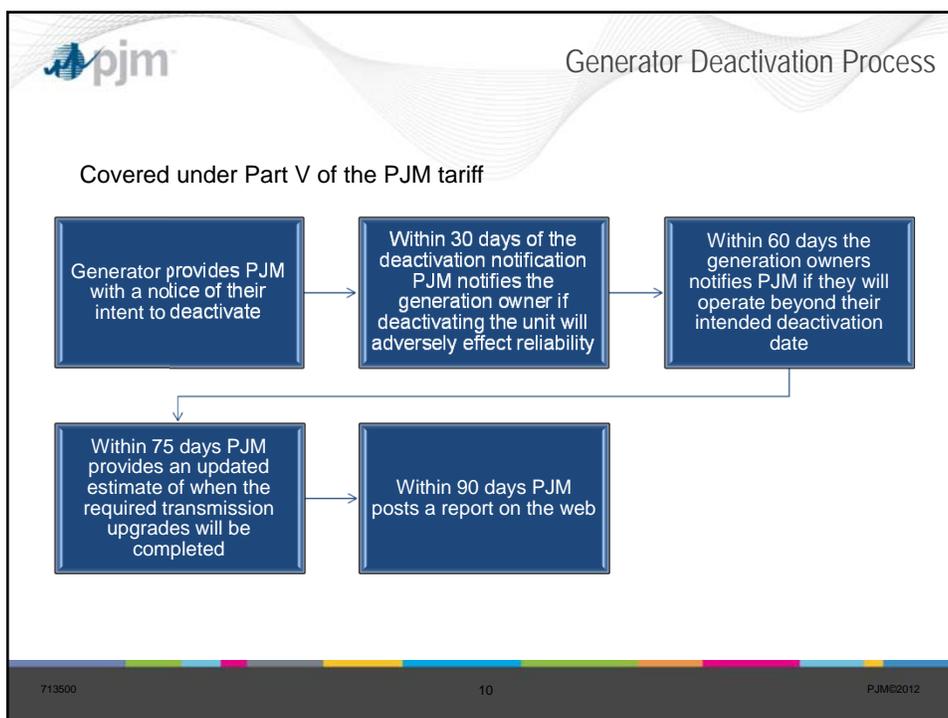
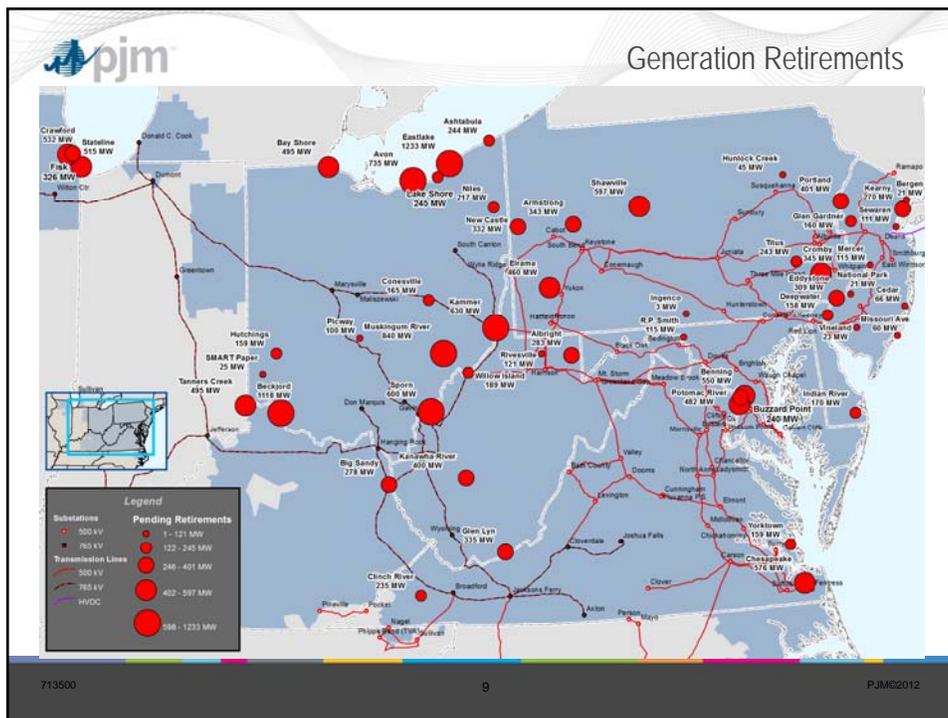


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Unit	Trans Zone	Requested Deactivation Date	PJM Reliability Status
Chesapeake 1 & 2, Yorktown 1	DOM	12/31/2014	Reliability Analysis complete. Impacts identified. Upgrades expected to be completed by June 2015.
Chesapeake 3 & 4	DOM	12/31/2015	Reliability Analysis complete. Impacts identified. Upgrades expected to be completed by June 2016.
Bergen 3; Burlington 8; National Park 1; Mercer 3; Sewaren 6	PSEG	6/1/2015	Reliability Analysis Complete. Impacts identified and expected to be resolved in three - four years. Working with affected TO to finalize upgrade schedule.
Armstrong 1 & 2; Bayshore 2-4; Eastlake 4-5; R Paul Smith 3 & 4	ATSI/AP	9/1/2012	Reliability analysis complete. Impacts identified and expected to be resolved by June 2016. Further refinement of the reliability analysis, required upgrades, and generator deactivation schedule continues. Unit will deactivate as scheduled. See posting - FE Generator Deactivation Study Results and Required Upgrades.
Ashtabula 5; Eastlake 1-3; Lake Shore 18	ATSI	9/1/2012	Reliability analysis complete. Impacts identified and expected to be resolved by June 2016. Further refinement of the reliability analysis, required upgrades, and generator deactivation schedule continues. Unit will continue to operate as upgrades to transmission system are constructed - estimated till June 1, 2015. See posting - FE Generator Deactivation Study Results and Required Upgrades
Walter C Beckjord 1	DEOK	5/1/2012	Reliability Analysis complete - no impacts identified.
Walter C Beckjord 2-6	DEOK	4/1/2015	Reliability Analysis complete - impacts identified - upgrades scheduled to be completed by June 2014

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Unit	Trans Zone	Requested Deactivation Date	PJM Reliability Status
Albright 1-3; Rivesville 5 & 6; Willow Island 1 & 2	APS	9/1/2012	Reliability Analysis complete - impacts identified - upgrades scheduled to be completed by May 2013. Thus generator can be allowed to deactivate as scheduled on 9/1/2012 assuming all upgrades are still on track to be completed as scheduled.
New Castle 3-5; New Castle Diesels A & B	ATSI	4/16/2015	Reliability Analysis complete - impacts identified - upgrades scheduled to be completed by June 2015. Thus generator can be allowed to deactivate as scheduled.
Portland 1 & 2; Glen Gardner CT 1-8	MetEd	1/7/2015	Reliability Analysis complete - impacts identified - upgrades and operating procedures expected to be in place by May 2015 to allow generators to deactivate as scheduled.
Elrama 1-3	DUQ	6/1/2012	Reliability Analysis complete - impacts identified - upgrades scheduled to be completed by June 2014. Unit deactivated on June 1, 2012.
Elrama 4	DUQ	6/1/2012	Reliability Analysis complete - impacts identified - upgrades scheduled to be completed by June 2014. Evaluating options. Unit to be kept in service until October 1, 2012, pending analysis of outages required to implement required system upgrades
Shawville 1-4; Titus 1-3	PenElec	4/16/2015	Reliability Analysis complete - impacts identified - upgrades and operating procedures expected to be in place by May 2015 to allow generators to deactivate as scheduled.
Niles 1	ATSI	6/1/2012	Reliability Analysis complete - impacts identified - upgrades scheduled to be completed by June 2014. Evaluating options. Unit to be kept in service until October 1, 2012, pending analysis of outages required to implement required system upgrades

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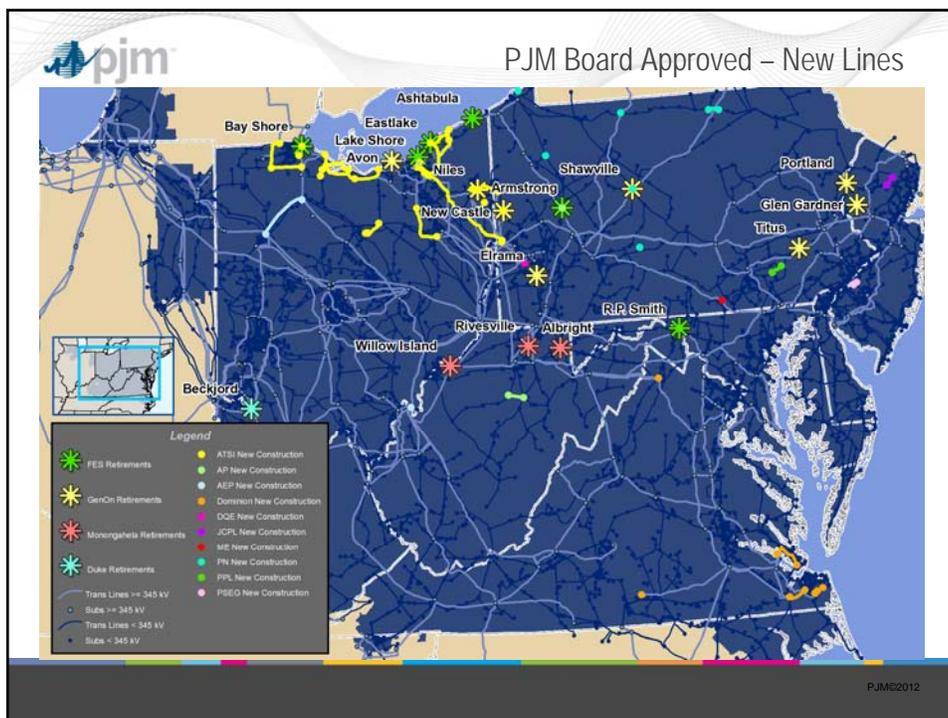
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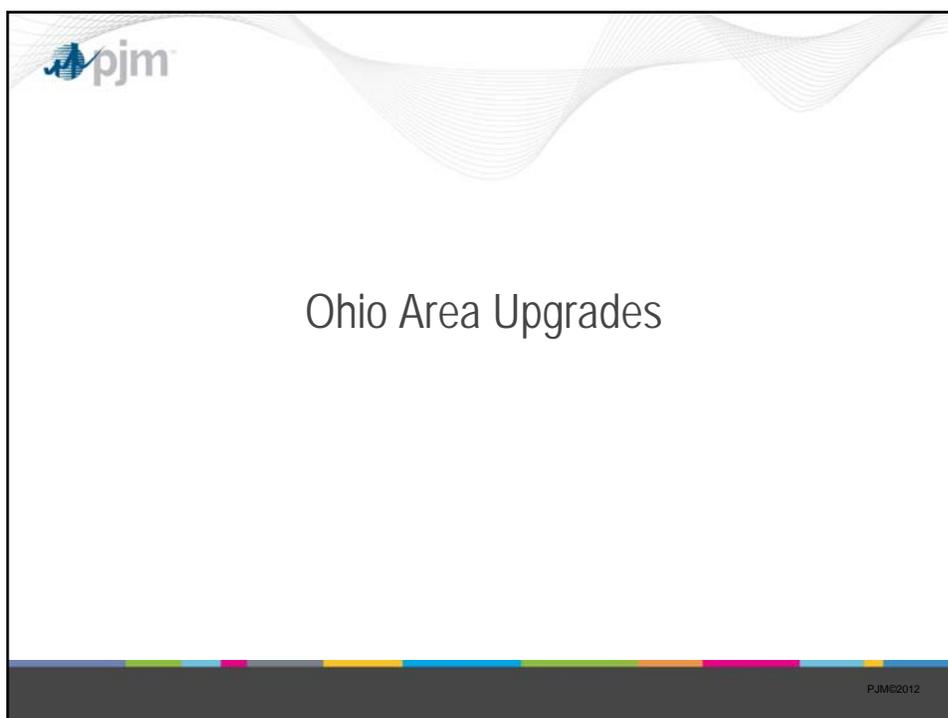
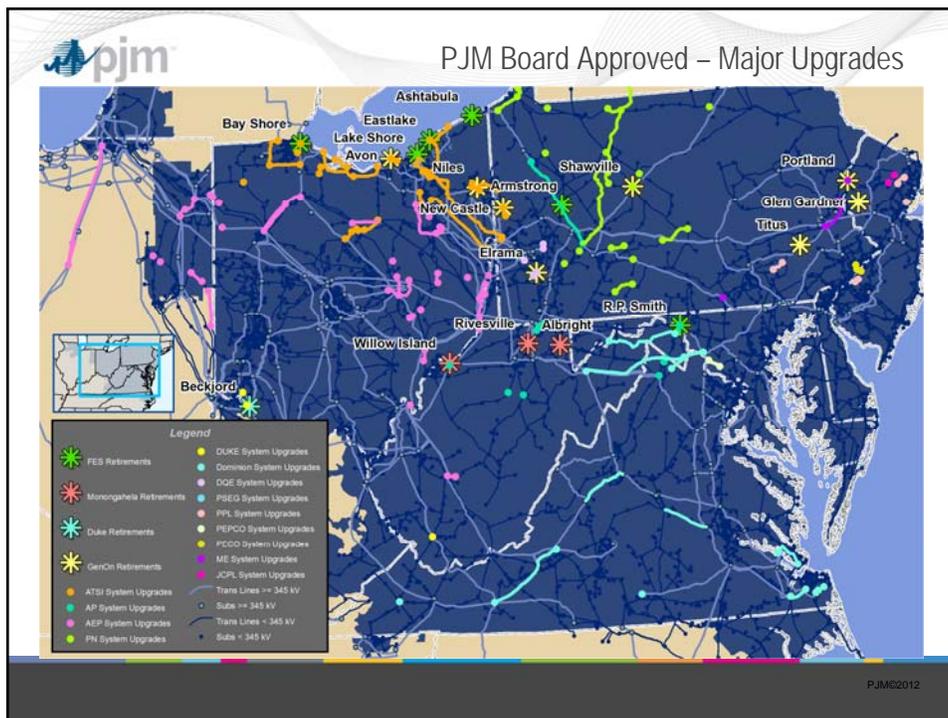
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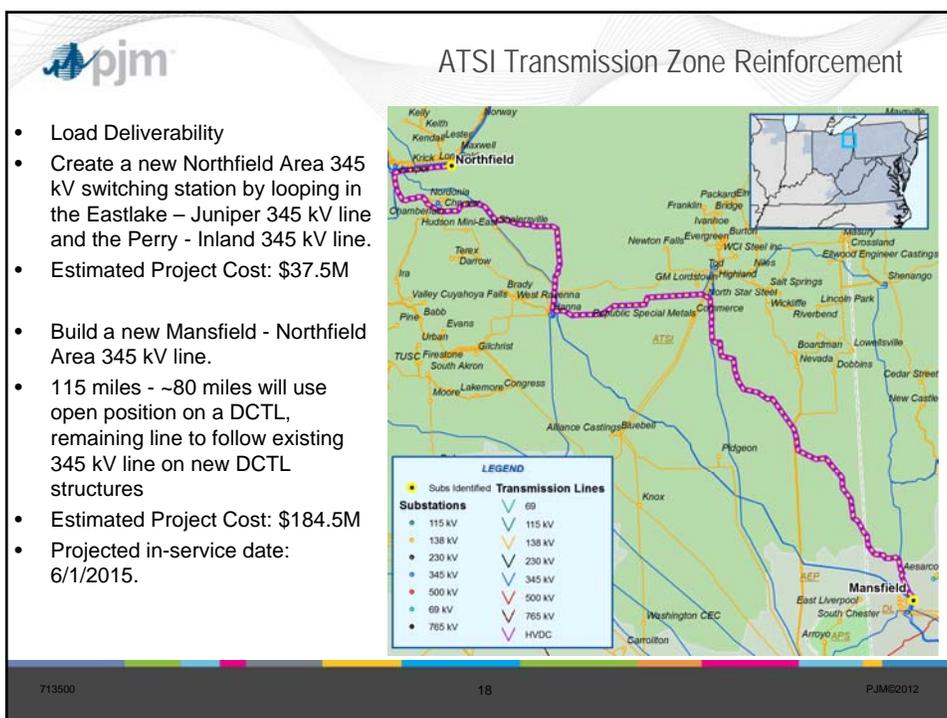
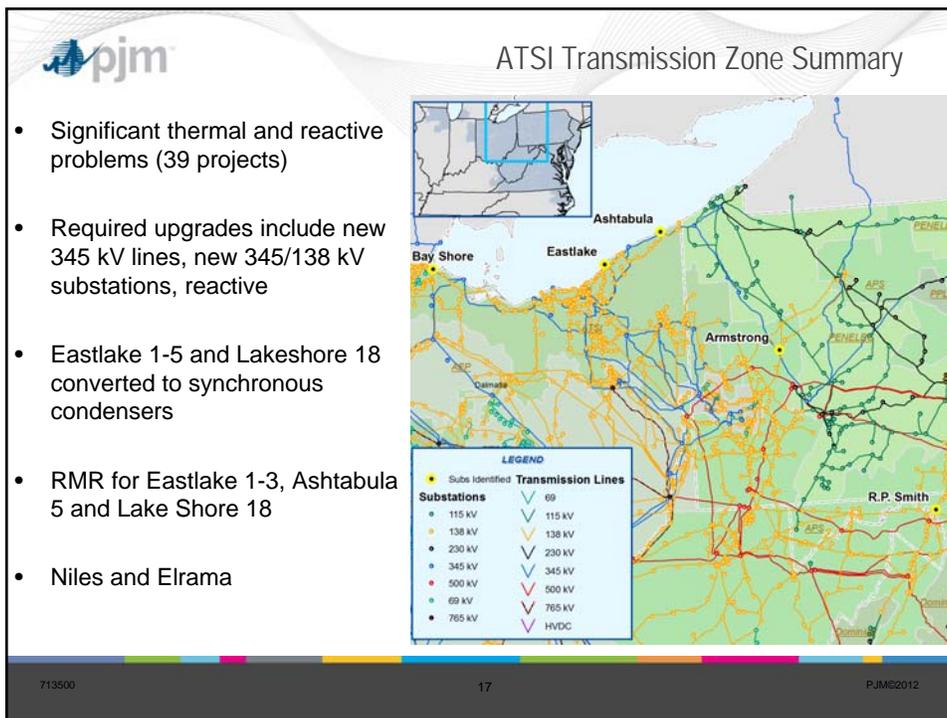
Deactivation Status

Unit	Trans Zone	Requested Deactivation Date	PJM Reliability Status
Niles 2	ATSI	6/1/2012	Reliability Analysis complete - impacts identified - upgrades scheduled to be completed by June 2014. Unit deactivated on June 1, 2012.
Fisk Street 19, Crawford 7 & 8	ComEd	12/31/2012	Reliability Analysis Complete. No impacts identified.
Conesville 3	AEP	12/31/2012	Reliability Analysis complete - impacts identified - upgrades scheduled to be completed by June 2014. PJM continues to finalize details of required upgrades and completion dates.
Big Sandy 1; Clinch River 3; Glen Lyn 5 & 6; Kammer 1-3; Kanawha River 1 & 2; Muskingum River 1-4; Pickway 5; Sporn 1-4; Tanner Creek 1-3	AEP	6/1/2015	Reliability Analysis complete - impacts identified - upgrades scheduled to be completed by June 2015.
Avon Lake 7 & 9	ATSI	4/16/2015	Reliability Analysis complete - impacts identified - upgrades scheduled to be completed by May 2015
Sewaren 1-4	PSEG	6/1/2015	Reliability Analysis complete. No impacts expected with PSEG contemplating re-use of Capacity Rights for a new generation project
Cedar 1 & 2; Deepwater 1 & 6; Missouri Ave CT B, C & D	AE	5/31/2015	Reliability Analysis complete - impacts identified - upgrades scheduled to be completed by May 2015
Hutchings 1 & 2	Dayton	6/1/2015	Reliability Analysis complete. No impacts identified
Smart Paper (St. Clair)	DEOK	8/10/2012	Reliability Analysis complete. No impacts identified
Hutchings 4	Dayton	6/1/2013	Reliability Analysis Underway

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### ATSI Transmission Zone Reinforcement

- Build new Toronto 345/138 kV substation by looping in the Sammis – Wylie Ridge 345 kV line and tie in four 138 kV lines
- Estimated Project Cost: \$41.8M
- Build a new Toronto-Harmon 345kV line
- ~56 miles; all new ROW
- Estimated Project Cost: \$218.3M
- Projected in-service date: 6/1/2017.

LEGEND	
• Subs Identified	Transmission Lines
• 115 kV	∇ 69
• 138 kV	∇ 115 kV
• 230 kV	∇ 138 kV
• 345 kV	∇ 230 kV
• 500 kV	∇ 345 kV
• 69 kV	∇ 500 kV
• 765 kV	∇ 765 kV
	∇ HVDC

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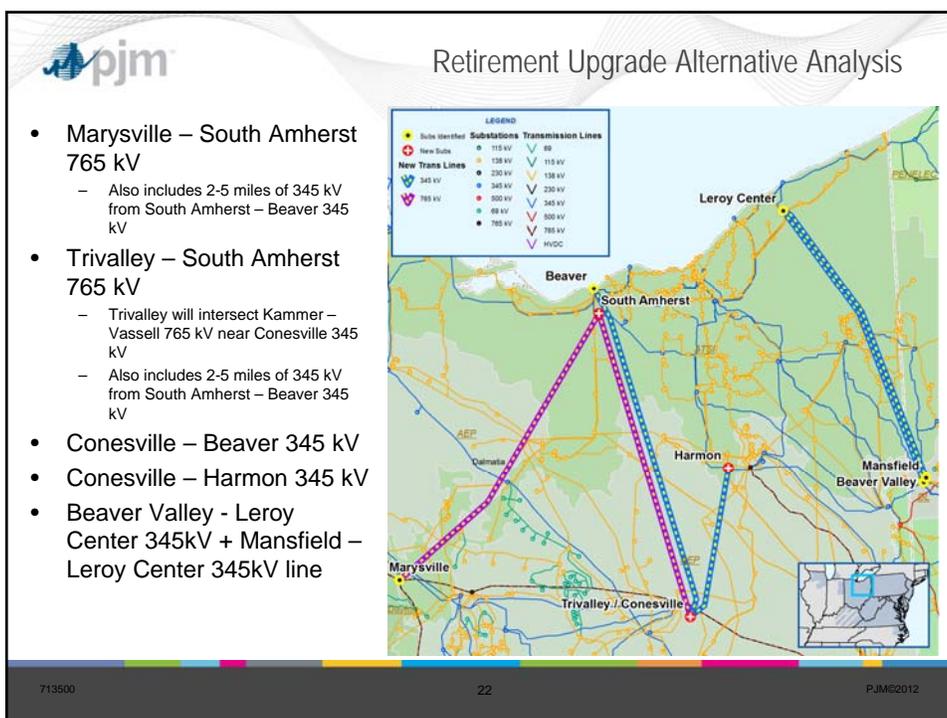
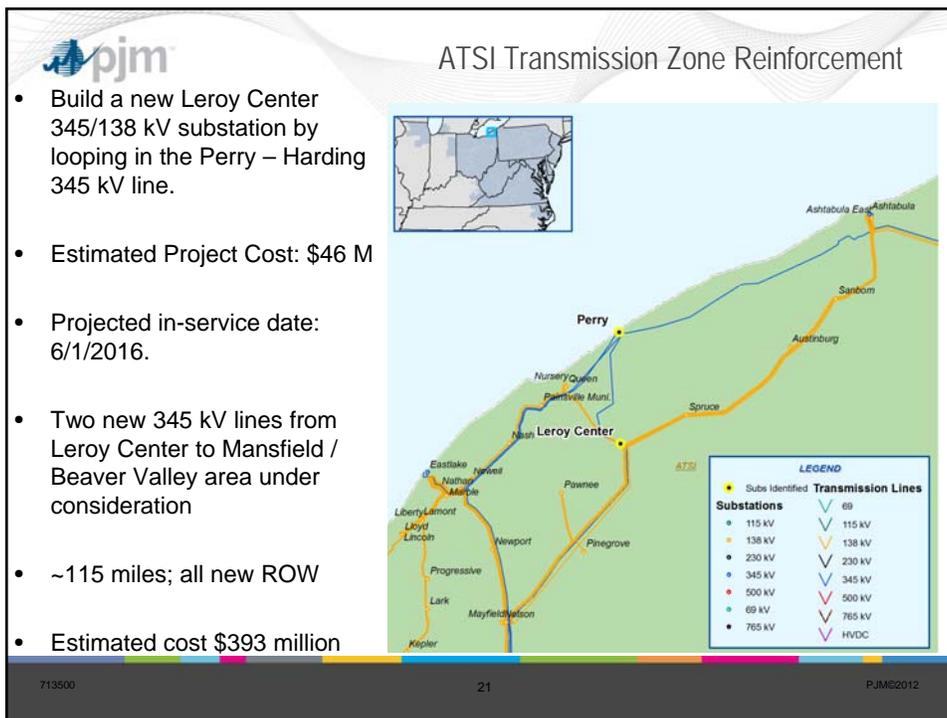
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### ATSI Transmission Zone Reinforcement

- N-1-1 Thermal: Loss of Allen Junction-Lulu 345kV + Lemoyne-Five Points 345kV results in 102% overload on Lemoyne-BG Tap 138kV
- Build new Allen Junction - Midway - Lemoyne 345kV line (48 miles of open tower position)
- Estimated Project Cost: \$86.3M
- Proposed in-service date: 6/1/2016

LEGEND	
• Subs Identified	Transmission Lines
• 115 kV	∇ 69
• 138 kV	∇ 115 kV
• 230 kV	∇ 138 kV
• 345 kV	∇ 230 kV
• 500 kV	∇ 345 kV
• 69 kV	∇ 500 kV
• 765 kV	∇ 765 kV
	∇ HVDC

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**pjm** AEP Deactivations

**Conesville 3**  
 Requested deactivation date: 12/31/2012

**Big Sandy 1; Clinch River 3; Glen Lyn 5 & 6; Kammer 1-3;  
 Kanawha River 1 & 2; Muskingum River 1-4; Pickway 5;  
 Sporn 1-4; Tanner Creek 1-3**  
 Requested deactivation date: 6/1/2015

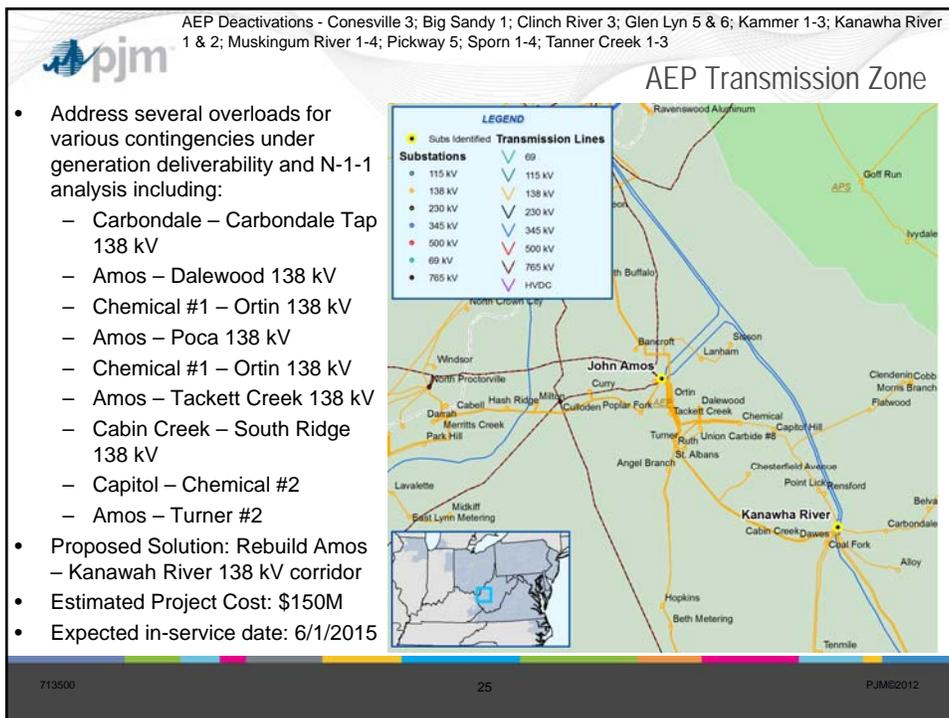
713500 23 PJM02012

AEP Deactivations - Conesville 3; Big Sandy 1; Clinch River 3; Glen Lyn 5 & 6; Kammer 1-3; Kanawha River 1 & 2; Muskingum River 1-4; Pickway 5; Sporn 1-4; Tanner Creek 1-3

**pjm** AEP Transmission Zone

- Overload on Waterford – Muskingum River 345 kV line in generation deliverability and N-1-1 analysis involving a combination of outages including loss of Belmont – Kammer 765 kV and/or Marysville – Flatlick 765 kV line
- Proposed Solution: Reconductor or rebuild Sporn – Waterford – Muskingum River 345 kV line
- Estimated Project Cost: \$200M
- Expected in-service date: 6/1/2015

713500 24 PJM02012



To: OMA Government Affairs Committee  
From: Ryan Augsburg  
Rob Brundrett  
Re: Environment Policy Update  
Date: September 20, 2012

## **Overview**

The legislature has not pushed very many new environmental bills through the General Assembly this session. Agency rules and regulations continue to be the arena that provides the biggest impact on environmental issues. With the legislature out until after the elections, a lack of any bill movement will continue through much of November. Lame duck session in December will be the final opportunity for environmental bills to have hearings in the legislature.

## **Legislation**

### Senate Bill 253

It is important to continue monitoring [Senator Peggy Lehner's](#) (R-Kettering) [Senate Bill 253](#), which would create post-consumer recycling liability for manufacturers of certain electronic products. Additionally, the measure allows an advisory council to recommend other products for inclusion in the mandate.

Earlier this year, the OMA delivered a letter to the sponsor and chairman of the committee to communicate opposition to this mandate. Although this bill is unlikely to move while the manufacturing community roundly opposes it, it is imperative that the bill continues to be monitored through lame duck.

### House Bill 112

[Representatives Cheryl Grossman's](#) (R-Grove City) and [Tom Letson's](#) (D-Warren) [House Bill 112](#), which would require including a bittering agent in engine coolant and antifreeze is also still floating in the House of Representatives. The bill was voted out of committee but has not received a floor vote by the entire House of Representatives. OMA will continue monitoring and fighting this bill through the fall and winter. Representative Grossman, who is part of the republican leadership team, has taken a very active role in advocating for this bill's passage.

## **Litigation**

### Cross-State Air Pollution Rule

The U.S. Court of Appeals for the District of Columbia voted to overturn the U.S. EPA's Cross-State Air Pollution Rule (CSAPR). The decision was a significant victory for utility companies that operate coal fired plants. The 2011 rule would have set new limits on sulfur dioxide and nitrogen oxide emissions.

The appeals court decision found that the EPA exceeded its regulatory authority under the federal Clean Air Act. The EPA was directed to review the rule and to continue enforcing the Clean Air Interstate Rule set in 2005.

### Air Permitting Reform Protected by the Courts

On May 25, 2012, the Sixth Circuit U.S. Court of Appeals reinstated the ten-ton Best Available Technology ("BAT") rule which permits the director of Ohio EPA to issue permits to smaller emission sources, those that produce less than ten tons of emissions per year, without first determining whether those sources will employ BAT. BAT is an Ohio-only requirement that, in

many instances, inhibits operational flexibility.

The recent decision reverses a win by the Sierra Club in the lower U.S. District Court for the Southern District of Ohio that ordered Ohio EPA to enforce BAT requirements for all emitters, even those that emitted ten tons or less. OMA participated in the case by issuing a brief in support of Ohio EPA's position against the Sierra Club.

While we had hoped that manufacturers can now use Ohio law and avoid the 10 ton requirements, Ohio EPA has announced that that it will not use this provision of the law until U.S. EPA has approved the modified SIP. The SIP has been submitted and action could occur soon; however, no one appears to be holding their breath.

A summary of the decision from OMA's environmental counsel, Bricker & Eckler LLP, can be found [here](#).

### **Beneficial Use**

This summer the Ohio EPA began reaching out for early stakeholder feedback regarding a possible rule package centered on beneficial use. Beneficial use is the use of industrial byproducts to replace or supplement a raw material or competing product.

The OMA has submitted a letter requesting that as Ohio EPA moves forward with the drafting of any rules the Association have a seat at the table to ensure any impacts on the manufacturing industry be minimal.

### **Primary Headwater Habitats**

Earlier this year Ohio EPA refiled a package of water regulations with the Common Sense Initiative (CSI) at the urging of numerous business groups including the OMA. Included in that set of proposed rules were new state water quality standards and language to clarify requirements currently in place.

Over the summer several working meetings were convened and CSI concluded their review of the proposed rules. Ohio EPA is going to withhold portions of the rule package but is moving forward with their new regulations on primary headwater habitats. The OMA has again signed on with business groups opposing the filing and the increased regulations.

### **Universal Waste**

In response to a solicitation by Senator Tim Schaffer the OMA provided a suggested modification to Ohio's universal waste rules. Currently, a hazardous waste can be classified as a universal waste only if a party petitions Ohio EPA and the agency approves the petition. As you might imagine, the petition process is lengthy and costly.

The OMA suggested that the process might be improved for substances classified as universal wastes in other states by allowing a petitioner to point to that state and simply ask Ohio EPA why it can't be done in Ohio. A specific substance was the impetus for the suggestion, paint and paint related waste. This substance is classified as a universal waste in Texas.

The amendment was not included in the legislation. However, the OMA did receive a commitment from the agency that it would work with the OMA through this year to evaluate the proposal and

see if it can be incorporated into Ohio's administrative code.

## Environment Management

### Federal Regulations Costing Manufacturing Big Dollars

Late last month the Manufacturers Alliance for Productivity and Innovation (MAPI) released a [study](#) describing the impact of federal regulations on the nation's manufacturers. The study focuses on the impact that major regulations have on the manufacturing sector.

These regulations have increased over the last three administrations from an average of 36 new regulations annually under President Clinton to 72 new regulations per year under President Obama. The major regulations issued since 1993 have cost manufacturing an estimated \$265-\$500 billion.

09/07/2012

### Court Kills Cross-State Air Pollution Rule

This week, the U.S. Court of Appeals for the District of Columbia voted to overturn the U.S. EPA's Cross-State Air Pollution Rule (CSAPR). The decision was a significant victory for utility companies that operate coal fired plants. The 2011 rule would have set new limits on sulfur dioxide and nitrogen oxide emissions.

President and CEO of the National Association of Manufacturers, Jay Timmons, [commented](#) on the ruling: "Costly and excessive regulations are harming manufacturers' ability to compete. Today the federal court agreed that the EPA had overstepped its reach with the CSAPR regulation."

The appeals [court decision](#) found that the EPA exceeded its regulatory authority under the federal Clean Air Act. The EPA was directed to review the rule and to continue enforcing the Clean Air Interstate Rule set in 2005. Read more at the [EPA's website](#).

08/24/2012

### Ohio EPA Extends Stakeholder Comment Period on Beneficial Reuse Rules

Ohio EPA has extended the period for stakeholders to provide comment on its plans to revise [beneficial reuse rules](#). Comments are now due by August 31. Beneficial reuse rules govern industrial byproducts and the ways they can be reused. Contact [Ryan Augsburger](#) at the OMA to have your say.

07/27/2012

### OMA Environment Committee Meeting Materials - 06/28/2012

These are the [meeting materials](#) that support the June 28, 2012 OMA Environment Committee meeting. The meeting starts at 10:00 a.m.

06/27/2012

**Environment Legislation**  
**Prepared by: The Ohio Manufacturers' Association**  
**Report created on September 13, 2012**

- 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](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](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](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:** 4/18/2012 - House Agriculture and Natural Resources, (First Hearing)  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_257](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:** 4/18/2012 - House Agriculture and Natural Resources, (First Hearing)  
**More Information:** [http://www.legislature.state.oh.us/res.cfm?ID=129\\_HB\\_304](http://www.legislature.state.oh.us/res.cfm?ID=129_HB_304)
- HB473**      **GREAT LAKES COMPACT (WACHTMANN L)** To establish a program for the issuance of permits for the withdrawal and consumptive use of waters from the Lake Erie basin and to establish other requirements related to the implementation of the Great Lakes-St. Lawrence River Basin Water Resources Compact.  
**Current Status:** 6/4/2012 - **SIGNED BY GOVERNOR**; Eff. 9/4/2012  
**More Information:** [http://www.legislature.state.oh.us/res.cfm?ID=129\\_HB\\_473](http://www.legislature.state.oh.us/res.cfm?ID=129_HB_473)
- HB480**      **BPA EXPOSURE HAZARDS (DRIEHAUS D, RAMOS D)** Regarding the possible hazards of fetal exposure to the chemical bisphenol-A (BPA).  
**Current Status:** 3/14/2012 - Referred to Committee House Health and Aging  
**More Information:** [http://www.legislature.state.oh.us/res.cfm?ID=129\\_HB\\_480](http://www.legislature.state.oh.us/res.cfm?ID=129_HB_480)
- 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](http://www.legislature.state.oh.us/res.cfm?ID=129_HCR_9)

- HCR49**      **MERCURY AND AIR TOXICS STANDARDS RULE (THOMPSON A)** To urge the Congress of the United States to adopt S.J. Resolution 37, which disapproves the United States Environmental Protection Agency's Mercury and Air Toxics Standards Rule.  
**Current Status:** 5/23/2012 - Referred to Committee House Agriculture and Natural Resources  
**More Information:** [http://www.legislature.state.oh.us/res.cfm?ID=129\\_HCR\\_49](http://www.legislature.state.oh.us/res.cfm?ID=129_HCR_49)
- 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](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](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](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](http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_186)
- SB290**     **RECYCLING (JONES S)** To exempt source separated recyclable materials from the definition of "solid wastes" and to prohibit a solid waste management district from spending district money to purchase or operate assets for recycling purposes when two or more privately owned companies offer to provide or are providing recycling services for recyclable materials that are generated in the district.  
**Current Status:** 2/14/2012 - Senate Agriculture, Environment & Natural Resources, (Second Hearing)  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_SB\\_290](http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_290)
- SB294**     **ENVIRONMENTAL PROTECTION LAW (SCHAFFER T)** To revise the laws governing environmental protection.  
**Current Status:** 6/5/2012 - **SIGNED BY GOVERNOR**; Eff. 9/5/2012  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_SB\\_294](http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_294)
- SB328**     **GOVERNOR'S AWARD-ENVIRONMENTAL STEWARDSHIP (BALDERSON T)** To establish the Governor's Award for Environmental Stewardship to be awarded annually to the company or person involved in the oil and gas industry that best represented wise

environmental stewardship during the previous one-year period.

**Current Status:** 5/23/2012 - Referred to Committee House Agriculture and Natural Resources

**More Information:** <http://www.legislature.state.oh.us/bills.cfm?ID=129> SB 328

## Human Resources Management

### **NAM v. NLRB: Posting Requirement Lawsuit Update**

Oral arguments were held this week before the U.S. Court of Appeals for the D.C. Circuit in the appeal of National Association of Manufacturers (NAM) v. National Labor Relations Board (NLRB or Board) regarding the notice posting requirement regulation finalized by the NLRB last year.

NAM argued that the lower court erred in its application of case history with regard to the Board's authority to require all employers to post a notice (about employees' rights to unionize), failed to give proper weight to the legislative history of the National Labor Relations Act, and compelling employers to engage in speech.

NLRB asserted to the court that six million employers could be engaged in an unfair labor practice because employees do not know their rights under the NLRA and additionally argued there are no limits to the Board's rulemaking authority.

The three-judge appeals court decision is likely to be announced no earlier than late November.

09/14/2012

### **State Plans to Offer Incumbent Workforce Training Dollars**

While the [Ohio Incumbent Workforce Training Voucher Program](#) is not yet open, Business Service Coordinator, [Shannon Vanderpool](#), of the state's Development Services Agency (formerly Ohio Department of Development) recommends that interested employers prepare now to apply for this rich benefit.

The program is expected to provide up to \$500,000 for eligible companies and/or \$4,000 per eligible employee, with a reimbursement rate of up to 50 percent. Targeted eligible industries include: advanced manufacturing, aerospace/aviation, automotive, food processing, and polymer & chemicals. The training must commence within 6 months of application submittal and be completed by June 30, 2013.

We will keep you posted. The programs elements are subject to change, we're told.

09/14/2012

### **Regents Announce New Internship/Co-Op Program**

The Ohio Board of Regents released an [request for proposals](#) for internships and co-ops. The Regents say: "Partnerships of institutions of higher education and businesses are encouraged to apply for funding under the terms of this RFP. Successful applicants will collaborate so that statewide industry partnerships can be developed and best practices can be shared."

Contact [Eric Burkland](#) if you have any interest in this proposal.

09/14/2012

### **Access Recorded Webinar: Affordable Care Act Implications for Employers**

OMA members can log onto the OMA online video library via [My OMA](#) to replay a webinar given this week by OMA Connections Partner, Cheri Gillfillan, President and CEO of One Source Advisors, about the Affordable Care Act (ACA), often referred to as 'Obamacare.' The ACA was reinforced as the law of the land after the Supreme Court upheld its constitutionality earlier this summer.

Gillfillan discussed the timeline of employer compliance requirements.

An OMA member who attended the live webinar said the value was, "Being up to date (as much as we can be) on the ACA. Good info provided on what we should be aware of for the near future."

08/10/2012

### **NAM Joins Second Amicus Brief Against Micro Unions**

Last month the National Association of Manufacturers (NAM) joined an [amicus brief](#) in the Nestle Dreyer Ice Cream case in which the

National Labor Relations Board (NLRB ) ruled in favor of a separate union for the maintenance workforce.

The first brief the NAM signed onto in opposition to micro union formation was the Neiman Marcus/Bergdorf Goodman case in June, which saw the women's shoe department of Bergdorf Goodman department store get clearance from the NLRB to form a separate union.

The NAM argues that NLRB's use of the Specialty Healthcare case, which set precedent for as few as two people forming a collective bargaining unit (micro unit) in one facility, is not a fair benchmark for approving micro unions; instead a case by case decision should be rendered based on the merits of each situation.

According to NAM, "... the Specialty Healthcare decision will unnecessarily divide employees and hinder employers' abilities to effectively manage operations and will continue to look for opportunities to support other suits challenging the case."

08/03/2012

### **NLRB Set Back Again on "Ambush Rule"**

In June, the National Labor Relations Board (NLRB) filed a motion to request reconsideration of the judgment in the "ambush elections" case based on new evidence.

In May, the U.S District Court for the District of Columbia had invalidated the "ambush election" rule, passed in December 2011, based on a finding that there was not a quorum of three NLRB members to issue the rule.

On rehearing, the NLRB attempted to demonstrate that, in fact, Republican member, Brian Hayes, was present at the time of the vote. The judge was unconvinced. The rule remains invalid.

The rule is widely opposed by employers as it would effectively shorten the required time between the announcement of a union election and the actual election, thus decreasing the ability of employers to educate employees.

08/03/2012

### **NAM Concerned About Hiring Quota of Individuals with Disabilities**

The National Association of Manufacturers (NAM) reported this week that it has submitted [comments](#) to shape a rule proposed earlier this year by the Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) that would alter the reporting requirements for hiring individuals with disabilities.

The proposed rule would require federal contractors to implement a disability hiring goal of seven percent for each job category.

While the goal of increasing diversity is not at issue, it is unclear whether the stated goal is achievable and what employer impacts might be.

08/03/2012

### **An Employee Questions His "Exempt" Status and Demands Overtime Pay. What Should You Do?**

Misclassification of employees as "exempt" under the Fair Labor Standards Act (FLSA) can be very costly to employers. Learn more about an employer's burden with overtime exemptions under the FLSA in this Bricker & Eckler Human Resources [E-Alert](#).

08/02/2012

### **July 1 Deadline for Retirement Plan Compliance Has Passed - What Happens Now?**

As most retirement plan sponsors know, July 1, 2012 was the deadline for complying with the Department of Labor (DOL) service provider disclosure rules. What should the plan sponsor do now that the July 1 deadline has passed? Learn the answer to this question in this Bricker and Eckler [Human Resources Bulletin](#).

07/13/2012

### **Timmons: Repeal and Replace Health Care Law**

National Association of Manufacturers (NAM) President Jay Timmons released a [statement](#) following the U.S. Supreme Court decision to uphold the federal health care law. In it, he said: “Escalating health care costs are job killers, forcing manufacturers to pay more in premiums rather than investing in their business and creating jobs. From the day it was passed, the Affordable Care Act did nothing to bring down health care costs, and it is essential that Congress repeal the law and replace it with reform that benefits manufacturers and their employees.”

Moving forward, Timmons suggested that Congress and the president “implement legal liability reform, enhance competition by allowing insurance to be purchased across state lines and increase the focus on preventive medicine—actions that would address the high health care costs that harm manufacturers across the United States.”

06/29/2012

### **NLRB Launches Website to Raise Employees' Awareness of Protected Activity**

Section 7 of the National Labor Relations Act (NLRA) protects the right of union and non-union employees to discuss terms or conditions of employment and collectively express workplace concerns. These employee activities and communications are referred to as “protected concerted activity” (PCA).

[Learn more](#) in this Bricker & Eckler LLP Human Resources e-Alert.

06/22/2012

# Human Resources, Health Care & Employment Law Legislation

Prepared by: The Ohio Manufacturers' Association

Report created on September 13, 2012

- 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](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](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](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](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](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:* 12/21/2011 - **SIGNED BY GOVERNOR**; Eff. 3/22/12  
*More Information:* [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_79](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](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:* 12/14/2011 - Senate Health, Human Services & Aging, (Third Hearing)  
*More Information:* [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_125](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 & Technology, (First Hearing)  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_131](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 & Technology, (First Hearing)  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_137](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 & Technology, (First Hearing)  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_230](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:** 4/18/2012 - House Agriculture and Natural Resources, (First Hearing)  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_257](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:** 11/29/2011 - Referred to Committee House Health and Aging  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_376](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_376)
- HB412**      **HEALTH BENEFIT EXCHANGE AGENCY** (ANTONIO N, CARNEY J) To establish the Ohio Health Benefit Exchange Agency and to establish the Ohio Health Benefit Exchange Program consisting of an exchange for individual coverage and a Small Business Health Options Program.  
**Current Status:** 1/17/2012 - Referred to Committee House Health and Aging  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_412](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_412)
- HB484**      **SHORT-TIME UNEMPLOYMENT COMPENSATION PROGRAM** (DUFFEY M) To create the short-time unemployment compensation program.  
**Current Status:** 6/13/2012 - Senate Insurance, Commerce & Labor, (First Hearing)  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_484](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_484)
- 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](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](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](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](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](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](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](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](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](http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_189)

**SB351**      **ELECTRONIC PRIVACY PROTECTION-EMPLOYEES** (TAVARES C) To prohibit employers, employment agencies, personnel placement services, and labor organizations from requiring an applicant or employee to provide access to private electronic accounts of the applicant or employee.

**Current Status:** 6/12/2012 - Referred to Committee Senate Insurance, Commerce & Labor

**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_SB\\_351](http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_351)

**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](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](http://www.legislature.state.oh.us/res.cfm?ID=129_SJR_1)

To: OMA Government Affairs Committee  
From: Ryan Augsburger  
Robert Brundrett  
Re: Tax Policy Update  
Date: September 20, 2012

### **Overview**

The state operates on a two-year budget cycle. The budget was completed last June and remains in balance. A mid-biennium budget review (MBR) was conducted earlier this year. The process was similar to a budget process with a wide range of policy changes contained.

### **Mid Biennium Review**

Governor Kasich intended for the MBR process to finance further tax relief. The General Assembly had other ideas. Cuts and revenue enhancement proposed by the governor were reportedly replaced by state representatives and senators with spending increases. The reported winner: nursing home operators. Governor Kasich exercised line-item veto authority to strike some of the increased expenditures. A detailed memo by counsel is available upon request. Tax highlights of interest to manufacturers:

- HB 487 "Main MBR": Expands eligibility of sales and use tax exemption for aerospace industry test and research material. Provision line-item VETOED
- HB 505 Board Tax Appeals legislation introduced to respond to the backlog and generally inefficient case management at the Ohio Board of Tax Appeals. The backlog has gotten even worse in recent years. STALLED
- HB 510 Financial Institutions MBR would replace corporate franchise tax revenue with CAT revenue paid by financial services businesses. Picks winners and losers among financial services sector and got bogged down. Manufacturers with financial services business units oppose the proposal as written for subjecting them to the corporate franchise tax. STALLED
- HB 511 revamps some business tax credit programs. The bill will sunset the Industrial Technology and Enterprise Advisory Council and transfer functions to the Third Frontier Commission and Development Department. The ceiling for available Technology Investment Tax Credits is boosted in the bill from \$45 million to \$51 million. Other provisions of the bill would alter the Ohio Venture Capital Authority and the New Markets Tax Credit. STALLED
- Shale Tax / Personal Income Tax -- The Governor has not dropped plans to pursue legislation – see below. STALLED

### **Severance / Income Tax**

Severance tax revision is among the most controversial issues being discussed around capitol square. In March the Governor proposed a new severance tax structure largely intended to levy a competitive tax on horizontal drilling. The new revenue would be used to fund personal income tax reductions. The General Assembly took a dim view of the Governor's proposal and stripped it from the mid-biennium review, HB 487. Many members have signed a pledge against any form of new taxes. Nonetheless, Governor Kasich presses onward to advance a revamped severance tax structure.

### **Ohio House Study's Tax Policy**

Late last year a legislative study committee met numerous times to evaluate state tax policy. In spite of efforts to inform the committee, the report authored by Representative John Adams (R-Sidney), recommended modifications to the CAT to establish a tax liability of the lesser of two calculations: the tax on gross receipts, as established by the current CAT law, or a tax on net income.

### **Tax Reform?**

Governor Kasich and Republican legislative leaders frequently speak of coming tax reform. Little or no detail has been produced. Groups are urging for a closing of loopholes in both the personal income tax and in the sales tax. The Governor has repeatedly called for reductions in the personal income tax rate. The OMA Tax Policy Committee is following the issue and will advise the OMA on needed policy papers. Stay tuned.

### **Litigation**

1. CAT Defense: The OMA and the Ohio Society of CPAs filed an amicus brief in defense of the state commercial activity tax. Road construction interests are seeking CAT invalidation arguing the CAT is an excise tax. A decision is expected by the end of the year.
2. JobsOhio Defense: The OMA filed an amicus brief in September to urge a timely decision on the JobsOhio funding source – state liquor proceeds. Expedited action is expected.

### **Municipal Tax Collection**

For much of 2011, a concept to consolidate local income tax collections was rumored with apparent support from the Administration. By 2012, the project morphed into an effort to promote uniformity of local tax administration rather than consolidation. The OMA is partnering with other business and professional groups to support the effort.

### **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. This was a significant policy gain during the current General Assembly.

### **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 were required to begin paying interest by September 2011.

Ohio employers are seeing FUTA increases to repay the federal loans. Legislation to revise the state fund could be coupled with benefit revisions. No action to report but keep on the radar.

### **Ohio Tax Competitiveness**

Ohio revamped business tax code continues to win praise. Most recently the Tax Foundation study, Location Matters ranked Ohio fifth (best) overall for mature operations and third (best) overall for newly established operations.

There have been rumors of policymakers favoring wholesale change to the business tax code, underscoring the need of manufacturing leaders to continue to talk up the reforms. Contact OMA staff for talking points.

## Tax Management

### Shale We Tax It?

Opinions and analyses are emerging about the severance tax policy decisions Ohio will make in the coming months, namely, what is the appropriate tax structure of the Ohio gas and oil products extraction industry, and what should be done with any resulting tax revenues that are over and above current severance tax levels?

Governor Kasich has [proposed](#) a new tax on horizontal (hydraulic fracturing) well production (as well as modifications to the existing vertical well tax structure) that he intends to use to lower personal income taxes in order to create a more job-friendly climate in Ohio. According to the governor, Ohio's state and local tax burden is among the highest in the nation. The administration's analysis indicates that gas and oil tax revenues would eventually build to a five percent income tax cut at peak production.

The Ohio Business Roundtable commissioned Ernst & Young to prepare an [analysis](#) that answers this question: what impact would the governor's proposed severance tax changes have on Ohio's competitiveness for new investment in the "fracking" industry? The consultants' May 2012 analysis showed that Ohio would still be among the lowest of the eight studied states (MI, TX, ND, AK, PA, WV, OK) in terms of the overall Ohio tax burden on well operations, particularly because of the substantial tax reductions provided to all Ohio business taxpayers from the substitution of the commercial activity tax (CAT) for the corporate income and the tangible personal property taxes (Senate Bill 5, 2005).

On record as [opposed](#) to the governor's plan is the Ohio Oil & Gas Association which argues that an increase in taxes on the fracking industry will have a chilling effect on oil company investment in Ohio wells.

OMA tax counsel, Mark A. Engel, of Bricker & Eckler LLP, prepared an [analysis](#) of the governor's proposal in April, shortly after it was announced.

The issue will continued to be followed by the OMA tax committee. Member comment invited by OMA's [Ryan Augsburger](#).

08/03/2012

### OMA Tax Committee Meeting Materials - 07-18-2012

These are the [meeting materials](#) that support the July 19, 2012 OMA Tax Committee meeting.

07/19/2012

### Supreme Court Hears CAT Challenge

The Ohio Supreme Court this week heard oral arguments in the [lawsuit](#) by road-building and gas station interests that filed suit to challenge the constitutionality of the commercial activity tax (CAT). The OMA joined with the Ohio Society of CPAs in an [amicus brief](#) to defend the constitutionality of the CAT. A decision is expected by the end of the year. Click to [view oral argument](#).

This case will be discussed at the [OMA Tax Policy Committee](#) on July 19; interested members can attend in person or join by phone.

07/13/2012

### State Has \$55 Million in Credit Programs for Small Businesses

The Ohio Department of Development (ODOD) received more than \$55 million from the U.S. Department of Treasury for the State [Small Business Credit Initiative](#) (SSBCI) to leverage private lending to increase the amount of credit available to small businesses, including manufacturers. ODOD administers the state-run financing programs utilizing SSBCI funds. Businesses should be creditworthy but not able to acquire needed financing in the private sector.

There are three programs, providing varying benefits depending on financing challenges and requirements.

The Collateral Enhancement Program provides lending institutions with cash collateral deposits to use as additional collateral (from 30 to 50 percent of the loan amount) for loans made to eligible businesses.

The Ohio Capital Access Program (OCAP)

establishes a loan "guarantee" reserve pool at participating lending institutions to support provide financing to businesses that are having difficulty obtaining business loans through conventional underwriting standards. The state, the lender, and the borrower each pay a small fee into the pool, which is then available to the lender for recovery of any OCAP losses.

And the Targeted Investment Program (TIP) is specifically to assist businesses in Ohio's manufacturing, production, and logistics value chains. TIP offers debt instruments tailored to the specific needs of the company at or below market interest rates and targets businesses that have received first or second round equity.

The state has prepared this useful PowerPoint [presentation](#).

07/13/2012

# Taxation Legislation

Prepared by: The Ohio Manufacturers' Association  
Report created on September 17, 2012

- 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](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](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](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_8)
- 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](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](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:* 5/4/2012 - **SIGNED BY GOVERNOR**; Eff. 8/6/2012 Section 2 Eff. 5/4/2012  
*More Information:* [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_18](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](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 Capital 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](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](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](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](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](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](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](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](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](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](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\\_220](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_220)

**HB258**      **APPRENTICESHIP PROGRAMS** (GROSSMAN C, DOVILLA M) To exempt from taxation for five years the earned income of an individual who obtains journeyman 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:** 2/8/2012 - **BILL AMENDED**, House Ways and Means, (Third Hearing)

**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_258](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](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](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:** 6/6/2012 - **SIGNED BY GOVERNOR**; Eff. 9/6/2012

**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_327](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_327)

**HB365**      **ENHANCED FEDERAL INCOME TAX DEPRECIATION DEDUCTION** (BECK P) 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:** 5/10/2012 - **REPORTED OUT**, Senate Ways & Means & Economic Development, (Fourth Hearing)

**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_365](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_365)

**HB446 TAX EXPENDITURES EFFECTIVENESS** (DRIEHAUS D, FOLEY M) To provide for an appraisal of the effectiveness of tax expenditures.

**Current Status:** 2/14/2012 - Referred to Committee House Finance and Appropriations

**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_446](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_446)

**HB487 MBR-MID-BIENNIUM REVIEW BUDGET** (AMSTUTZ R) To make operating and other appropriations, to levy taxes and provide for implementation of those levies, and to provide authorization and conditions for the operation of state programs.

**Current Status:** 6/11/2012 - **SIGNED BY GOVERNOR**; Eff. 6/11/2012 Others 9/10/2012

**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_487](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_487)

**HB508 MBR-TAX LAW CHANGES** (BECK P) To make changes to the laws governing the assessment, levy, and collection of taxes in the state.

**Current Status:** 6/6/2012 - **SIGNED BY GOVERNOR**; Eff. 9/6/2012 Other Sections 6/6/12 & 1/1/13

**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_508](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_508)

**HB510 MBR-FINANCIAL INSTITUTIONS TAX** (AMSTUTZ R) To impose a new tax on financial institutions, effective January 1, 2014, and to provide that such institutions are no longer subject to the corporation franchise tax or dealers in intangibles tax after 2013.

**Current Status:** 6/13/2012 - Senate Ways & Means & Economic Development, (Third Hearing)

**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_510](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_510)

**HB511 MBR-TAX CREDIT ADMINISTRATION CHANGES** (BECK P, GONZALES A) To make various changes to the administration of the investment tax credit, the venture capital loan loss tax credit, and the New Markets tax credit, including the increase of the maximum amount of the investment tax credit and the venture capital loan loss tax credit, the elimination of the Industrial Technology and Enterprise Advisory Councils, and the acceleration of the receipt of New Markets tax credit installments.

**Current Status:** 6/12/2012 - Referred to Committee Senate Ways & Means & Economic Development

**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_511](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_511)

**HB534 THIRD FRONTIER COMMISSION GRANTS** (SCHURING K) To authorize the Third Frontier Commission to award grants related to the establishment and operation of data centers and the development of a high speed fiber optic network in the state, and to authorize a kilowatt-hour excise tax reduction for electric distribution companies supplying such centers at a discounted rate.

**Current Status:** 5/16/2012 - House Public Utilities, (First Hearing)

**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_534](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_534)

- HB536 BUSINESS PROPERTY TAX EXEMPTION** (GERBERRY R) To allow a board of township trustees to reduce the percentage or term of a property tax exemption granted to a business under a tax increment financing agreement if the business fails to create the number of new jobs the business agreed to create in the agreement.  
*Current Status:* 5/8/2012 - Referred to Committee House Ways and Means  
*More Information:* [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_534](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_534)
- HB558 NEW MARKETS TAX CREDIT** (BECK P) To make various changes to the administration of the New Markets tax credit, including the acceleration of the receipt of New Markets tax credit installments, allowing community development entities to make credit-eligible investments in a low-income community business that derives 15% or more of its annual revenue from renting or selling real estate, eliminating the requirement to calculate adjusted purchase price of investments in calculating the amount of the credit, permitting entities to identify qualifying equity investments from any community development entity, and clarifying that the maximum allowable credit for each investor is \$1 million.  
*Current Status:* 5/24/2012 - Referred to Committee House Ways and Means  
*More Information:* [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_558](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_558)
- HB559 DISCLOSURE-STEEL PRODUCTS ORIGIN COUNTRY** (LANDIS A, HAGAN C) To require operators and pipeline companies to disclose the country in which oil country tubular goods steel products were manufactured.  
*Current Status:* 6/6/2012 - House Agriculture and Natural Resources, (Second Hearing)  
*More Information:* [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_559](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_559)
- HB571 NONREFUNDABLE COMMERCIAL ACTIVITY TAX CREDIT** (CERA J) To establish a nonrefundable commercial activity tax credit for companies involved in horizontal well drilling or related oil and gas production services that hire Ohio residents who have completed a federally registered apprenticeship program.  
*Current Status:* 9/12/2012 - Referred to Committee House Ways and Means  
*More Information:* [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_571](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_571)
- HB573 STATE-WIDE DATA CENTERS** (SCHURING K) To require the development and operation of state-wide data centers, to authorize the issuance of securities to fund the data centers, and to make an appropriation.  
*Current Status:* 9/12/2012 - Referred to Committee House Finance and Appropriations  
*More Information:* [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_573](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_573)
- HB590 TAX EXPENDITURE REVIEW COMMITTEE** (BOOSE T) To create a Tax Expenditure Review Committee for the purpose of reviewing existing and proposed tax expenditures.  
*Current Status:* 9/12/2012 - Referred to Committee House Ways and Means  
*More Information:* No link available
- HCR52 FEDERAL EXCISE TAX-MEDICAL DEVICES** (ROSENBERGER C) To urge the Congress of the United States and the President of the United States to enact H.R. 1310, to exempt certain emergency medical devices from the impending federal excise tax on medical devices.  
*Current Status:* 6/12/2012 - Referred to Committee House Ways and Means  
*More Information:* [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HCR\\_52](http://www.legislature.state.oh.us/bills.cfm?ID=129_HCR_52)

- SB1**      **JOB OHIO** (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](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](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](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](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](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](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](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](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](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](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](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](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:* 12/6/2011 - Senate Finance, (First Hearing)  
*More Information:* [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_SB\\_200](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](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](http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_209)
- SB256**      **RIGHT TO CURE AGREEMENT** (COLEY W) To allow suppliers and consumers to enter into a Right to Cure agreement.  
*Current Status:* 12/13/2011 - Senate Insurance, Commerce & Labor, (First Hearing)

*More Information:* <http://www.legislature.state.oh.us/bills.cfm?ID=129> SB 256

**SB265 BUDGET STABILIZATION FUND BALANCE (BACON K)** To increase the balance that must exist in the Budget Stabilization Fund, from 5% to 10% of the General Revenue Fund revenue, before revenue surpluses are applied to income tax reductions.

*Current Status:* 3/20/2012 - Senate Finance, (Second Hearing)

*More Information:* <http://www.legislature.state.oh.us/bills.cfm?ID=129> SB 265

**SB278 ECONOMIC DEVELOPMENT (KEARNEY E, TURNER N)** To authorize programs and tax credits to encourage the hiring of unemployed individuals, to make changes to the Unemployment Compensation Law, to authorize grants and tax credits for the rehabilitation of distressed areas and the expansion of broadband connections to rural areas, to create a revolving loan fund and a bonding program for small businesses, to make changes to the Minority Business Bonding Program, and to make an appropriation.

*Current Status:* 1/18/2012 - Referred to Committee Senate Finance

*More Information:* <http://www.legislature.state.oh.us/bills.cfm?ID=129> SB 278

**SB327 NEW MARKETS TAX CREDIT (BEAGLE B, TAVARES C)** To prohibit the New Markets Tax Credit from increasing a claimant's retaliatory tax on foreign insurance companies, to increase the total annual and individual amount of credits that may be awarded, to give a noncompliant entity six months to cure its noncompliance before claimed credits are recaptured, to allow community development entities to make credit-eligible investments in a business that derives 15% or more of its annual revenue from renting or selling real estate, and to prescribe an application process for the credits in which approval is based on the date an application is submitted.

*Current Status:* 5/24/2012 - Senate Ways & Means & Economic Development, (Fourth Hearing)

*More Information:* <http://www.legislature.state.oh.us/bills.cfm?ID=129> SB 327

**SB331 OHIO MOTION PICTURE TAX CREDIT (PATTON T)** To increase the maximum total amount of tax credits allowed per year for completion of motion pictures certified as tax credit-eligible productions.

*Current Status:* 5/8/2012 - Referred to Committee House Ways and Means

*More Information:* <http://www.legislature.state.oh.us/bills.cfm?ID=129> SB 331

**SB356 LOCAL GOVERNMENT-SCHOOL DISTRICT COMPARATIVE DATA (BURKE D)** To require the Auditor of State to adopt rules to solicit comparative data from local governments and school districts and to make that information available to the public.

*Current Status:* 6/13/2012 - Referred to Committee Senate State & Local Government & Veterans Affairs

*More Information:* <http://www.legislature.state.oh.us/bills.cfm?ID=129> SB 356



## Manufacturing Exemption From the Ohio Sales Tax

Under Ohio law, sales of machinery, equipment and implements used in a manufacturing operation to produce tangible personal property for sale are excluded from the Ohio sales tax.

### Background

A manufacturing exemption has been part of the Ohio sales tax since the date it was first imposed in 1934. Originally exempting sales of items used in manufacturing a product, the exemption language was refined in 1935 to apply to sales of items used directly in the manufacturing of tangible personal property – language that often lead to litigation. In 1990, the exemption provision was changed so that it applied to items used primarily in a continuous manufacturing operation to produce tangible personal property for sale. With minor changes, this is the current form of the exemption.

Similar exclusions exist for items used in other segments of the economy, such as farming, mining and rendering a public utility service, where the final product may be subject to the tax.

### The Nature of the Manufacturing Exemption

In its study on taxation and economic development in Ohio,<sup>1</sup> the Commission to Study Ohio's Economy and Tax Structure noted that Ohio's sales tax is generally evaluated as a tax on consumption, although the Commission recognized there were gaps in its application. For example, as a general rule all sales of tangible personal property, but only some sales of services, are subject to the tax.

In addition, the Commission noted two main categories of exclusions:

1. Exclusions (such as the manufacturing exemption) intended to prevent “pyramiding” of the tax and to make it more consistent with a tax on ultimate consumption
2. Exclusions applying to purchasers and transactions the legislature has determined should not be subject to tax for some other reason, **such as [need an example]**.

The manufacturing exemption applies to sales of machinery, equipment and implements used in a manufacturing operation. The exemption also applies to sales of items that will be a part or component of something being manufactured for sale. For example, sales of a washing machine to a consumer is subject to the Ohio sales tax; however, sales by a supplier of a motor, or a timer, or an agitator to the washing machine manufacturer are exempt from the sales tax because those items will be used as parts in tangible personal property being manufactured for sale to a consumer.

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<sup>1</sup> *Taxation and Economic Development: A Blueprint for Tax Reform in Ohio* (Roy Bahl, Ed., Battelle Press, 1996).

## **The Policy Rationale**

The sales tax is, and always has been, intended as a tax imposed upon final consumption. As such, as a matter of tax policy, it should not apply to transactions that do not represent final consumption. If it were to apply to intermediate transactions – such as the sale of a motor to a washing machine manufacturer – the tax for each transaction would be based in part on the tax paid on all prior transactions, thereby “pyramiding” the tax.

## **The Competitiveness Issue**

Eliminating the manufacturing exemption and expanding the sales tax to purchases of manufacturing machinery, equipment and implements, which have never been taxed in Ohio, would increase the cost of goods manufactured in Ohio, thereby increasing the prices consumers would have to pay for those goods. This would render Ohio-manufactured goods more costly and less competitive than goods produced elsewhere.

Virtually all of the 45 states that impose a sales tax also have some sort of exclusion for machinery, equipment and other implements used to produce a product for sale by manufacturing or processing. All other factors being equal, if the manufacturing exclusion from the state sales tax were removed from Ohio law, the cost of investing in Ohio manufacturing would be 5.5 percent to 7.5 percent higher than the cost of investing in manufacturing in other states, depending on the county in which the investment were to be made.

## **The Manufacturing Exemption Should Be Retained**

Manufacturing remains the largest segment of Ohio’s economy. It is responsible for employing more than 600,000 Ohioans in well-paying jobs. As Ohio begins to pull out of the economic malaise of the past decade and restore and grow its manufacturing capabilities, the last thing the State should do is increase the cost of manufacturing investment in Ohio.

For these reasons, the manufacturing exclusion from the Ohio sales tax should be retained without change.

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**MEMORANDUM OF *AMICUS CURIAE* IN SUPPORT OF  
RELATOR JOBSOHIO'S MEMORANDUM CONTRA RESPONDENT'S  
MOTION FOR JUDGMENT ON THE PLEADINGS**

**I. STATEMENT OF AMICUS INTEREST**

The Ohio Manufacturers' Association (OMA) is a statewide association of approximately 1,600 manufacturing companies in Ohio. Its mission is to protect and grow Ohio manufacturing. The OMA and its members have a substantial interest in the constitutionality of the JobsOhio Legislation<sup>1</sup> because they anticipate that JobsOhio will play a critical role in expanding the manufacturing industry in Ohio over the next five years. In the next few years, a unique convergence of events is influencing a potentially large-scale global shift of manufacturing investment and jobs back to the North America. JobsOhio's innovative initiatives are critical for Ohio—as opposed to other competing locations in North America—to take advantage of this unique window of opportunity in the manufacturing sector.

Ohio is powered by manufacturing. Manufacturing is the largest sector of Ohio's economy, responsible for almost 17% of Ohio's GDP. *See* The Ohio Manufacturers' Association, *Ohio Manufacturing Counts* (2012).<sup>2</sup> Ohio manufacturing provides:

- More than 600,000 jobs for Ohio workers—ranking third nationally in manufacturing employment;
- At \$80 billion per year, Ohio manufacturing's contribution to Ohio's Gross State Product is more than 50% higher than the next largest private industry sector;
- An annual payroll of more than \$33 billion—the highest total annual wages of any non-government economic sector; and
- More than \$46 billion in products to more than 216 countries and territories—the

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<sup>1</sup> The term the “JobsOhio Legislation” refers to Am. Sub. H.B.1 (129<sup>th</sup> General Assembly), Am. Sub. H.B. 153 (129<sup>th</sup> General Assembly), R.C. Chapter 187 and R.C. Chapter 4313, collectively.

<sup>2</sup> *See* The Ohio Manufacturers' Association, *Ohio Manufacturing Counts: Facts About Ohio Manufacturing* (2012), available at <http://39a79f2ea113cef941255f3cc8eeba3798360cea.gripelements.com/pdf/leadership/oma-manufacturing-counts-2012.pdf> (accessed August 28, 2012).

ninth largest exporting state in the U.S.

*Id.*

Global manufacturing is at a critical juncture, presenting an opportunity for an Ohio manufacturing renaissance. China's overwhelming manufacturing cost advantage over the U.S. is shrinking. A recent report from the Boston Consulting Group concludes that rising Chinese wages, higher U.S. productivity, a weaker dollar, and other factors are closing the cost gap between the U.S. and China for many goods consumed in North America. The Boston Consulting Group ("BCG"), *Made in America, Again: Why Manufacturing Will Return to the U.S.* (2011), at 2.<sup>3</sup>

This combination of economic forces is fast eroding China's cost advantage as an export platform for the North American market. *Id.* at 3. Meanwhile, the U.S., with an increasingly flexible workforce and a resilient, innovative manufacturing sector, is becoming more attractive as a place to manufacture many goods consumed on this continent. *Id.* Indeed, BCG concludes that, by 2015—for many goods destined for North American consumers—manufacturing in some parts of the U.S. will be just as economical as manufacturing in China. *Id.*

This global cost shifting is significant because overall costs drive manufacturers' location choices. See Executive Office of the President, *A Framework for Revitalizing American Manufacturing* (December 2009), at 1.<sup>4</sup> In fact, a recent White House paper explains that: "In today's increasingly competitive global marketplace, manufacturing activities will be undertaken by private actors who will locate their factories where total all-in cost is lowest." *Id.*

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<sup>3</sup> The Boston Consulting Group, *Made in America, Again: Why Manufacturing Will Return to the U.S.* (2011), available at <http://www.bcg.com/documents/file84471.pdf> (accessed August 28, 2012).

<sup>4</sup> Executive Office of the President, *A Framework for Revitalizing American Manufacturing* (December 2009), available at <http://www.whitehouse.gov/sites/default/files/microsites/20091216-manufacturing-framework.pdf> (accessed August 28, 2012).

The result is a potentially large-scale rebalancing of global manufacturing. Although still in its early stages, this rebalancing is expected to accelerate in the next five years. *Id.* at 6. Over the next five years, North America will be the optimal choice for many manufacturing investments aimed at serving the North American market. *Id.* In fact, a September 2011 Booz & Company survey of global manufacturing reports that more than 65% of manufacturing survey respondents said that they are considering shifting manufacturing activities back from Asia and Latin America to the U.S., Canada, and Mexico. Booz & Company, *U.S. Manufacturing Competitiveness at a Critical Crossroads, Says Report by Booz & Company* (September 6, 2011).<sup>5</sup>

This presents a potential once-in-a-generation opportunity for Ohio to expand manufacturing in the state. But in order to capitalize on this narrow window of opportunity, Ohio needs to act urgently to set up the framework necessary to attract manufacturing companies moving their operations back to the United States.

This is why the JobsOhio Legislation is critical. The OMA anticipates that the following JobsOhio initiatives will play a vital role in capitalizing on this unique window of marketplace opportunity in the manufacturing sector:

- Increasing marketing efforts to bring more companies—including manufacturing companies—to Ohio;
- Increasing participation by business executives in the growth and marketing of Ohio as a business-friendly marketplace;
- Coordinating and streamlining regional economic development retention and expansion projects throughout the State through the JobsOhio Network; and
- Managing loan negotiations for various loan incentive programs designed to bring

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<sup>5</sup> Booz & Company, *U.S. Manufacturing Competitiveness at a Critical Crossroads, Says Report by Booz & Company* (September 6, 2011), available at <http://www.booz.com/global/home/press/article/49740178> (accessed August 28, 2012).

new business and retain existing businesses in Ohio.

See JobsOhio, *Strategic Framework* (2012).<sup>6</sup>

Sustainable funding is a keystone of JobsOhio's future success on each of these goals. Without a sustainable funding structure—accomplished by Respondent's execution of the Franchise and Transfer Agreement—JobsOhio cannot pursue the innovative job creation and retention programs it needs to reap the anticipated economic development benefits across the state.

Given the role JobsOhio can play in maintaining and growing the manufacturing industry in Ohio during this period of global rebalancing, the OMA has a strong interest in the constitutionality of the JobsOhio Legislation. The OMA agrees with Relator that the JobsOhio Legislation satisfies all requirements of the Ohio Constitution and present a clear legal duty upon Respondent to execute the Franchise and Transfer Agreement. This brief will focus on the following three constitutional issues raised in Respondent's Motion for Judgment on the Pleadings:

- 1) The JobsOhio Act<sup>7</sup> does not violate Article XIII, Section 1 of the Ohio Constitution as it is a general act—not a locally-focused “special act”—because JobsOhio's job creation and retention initiatives will impact every region of the State.
- 2) The JobsOhio Act does not violate the open courts requirement of Article I, Section 16 of the Ohio Constitution because the General Assembly provided in R.C. 187.09(C) a 60-day statute of limitations in which challenges maybe brought—and this shorter statute is necessary to attract manufacturing companies seeking to gain competitive benefits through a swift speed to market strategy.
- 3) The Transfer Act<sup>8</sup> does not violate the debt limits set forth in Article VIII of the Ohio Constitution because the Act does not create public debt, and even if the debts of JobsOhio and the State are conflated, the Act falls within the job-creation exception

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<sup>6</sup> JobsOhio, *Strategic Framework* (2012), available at [http://jobs-ohio.com/images/jobsohio\\_strategic\\_framework.pdf](http://jobs-ohio.com/images/jobsohio_strategic_framework.pdf) (accessed August 28, 2012).

<sup>7</sup> The term “JobsOhio Act” refers to R.C. Chapter 187.

<sup>8</sup> The term “Transfer Act” refers to R.C. Chapter 4313.

in Article VIII, Section 13.

Until Respondent executes the Franchise and Transfer Agreement, JobsOhio cannot issue its bonds, borrow money, or otherwise use the profits from the Liquor Enterprise to fund the paramount job creation and economic development activities necessary to capitalize on the unique marketplace opportunities in the manufacturing sector. For all of these reasons, *amicus curiae*, the OMA, respectfully urges this Court to issue a peremptory writ of mandamus compelling the Director to execute the Franchise and Transfer Agreement pursuant to R.C. 4313.02(C)(2).

## II. FACTUAL BACKGROUND

*Amicus curiae*, The Ohio Manufacturers' Association, adopts the fact recitations of Relator. Moreover, the OMA notes that the facts at issue in this action are undisputed. (Respondent's Motion for Judgment on the Pleadings, at 2) (noting that the Director admits "all material facts alleged in the Relator's Complaint."))

## III. LAW AND ARGUMENT

### A. **The JobsOhio Act Does Not Violate Article XIII, Section 1 of The Ohio Constitution, Which Mandates That "The General Assembly Shall Pass No Special Act Conferring Corporate Powers."**

Article XIII, Section 1 of the Ohio Constitution provides that "[t]he General Assembly shall pass no **special act** conferring corporate powers." Ohio Constitution, Article XIII, Section 1 (emphasis added.) The JobsOhio Act is not a "special act" as that term has been interpreted by this Court in the context of Article XIII. Thus, the Act does not violate Article XIII. *See State ex rel. Kauer v. Defenbacher*, 153 Ohio St. 268, 280 (1950) ("Even a casual reading of the foregoing constitutional provision discloses that it is to apply only where corporate powers are conferred by 'special act.'").

This Court has previously set forth what constitutes a “special act”—as opposed to a general act—under Article XIII:

Within the meaning of Section 1 of Article XIII of the Constitution, a special act, as distinguished from an act of a general nature, is one that is **local and temporary** in its operation.

*Defenbacher*, 153 Ohio St. at 280 (emphasis added).

The Court has further explained what it means for an act to be “local” in the context of a special act:

If the subject does or may exist in, and affect the people of, every county in the state, it is of a general nature. On the contrary, if the subject cannot exist in, or affect the people of, every county, it is local or special.

*State ex rel. Saxbe v. Alexander*, 168 Ohio St. 404, syllabus (1959) (quoting *Hixson v. Burson*, 54 Ohio St. 470, 43 N.E. 1000, 1001) (internal quotation marks omitted).

The purpose of this provision is to ensure that all acts passed by the General Assembly will:

affect or be likely to affect the interests of the constituents of each and every individual member of the General Assembly, so that his interest in his constituents would call his attention to the effect of the proposed enactments upon them, as well as upon the people of other localities.

*Defenbacher*, 153 Ohio St. at 280.

In his Motion for Judgment on the Pleadings, Respondent provides several examples of cases in which this Court found legislation to be a “special act” violating Article XIII. But in each case—unlike the JobsOhio Act—the act at issue was decidedly local in its operation and effect:

Case	Legislative Act	General or Special
<i>State ex rel. Saxbe v. Alexander</i> , 168 Ohio St. 404 (1959)	Authorizing a public parking garage underneath the Ohio Statehouse to address off-street parking <i>in Columbus</i>	Special
<i>State ex rel. Knisely v. Jones</i> , 66 Ohio St. 453, 488, 64 N.E. 424 (1902)	For the organization and support of a police force <i>for the City of Toledo</i>	Special
<i>Cincinnati v. Trustees of Cincinnati Hosp.</i> , 66 Ohio St. 40, 64 N.E. 420 (1902)	Authorizing a local hospital board of trustees to raise funds for a hospital extension <i>in Cincinnati</i>	Special
<i>Platt v. Craig</i> , 66 Ohio St. 75, 63 N.E. 594 (1902)	Authorizing construction and repair of a bridge in “any city of the third grade of the first class” with a navigable river”—but <i>only the City of Toledo fell within this narrow definition within the statute</i>	Special
<i>State ex rel. Atty. Gen. v. Cincinnati</i> , 20 Ohio St. 18, 36 (1870)	Conferring corporate powers on the city council <i>in Cincinnati</i> , requiring that the rules and regulations governing <i>a local Cincinnati hospital</i> be submitted to city council	Special

In contrast, the Court found that an act creating the Ohio Turnpike Commission and appropriating money to the State Highway Department for a feasibility study is general in nature—and not a special act under Article XIII. *Defenbacher*, 153 Ohio St. at 280. The basis of the Court’s finding in *Defenbacher* was, in part, that the act was not local because “[n]othing in the act requires the commission to undertake, or prevents it from undertaking, projects in any particular locality of the state.” *Id.* at 281.

Similarly here, the JobsOhio Act is not local because (1) it will exist in, and affect the people of, every county in the State, and (2) as in *Defenbacher*, nothing in the Act requires JobsOhio to undertake, or prevents it from undertaking, projects in any particular locality of the state.

In fact, the OMA’s strong interest in the constitutional viability of the JobsOhio Act demonstrates just what a widespread effect the Act will have throughout Ohio. Manufacturing

employment is present in every one of Ohio's 88 counties and OMA members do business in every region in the State. See The Ohio Manufacturers' Association, *Ohio Manufacturing Counts: Facts About Ohio Manufacturing* (2012), at 1.<sup>9</sup> The OMA expects that the new jobs created, new jobs retained, new capital investment, and other critical economic development benefits stemming from JobsOhio will impact all OMA members and Ohio manufacturers in every Ohio region. Indeed, JobsOhio has regional support for businesses in *every* region in the State. See JobsOhio, *In Ohio* (explaining the JobsOhio Network and regional support contacts throughout Ohio).<sup>10</sup>

Further, the OMA anticipates that JobsOhio and the economic development projects that JobsOhio undertakes will positively affect each of the varied industries the OMA members and Ohio manufacturers represent throughout the State of Ohio. JobsOhio has targeted the following specific industry sectors—each of which will directly impact OMA members and Ohio manufacturers in all Ohio regions: energy, polymer and chemical, automotive, aerospace/aviation, advanced manufacturing, food processing and agribusiness, and biohealth. See *id.* (explaining the industry sectors targeted by JobsOhio).

OMA members and Ohio manufacturers work in each of these industries, and have a vested interest in the continued targeted growth of each of these industries throughout the State. See The Ohio Manufacturers' Association, *Ohio Manufacturing Counts: Facts About Ohio Manufacturing* (2012). Thus, as in *Defenbacher*, the statewide reach of the JobsOhio Act and the economic development benefits stemming from the Act undoubtedly interested every voting

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<sup>9</sup> See The Ohio Manufacturers' Association, *Ohio Manufacturing Counts: Facts About Ohio Manufacturing* (2012), available at <http://39a79f2ea113cef941255f3cc8eeba3798360cea.gripelements.com/pdf/leadership/oma-manufacturing-counts-2012.pdf> (accessed August 28, 2012).

<sup>10</sup> JobsOhio, *In Ohio*, available at <http://jobs-ohio.com/in-ohio/> (accessed August 28, 2012).

member of the General Assembly—in every region in the State. Because the JobsOhio Act is general in nature—and not a special act—the Court should find that it satisfies the constitutional requirements of Article XIII, Section 1.

**B. The JobsOhio Act Does Not Violate Article I, Section 16, Which Requires that Litigants Have a Right to a Remedy.**

Respondent next challenges the JobsOhio Act on the ground that it violates the open-courts requirement of the Ohio Constitution, which provides:

All courts shall be open, and every person, for an injury done him in his land, goods, person, or reputation, shall have remedy by due course of law, and shall have justice administered without denial or delay.

Ohio Constitution, Article I, Section 16.

Respondent contends that the 60-day statute of limitations in R.C. 187.09(C) is too short and does not afford litigants a meaningful remedy within the meaning of Article I, Section 16. (Respondent’s Motion for Judgment on the Pleadings, at 12.)

But as this Court noted in *Leininger v. Pioneer Nat’l Latex*, 115 Ohio St.3d 311, 2007-Ohio-1691, ¶ 32: “The period within which a claim must be brought, however, is a policy decision best left to the General Assembly.” *Id.* at 319. Here, the General Assembly has concluded that JobsOhio’s initiatives to create and retain jobs and businesses in Ohio require nimble and time-sensitive decision-making and, as a result, constitutional issues should be resolved promptly so that JobsOhio can move forward—one way or the other.

This need for swift decision-making is particularly salient in the manufacturing sector. Now more than ever, speed is a key to survival and success in manufacturing. *See* The Boston Consulting Group, *How Fast-Moving Consumer Goods Companies Use Speed as a Competitive*

*Weapon*, at 3 (April 20, 2012).<sup>11</sup> For a manufacturing company, for example, reducing time to market leads to numerous financial and nonfinancial benefits. *Id.* at 6. Enhanced agility has the potential to boost a company's top and bottom lines, and flexible and mobile consumers demand it. *Id.* Indeed, the best-in-class companies launch new products seven months faster than average. *Id.* Moreover, a product that gets to market early is less likely to face initial competition and gives a product more time to build market share. *Id.*

The 60-day statute of limitations in the JobsOhio Act enables JobsOhio to move at the speed of 21<sup>st</sup> Century business. If a company is choosing a site location to manufacture an innovation, it needs to work quickly in order to take advantage of speed to market competitive benefits. Ohio likewise needs to be able to work quickly to provide the company's leadership with supply chain analyses, demographic information, site-selection details, incentive offers, and to quickly connect company executives with the industry, funding and political partners needed to make a site selection decision. With a 60-day statute, JobsOhio can take the steps necessary to bring new manufacturing jobs to Ohio—without looking over its shoulder at potential constitutional challenges one or two years down the road. In today's business climate, one or two years might as well be a lifetime.

As this Court has done before, it should give deference to the General Assembly's public policy decision providing for a 60-day statute of limitations for constitutional challenges to the JobsOhio Act and hold that the JobsOhio Act satisfies Article 1, Section 16—presenting a clear legal duty upon Respondent to act.

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<sup>11</sup> The Boston Consulting Group, *How Fast-Moving Consumer Goods Companies Use Speed as a Competitive Weapon* (April 20, 2012), available at [https://www.bcgperspectives.com/Images/Speed\\_to\\_Win\\_Apr\\_2012\\_tcm80-104158.pdf](https://www.bcgperspectives.com/Images/Speed_to_Win_Apr_2012_tcm80-104158.pdf) (accessed August 28, 2012).

**C. The Transfer Act Will Not Cause the State to Incur Debt in Excess of the Limits Imposed by Article VIII of the Ohio Constitution.**

Article VIII, Sections 1, 2 and 3 place constitutional limits on the type and amount of debt the State may incur. Section 1 entitled “Public Debt” provides that “the State may contract debts to supply casual deficits or failures in revenues, or to meet expenses not otherwise provided for; but the aggregate amount of such debts cannot exceed \$750,000.” Ohio Constitution, Article VIII, Section 1. But as Relator explains, Article VIII is not implicated here because the Transfer Act does not create any public debt, and even if it were to be construed as creating public debt, this debt falls under the job creation exception set forth in Article VIII, Section 13.

First, Relator explains in its Memorandum in Support of the Writ that the debt limit in Article VIII is not implicated here because the Transfer Act does not require the issuance of *any* public debt of the State. (JobsOhio Mem. in Supp. at 30.) Rather, the State will convey an asset—a franchise on the Liquor Enterprise—to JobsOhio in exchange for the \$1.4B Closing Payment. JobsOhio—and not the State—will take on the obligation to repay the bonds it issues to finance the Closing Payment.

This Court has previously considered what constitutes “public debt” of the State. Based on this Court’s prior decisions, public debt of the State is generally: (1) an obligation of the state, (2) to be repaid from general tax revenues, (3) which the State owes and promises to repay. *See State ex rel. Ohio Fund Management Board v. Walker*, 55 Ohio St.3d 1, 561 N.E. 927 (1990) (finding that the notes at issue were a debt of the State under Article VIII because the statute provided that the notes were “special obligations of the state,” to be “repaid from anticipated revenues, including tax revenues” kept in a special repayment fund, and the Treasurer was instructed by statute to “covenant on behalf of the state” to pay note service charges); *see also*

*State ex rel. Shkurti v. Withrow*, 32 Ohio St.3d 424, 428 (1987) (proposed bond issuance to fund a government program was an obligation of the State under Article VIII because tax revenues were pledged for debt service).

Unlike the above-cited cases, the Franchise and Transfer Agreement (1) imposes no financial obligation upon the State going forward, (2) does not require the State to repay any outstanding obligations using general tax revenues, and (3) the State neither owes anything nor promises to pay anyone following execution of the Franchise Agreement and conveyance of the Liquor Enterprise franchise to JobsOhio.

Rather, JobsOhio—a private non-profit corporation—will incur its own debt to pay the \$1.4B Closing Payment to the State. R.C. 4313.02(A). JobOhio’s debt will be payable from and secured by Liquor Enterprise revenues, which JobsOhio will own as a result of its Franchise Agreement with the State authorized by R.C. 4313.02(A).

Second, even if the Transfer Act is construed to create public debt, it falls within the exception to debt limits found in Article VIII, Section 13. Under Section 13, state bonds and other obligations are not subject to the Article VIII debt limits where:

- (1) the State sells, leases, exchanges or “otherwise dispose[s] of property”;
- (2) in order “to create or preserve jobs and employment opportunities [or] to improve the economic welfare of the people of the state,” and
- (3) the State passes laws “to carry into effect such purposes and to authorize for such purposes the borrowing of money by, and issuance of bonds or other obligations of, the state.”

Ohio Constitution, Article VIII, Section 13. The Transfer Act falls squarely within this Section 13 exemption.

Under the Transfer Act, the State will sell “property”—a franchise on the Liquor Enterprise—toward achieving its job creation and economic development purposes. R.C.

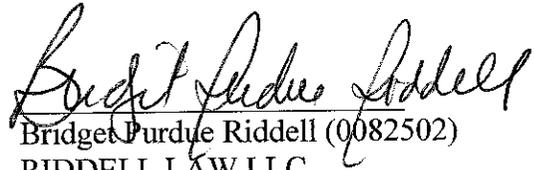
4313.02(A). Respondent questions whether a franchise on the Liquor Enterprise constitutes “property.” (Respondent’s Motion for Judgment on the Pleadings, at 25.) But that question is resolved by review of the Attorney General’s own opinion—1998 Ohio Atty. Gen. Op. No. 1998-034—which notes that the word “property” “can encompass everything that is owned,” including “everything which is the subject of ownership, corporeal or incorporeal, tangible or intangible, visible or invisible, real or personal.” *Id.* (citing *Black’s Law Dictionary* 1216 (6th ed. 1990)). Because a franchise on the Liquor Enterprise can be owned—and sold—it is “property” under Article VIII, Section 13.

What’s more, it is uncontroverted that the purpose of the Transfer Act is to create and preserve jobs in the State. (Complaint, at ¶ 11; Answer of Respondent, at ¶ 11.) As a result, the Transfer Act falls squarely within the debt limit exceptions contain in Article VIII, Section 13.

#### **IV. CONCLUSION**

In order to capitalize on unique global marketplace conditions in the manufacturing sector, JobsOhio must be nimble and to have the ability to act quickly to attract and retain manufacturing jobs and companies in Ohio. Because the JobsOhio Legislation meets all constitutional requirements, *amicus curiae* The Ohio Manufacturers’ Association urge the Court to issue a writ of mandamus compelling Respondent to execute the Franchise and Transfer Agreement on behalf of the State of Ohio, as required by R.C. 4313.02(C)(2).

Respectfully submitted,

A handwritten signature in black ink that reads "Bridget Purdue Riddell". The signature is written in a cursive style with a horizontal line drawn across the middle of the name.

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**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the foregoing *MEMORANDUM OF AMICUS CURIAE THE OHIO MANUFACTURERS' ASSOCIATION IN SUPPORT OF RELATOR JOBSOHIO'S MEMORANDUM IN OPPOSITION TO RESPONDENT'S MOTION FOR JUDGMENT ON THE PLEADINGS* was sent via regular U.S. mail, postage prepaid this 29th day of August 2012, to the following:

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Bridget Purdue Riddell (0082502)



To: OMA Government Affairs Committee  
From: Ryan Augsburger  
Rob Brundrett  
Re: Safety and Workers' Comp Policy Update  
Date: September 20, 2012

### **Overview**

With campaign season in full throttle the legislature has stalled except for the recent passage of public pension reform. The legislature has been out campaigning since early June with only the one significant pit stop in Columbus, which dealt with the aforementioned pension reform. Any significant legislative action will have to take place in late November through December during lame duck session.

### **Legislation**

With the elections and summer recess the legislature has not spent a lot of time working in Columbus. In late May and early June the legislature passed and the governor signed, the [Mid Biennium Review Bill](#) (HB 487). Included in this policy laden corrections budget were numerous changes to the Bureau of Workers' Compensation. Included amongst the changes was a provision that changes how partial disability payments are made. Continuing law requires that upon an order for the payment of permanent partial disability for a loss by amputation or for a loss of use the award is calculated pursuant to a specific schedule. The bill requires that compensation which payable per week under the act, be paid in installments. For the past several years BWC rules required this paid in a lump-sum payment.

The bill also made several changes to the Workers' Compensation Board Nominating Committee, publication of rules and orders by the Administrator, university hospitals and self-insurance and sports team workers' compensation coverage.

The House still has not had any hearings on the package of workers comp bills introduced in mid-April (HB 516, HB 517, and HB 518). Although they announced the bills introduction to great fanfare, the legislature's apparent reluctance for substantive change during an election year is still strong.

As reported previously, the measures are opposed by trial lawyers and labor unions. The bills are supported by Bureau of Workers' Compensation Administrator Steve Buehrer. The OMA supports [HB 517](#).

The bills, and particularly the main reform measure (HB 517), provide common sense improvements in the medical system that supports injured workers. The legislation would bring the Ohio system close to the 21st century in its use of modern tools for care management, tools that are used by all health insurance and disability insurance carriers in the U.S., including provider panels and provider outcome measurements.

It is a continuing shame to Ohio that the state's workers' compensation system remains mired in an outdated and costly medical care management program that so often fails both injured workers and employers.

In other business, Professional Employer Organization (PEO) legislation remains stuck in the House Commerce and Insurance Committee. The Ohio Senate concluded work on [SB 139](#) (Hughes, R-Columbus) to enact financial safeguards against PEOs, sending the measure to the Ohio House back in November 2011 where the bill sits today.

## **Bureau of Workers' Compensation**

### Administrator visit

Bureau of Workers' Compensation (BWC) administrator, Steve Buehrer, visited with the OMA Safety & Workers' Compensation in June. At the meeting the administrator emphasized his priorities in reducing cost and longevity of claims.

Among the administrator's initiatives to reduce claims costs are: implementation of a BWC pharmacy formulary, expansion of drug utilization reviews for capturing inappropriate drug use, and emphasis on rehabilitation and transitional work. He asks that employers cooperate with the system by not contesting legitimate claims and participating in transitional work programs that give injured workers productive work roles under their physician's restrictions.

### GrowOhio

Among administrative reforms already enacted is the premium discount program, *GrowOhio* created earlier this year for new employers to the state. More recently, a rule package known as the *Destination: Excellence Program* will 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.

A discount to promote wellness programs was also instituted earlier this year. See attached news and analysis. Also see article detailing BWC program to restrict pharmacy formularies.

## **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). Minimum repayments were required beginning September 2011 (nearly \$300 in interest alone in the 2012/13 biennial budget). Eventually Ohio employers could see a premium increase to repay the federal loans and restore the state fund, probably coupled with cost cuts. That will require law change and is unlikely until after the election.

Some employers with high experience ratings will see FUTA tax increases as long as the state is in arrears.

## Safety and Workers' Compensation Management

### BWC Awarded Grant to Study Workplace Injuries and Illness

The Ohio Bureau of Workers' Compensation (BWC) has been awarded a \$117,000 grant by the Bureau of Labor Statistics (BLS) to participate in a program that aims to increase workplace safety by compiling nationwide statistics on occupational injuries and illnesses. Ohio is one of 44 participating states and territories.

The 50 percent matching grant will be used by BWC to distribute surveys to 4,000 Ohio employers to collect specific information surrounding injuries and days away from work. The Ohio data will be reported out and also be included in analyses of nationwide occupational injury and illness trends.

09/07/2012

### Model Incident Form Available

The OMA Workers' Compensation Services team recently updated its workers' compensation [incident form](#) for member use. The update included legal review by OMA Connections Partner, Dinsmore & Shohl LLP. Members are welcome to adopt this form.

08/24/2012

### New BWC Catalog Jam Packed with Free Safety Services

The Bureau of Workers' Compensation (BWC) compiles an [annual catalog](#) of its entire suite of safety services and its comprehensive training curriculum. Safety services are available at no charge to Ohio's state fund employers.

If you find using the online catalog inconvenient, you can order a printed copy at this [BWC web page](#) (scroll to item DS23 and click the box on the left, click Next at the bottom of the screen, and then fill out your customer information).

OMA highly recommends BWC safety services.

08/24/2012

### BWC Back in Court Regarding Group Discounts

Opening statements were heard on Monday in the class action lawsuit filed on behalf of 270,000 employers who did not participate in an Ohio group experience rating plan. The suit claims the Bureau of Workers' Compensation charged these employers excessive premiums for the years 2001 to 2008. The plaintiffs are asking for more than \$1.3 billion in restitution. According to the [Cleveland Plain Dealer article](#), the bureau is currently not commenting on the impact this might have on future premiums.

08/24/2012

### Governor Makes Appointments to BWC Board

Governor Kasich [announced the appointment](#) of four directors to the 11-member Bureau of Workers' Compensation (BWC) board of directors which has oversight of the organization.

Directors have professional expertise in accounting, investments and securities, and actuarial management, or are members of the business community, or represent labor and injured workers.

The Governor's new appointments to the board are Tracie Sanchez (Allen County), president of Lima Pallet, Inc., to represent small businesses, and Frank Guglielmi (Hancock County), an investment and securities professional and retired executive officer of The Ohio Bank. Reappointed to three-year terms were David Caldwell (Franklin County) and Kenneth Haffey (Geauga County).

The board made [committee appointments](#). The actuarial, audit, investment, governance and medical services and safety committees oversee the board's operations.

07/27/2012

## **BWC Accepting Applications for Transitional Work Grant Program – Learn More at OMA Webinar**

The Ohio Bureau of Workers' Compensation (BWC) is now accepting applications for a new grant program designed to assist employers in developing transitional work programs that return employees to work or keep them working in some capacity following a workplace injury. [The Transitional Work Grant Program](#) provides funds for employers to design programs that personalize job accommodations for a specified time period to gradually return injured workers to their original jobs.

The 3-to-1 matching grants are available to companies with more than 11 employees, although BWC will assist smaller employers in developing their plans. The maximum grant amounts range from up to \$2,900 for companies with 11-49 employees, to as much as \$6,300 for those with more than 200 employees.

Participating employers are required to hire a BWC-accredited [transitional work developer](#) to design a customized program. BWC will reimburse 75 percent of covered charges up to the maximum grant amounts after proof of payment to a developer.

Eligibility requirements and application details are on the [BWC website](#), and employers can [email questions](#) to the transitional work support unit.

OMA is offering a [no-charge webinar](#) on all the BWC grant programs on Tuesday, July 31 from 10:00 – 11:00 a.m.

07/20/2012

## **Industrial Commission Takes Aim at Adjudication Delays**

In an effort to combat continuances which cause excessive delays in workers' compensation disputes, the Ohio Industrial Commission this week announced a temporary policy change [intended to speed adjudications](#).

The commission will restrict the ability of lawyers, representing both injured workers and employers, from requesting extensions. In addition, the commission's regional managers are now conducting hearings, permanent partial

disability hearings are being docketed aggressively, and the commission's largest office, Columbus, began adding more hearing hours.

Recognizing the significance of the change, Industrial Commission Chair Karen Gillmor said, "The commission will continue to evaluate its docketing policy and continuance guidelines so that hearings may continue to be held expeditiously."

07/13/2012

## **BWC Streamlines Forms Aiming for Better Return-to-Work Outcomes**

The Ohio Bureau of Workers' Compensation (BWC) continues its efforts to improve return-to-work outcomes for injured workers, outcomes that are in the best interest of both the worker and the employer. To that end, BWC is streamlining two forms, the Physician's Report of Work Ability ([MEDCO-14](#)) and the Request for Temporary Total Compensation ([C-84](#)).

The forms aim to establish work "abilities" of the workers, rather than just the "disabilities," so that the BWC, managed care organization and employer can better facilitate, with the provider, transitional work, vocational work and other efforts to get the worker back to work quickly and safely.

Previously, health care providers had to complete both forms; now the BWC requires them to complete only the revised MEDCO-14. The C-84 will be completed by injured workers only.

Providers will begin using the new forms July 17. As of August 17, the old forms will not be accepted by the BWC.

07/13/2012

## **State Has \$55 Million in Credit Programs for Small Businesses**

The Ohio Department of Development (ODOD) received more than \$55 million from the U.S. Department of Treasury for the State Small Business Credit Initiative (SSBCI) to leverage private lending to increase the amount of credit available to small businesses, including

manufacturers. ODOD administers the state-run financing programs utilizing SSBCI funds. Businesses should be creditworthy but not able to acquire needed financing in the private sector.

There are three programs, providing varying benefits depending on financing challenges and requirements.

The Collateral Enhancement Program provides lending institutions with cash collateral deposits to use as additional collateral (from 30 to 50 percent of the loan amount) for loans made to eligible businesses.

The Ohio Capital Access Program (OCAP) establishes a loan "guarantee" reserve pool at participating lending institutions to support provide financing to businesses that are having difficulty obtaining business loans through conventional underwriting standards. The state, the lender, and the borrower each pay a small fee into the pool, which is then available to the lender for recovery of any OCAP losses.

And the Targeted Investment Program (TIP) is specifically to assist businesses in Ohio's manufacturing, production, and logistics value chains. TIP offers debt instruments tailored to the specific needs of the company at or below market interest rates and targets businesses that have received first or second round equity.

The state has prepared this useful PowerPoint presentation.

07/13/2012

### **Roetzel Attorney Selected as Toledo Bar Association Workers' Compensation Committee Chair**

OMA Connections Partner, Roetzel & Andress, announced its attorney Kevin J. Cooper has been selected to serve a one-year term as chairman of the Toledo Bar Association Workers' Compensation Committee. He has served two years as secretary of the committee prior to this appointment. Cooper focuses his practice on defending workers' compensation claims and all related litigation, representing large and small companies before the Industrial Commission of Ohio; he has litigated numerous

disputes at all levels of Ohio trial and appellate courts.

OMA Workers' Compensation Services has longstanding business relationships with the workers' compensation attorneys of Roetzel & Andress, employing them on behalf of OMA members in Industrial Commission cases.

07/13/2012

### **BWC Administrator Addresses OMA Members**



Bureau of Workers' Compensation (BWC) administrator, Steve Buehrer, visited with

the OMA Safety & Workers' Compensation committee this week. The administrator continues to prioritize reducing the cost and longevity of claims.

He cites an Ohio statistic: 49% of all dollars in claims are paid out eight years after the date of injury. He said that on a per claim basis, BWC costs continue to rise; however, return-to-work statistics are not improving, thus the BWC investments in treatment are not getting a better net result. He said that the trend in the number of reported new claims is declining.

Among the administrator's initiatives to reduce claims costs are: implementation of a BWC pharmacy formulary, expansion of drug utilization reviews for capturing inappropriate drug use, and emphasis on rehabilitation and transitional work. He asks that employers cooperate with the system by not contesting legitimate claims and participating in transitional work programs that give injured workers productive work roles under their physician's restrictions.

*Pictured: OMA Safety & Workers' Compensation Committee Chairman, Bob Truex, Lancaster Colony, and BWC Administrator, Steve Buehrer*

06/22/2012

### **Court Vacates Industrial Commission Decision on Procedural Basis**

According to an [analysis](#) by OMA Connections Partner, Roetzel & Andress, a recent Tenth District Court of Appeals case addressed a rarely seen issue involving third-level Ohio Industrial Commission hearings, specifically those set in front of the three commissioners.

At stake procedurally was the validity of a commission decision when all of the members were not present and a reviewable record was not kept.

OMA has long been an advocate of Industrial Commission record hearings.

06/22/2012

**OMA Safety & Workers' Compensation  
Committee Meeting Materials - 06/21/2012**

[These are the materials](#) that support the June 21, 2012 OMA Safety & Workers' Compensation Committee meeting, and they have utility to the workers' community of practice among Ohio manufacturers as well.

06/21/2012

**Workers' Compensation Legislation**  
Prepared by: The Ohio Manufacturers' Association  
Report created on September 13, 2012

- 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](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](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 & Technology, (Third Hearing)  
**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_186](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](tp://www.legislature.state.oh.us/bills.cfm?ID=129_HB_252)
- HB516**     **WORKERS' COMPENSATION LAW** (HENNE M, HOTTINGER J) To make changes to Ohio's Workers' Compensation Law.  
**Current Status:** 4/19/2012 - House Workers' Compensation Subcommittee, (First Hearing)  
**More Information:** [tp://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_516](tp://www.legislature.state.oh.us/bills.cfm?ID=129_HB_516)
- HB517**     **WORKERS' COMPENSATION LAW CHANGES** (SEARS B, NEWBOLD C) To allow the Administrator of Workers' Compensation to pay for specified medical benefits during an earlier time frame, to require a workers' compensation claimant that refuses or

unreasonably delays treatment without good cause to forfeit compensation and benefits during the time period of refusal or delay, to make changes to the health partnership program, and to make other changes to the Workers' Compensation Law.

**Current Status:** 4/19/2012 - House Workers' Compensation Subcommittee, (First Hearing)

**More Information:** [tp://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_517](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_517)

**HB518**      **WORKERS' COMPENSATION-HEALTH PARTNERSHIP PROGRAM (SEARS B, LANDIS A)** To statutorily allow the Bureau of Workers' Compensation to summarily suspend a provider's certification to participate in the Health Partnership Program, to specify procedures for that suspension, and to exempt documents, reports, and evidence pertaining to a workers' compensation fraud investigation from the Public Records Law.

**Current Status:** 4/19/2012 - House Workers' Compensation Subcommittee, (First Hearing)

**More Information:** [tp://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_518](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_518)

**HB522**      **SERVICE PROVIDER-CERTAIN MOTOR TRANSPORTATION COMPANIES (MCGREGOR R)** To establish a test to determine whether an individual providing services for or on behalf of certain motor transportation companies is considered an employee under Ohio's Overtime, Workers' Compensation, and Unemployment Compensation Laws.

**Current Status:** 4/24/2012 - Referred to Committee House Commerce, Labor & Technology

**More Information:** [tp://www.legislature.state.oh.us/bills.cfm?ID=129\\_HB\\_522](http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_522)

**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:** 5/16/2012 - House Commerce, Labor & Technology, (Third Hearing)

**More Information:** [http://www.legislature.state.oh.us/bills.cfm?ID=129\\_SB\\_139](http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_139)