

## **PUBLIC POLICY SERVICES REPORT**

### **September 2011**

#### **Overview**

The controversial state budget process concluded June 30, realigning aspects of state government. The legislature has been on recess and is likely to be session only briefly in late September to adopt revisions to state and congressional legislative districts.

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

The policy outlook is clouded by the November General Election, most especially State Issue 2, the referendum on collective bargaining legislation enacted early this year.

#### **State Budget**

The budget was signed into law by Governor Kasich with only a few minor vetoes. Revenue collection has been coming in above projections alleviating concerns about the need to make further cuts for the two-year state budget. The state budget included repeal of Ohio's Estate Tax. Governor Kasich has in recent weeks indicated he may want to reopen the budget next year to accomplish his next set of government reforms. Stand by.

#### **AEP-Ohio Rate Case – Precedent Setting**

AEP-Ohio's rate case has taken a dramatic turn over the summer. AEP-Ohio had initially proposed to remain a fully integrated regulated utility with its plan introduced back in March. Through various riders and other regulatory mechanisms this plan would have killed any shopping opportunity for customers now or looking to become active in the electricity marketplace.

In early August AEP-Ohio announced that it would consider selling its generating assets and fully deregulate the electricity generation portion of its business (result: it would look a lot like FirstEnergy). After the OMA initially signaled some concern with this move in the context of a confidential settlement, it was made clear that this was the direction the state was headed and parties needed to be constructive.

The overall structure of the settlement is described in more detail later in your briefing materials but it benefits manufacturing overall. That is not to say some manufacturers will not see large increases; however, the results obtained by the OMA Energy Group are better for the industrial community at large. Due to the OMA Energy Group's participation in the AEP case we are in a position to assist those companies who will see large increases. If your company is one that will see large increases talk to OMA staff to learn about your options.

## **Labor Agenda**

Labor unions and Democrat political leaders have been waging a campaign to repeal SB 5 on the November ballot. Framing the issue as an attack on the civil rights of workers, the pro-repeal side holds a polling advantage. Republican leaders completed the state budget before launching their campaign to defend SB 5. Building A Better Ohio is now up and running and on television and in grassroots in support of state issue 2. Following the OMA board's decision to support issue 2, OMA President Burkland and staff have been participating in campaign tactics.

In recent meetings, state leaders have tied passage of SB 5 to potential state enactment of card check, increase in CAT tax rate to bailout public pension systems (inferring union board management) and a halt to any possible workers' comp reforms. To say the least, the stakes are high for both sides. An effort to negotiate a moderated version of the bill stalled out over the summer. Each side is expected to spend \$20 million.

## **Redistricting / Reapportionment**

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

Maps of the proposed boundaries have been released for comment and are included in meeting materials. Both processes should be completed by the end of September.

## **Governor's Energy Summit**

The Ohio Governor's 21 Century Energy & Economic Summit took place September 21 and 22. The OMA was heavily involved with organizers in identifying speakers, nominating 150 individuals for attendance to the event, and paying for college students to attend the event. The OMA staff will be attending the event and watching for trend development and issue identification coming out of the panel discussions.

## **SB 221 Revisit?**

Senate Bill 216 was recently introduced by Senator Kris Jordan (R-Delaware) and would repeal the advanced and renewable energy portfolio in Ohio. The OMA has learned that at this time neither chamber seems terribly interested in modifying or opening up S.B. 221.

## **Storm Water Permits**

Ohio EPA has been considering revisions to its current storm water permit. This is in response to U.S. EPA making motions that it will ratchet up regulations on total dissolved solids (TDS) in waterways. The major contributor to TDS is agricultural and road run-off;; however, Ohio EPA does not regulate either of those. The revisions being contemplated will add thousands of dollars in regulatory expenses to those companies that have storm water permits. The OMA is working with a business coalition to keep Ohio EPA from instituting the proposed permit and revisit the need for the enhanced program.

## **Ozone**

President Obama sent U.S. EPA a communication telling it to withdraw its proposal to tighten the ozone standard. This move was a major victory in keeping regulatory costs in check in Ohio. If the proposed ozone regulations had gone through nearly every county in Ohio would have had enhanced regulations on businesses and consumers. Interesting fact – if U.S. EPA had adopted the lower end of their proposed threshold, then Yellowstone Park would have been in violation.

## **Civil Justice**

The OMA chairs the Ohio Alliance for Civil Justice (OACJ), the coalition of business groups that work together in support of a competitive legal climate. Threats and opportunities are evident. The top opportunity is HB 170 to revise the statute of limitations for actions to be brought against breach of business contracts from 15 years down to 6 years. The top threat comes from SB 143, legislation to adopt a state false claims act which creates a new cause of action, exposing government contractors to more frivolous lawsuits. The proponent: Attorney General Mike DeWine. See counsel's report which will be distributed during the Board meeting.

## **Tax Exemption for Business Allowed**

House Bill 114, the transportation budget, included an amendment to exempt certain petroleum transactions from the commercial activity tax (CAT). See attached memo from OMA Tax Counsel describing the bad precedent and raising questions for the OMA about the appropriate level of OMA advocacy energy.

## **JobsOhio – Economic Development**

Governor Kasich's top priority has been to restructure state economic development functions. Over the quarter the umbrella corporation, JobsOhio, was launched with a rollout intended to describe the new roles. The remaining elements of the state development department are to be renamed the Development Services Agency. Regional partners, such as Columbus 2020 and TeamNEO, will serve as the front door to companies for attraction and retention.

## **Workers' Compensation Policy**

Talk of reforming the BWC continues; however it appears most substantive changes are on hold pending favorable outcome of state issue2, the referendum on Senate Bill 5. Staff has met with BWC leadership on numerous occasions and legislative proposals seem meaningful.

## **Constitutional Study Committee**

HB 188 (Batchelder-R) will create a 32-member task force to convene over a ten-year period with the purpose of reviewing Ohio's constitution to recommend updates. Among suggestions could be legislative term limits, the process for citizen-initiated legislation, workers' compensation privatization, etc. Following endorsement by OMA directors at the June Board meeting, staff has communicated support for the measure.