



**Government Affairs Committee Agenda
September 11, 2024**

Welcome & Introductions

Luke Harms, Director of Government Relations, Whirlpool Corporation, Committee Chair

Public Policy Rundown/Staff Reports

- Leadership
- Energy
- Environment
- Human Resources
- Safety and Workers' Compensation
- Taxation & Finance

Lindsey Short, OMA staff
James Lee, OMA staff

OMA Counsel's Report

Chris Slagle, Bricker Graydon LLP, OMA General Counsel

Guest Presentation

- **2024 Election Panel**

Scott Schweitzer, COO, The Strategy Group
Jonathon Varner, Principal Owner, Kestrel Communications
Matt Dole, Consultant, Communicatoins Counsel

Special Guest Presentation

JP Nauseef, CEO, JobsOhio

**2024 Government Affairs Committee
Calendar
Meeting begins at 10 a.m.**

November 21, 2024

Our Meeting Sponsor:



OMA Government Affairs Committee - Sep 2024

Name	Company	Location
Kristin Aldred	Stericycle, Inc.	Bannockburn, IL
Savannah Allen	Union County-Marysville Economic Developmnet Partnership	Marysville, OH
Ann K. Aquillo	Ann Aquillo Consulting LLC	Powell, OH
Ryan R. Augsburger	The Ohio Manufacturers' Association	Columbus, OH
Matt Austin	Austin Legal	
Steve Austria	Sugar Creek Packing Company	Dayton, OH
Kevin Baird	PPG	Pittsburgh, PA
Bradley H. Belden	The Belden Brick Company	Canton, OH
Greg Bennett	Owens Corning	Granville, OH
Jacob Block	American Nitrile Operations LLC	Grove City, OH
Clint Blume	Haviland Drainage Products Co.	Haviland, OH
Kimberly W. Bojko	Carpenter Lipps LLP	Columbus, OH
Doug Borchers	Superior Aluminum Products, Inc.	Russia, OH
Conor Collins	Simon Roofing & Sheet Metal Corporation	Columbus, OH
Amy Cornell	Tyson Foods, Inc.	Springdale, AR
Sara Corona	Crown Equipment Corporation	New Bremen, OH
Russell Decker	Nutrien	Lima, OH
Aimee M. DeLuca, CPA	ScottsMiracle-Gro Company	Marysville, OH
Kevin DeWine	Crown Equipment Corporation C/o CBD Advisors	Beavercreek Township, OH
Matthew DeWine	Foxconn	Warren, OH
Bobbi Dillon	The Procter & Gamble Company	Cincinnati, OH
Steve Dimon	AMG Vanadium LLC C/o 21 Consulting, LLC	Columbus, OH
Matt Dole	Communications Counsel	
Carter Driscoll	Foxconn	Warren, OH
Joseph F. Dutt	Summitville Laboratories	Minerva, OH
Wyatt Elbin	Calpine Energy Solutions	Rawson, OH
Shaun Eller	Ohio Gratings, Inc.	Canton, OH
Tom Evans	The Ohio Manufacturers' Association	Columbus, OH
Greg Faith	Summers Rubber Company	Mansfield, OH
Jacqueline Filipovich	B & B Molded Products	Defiance, OH
Colin Fitzsimmons	Vistra	Irving, TX
Tayte French Lutz	French Oil Mill Machinery Company	Piqua, OH
Scott Frens	Fort Recovery Industries Inc.	Fort Recovery, OH
Jennifer J. Friel	Mid West Fabricating Company	Amanda, OH
Danielle Fulton	Millat Industries	Kettering, OH
Mary Garceau	The Sherwin-Williams Company	Cleveland, OH
Allison Glasgow	The Ohio Manufacturers' Association	Columbus, OH
Kelley Hand	BSI Group America	Columbus, OH
Clark Harvey	Arrowhead Talent Solutions	North Canton, Ohio
Margaret Hess	Ohio Association of Career Technical Superintendents	Morrow, OH
Kevin Hoggatt	Intel Corporation	Columbus, OH
John Holeman	TOSOH SMD, Inc.	Grove City, OH
Lawrence D. Holmes	Fort Recovery Industries Inc..	Greenville, OH
Nicole Hoyer	Miami University - ASPIRE	Oxford, OH
Brian Huprich	Ariel Corporation	Mount Vernon, OH
Kim James	Schneider Downs & Co., Inc.	Columbus, OH
Eric Jenkusky	TJ Clark International LLC	Delaware, OH
Matthew F. Johnston	Worthington Enterprises	Columbus, OH
Clayton Kendall	CBRE	Columbus, OH
Sharon Kennedy	Colgate-Palmolive	Cambridge, OH
Matt Koppitch	Bricker Graydon LLP	Columbus, OH
Crystal Langley	T O S O H SMD, Inc.	Grove City, OH
James Lee	The Ohio Manufacturers' Association	Columbus, OH
Jennifer Lehman	Campbell Soup Company	Camden, NJ
Jill Lifer	Johnson Bros.-West Salem, Inc.	West Salem, OH

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Name	Company	Location
Timothy Ling	Plaskolite	Columbus, OH
Jessica A. Lloyd, MBA	Brilex Industries Inc.	Youngstown, OH
Catherine Martin	Phillips Tube Group, Inc.	Middletown, OH
Nathan Mays	The Ohio Manufacturers' Association	Columbus, OH
Joseph McGinn	Energy Transfer, Sunoco LP	Harrisburg, PA
Ross McGregor	Pentaflex Inc.	Springfield, OH
Scott Milburn	Scott Milburn LLC	Upper Arlington, OH
Abbie Miller	BSI Group America	Columbus, OH
Nicholas Miller	The Ohio Manufacturers' Association	Columbus, OH
Owen Morgan	Navistar, Inc.	Washington, DC
Lisha Morlan	City of Middletown	Middletown, OH
J.P. Nauseef	JobsOhio	Columbus, OH
Jane M. Neal	AMG Vanadium LLC	Cambridge, OH
Donald G. Nettis	American Controls, LLC	Wickliffe, OH
Jay O'Bryant	Vistra	Columbus, OH
Matthew B. O'Connor	Zaclon, LLC	Cleveland, OH
Jeffrey J. Oravitz	Seal for Life Industries / Henkel	Cincinnati, OH
Kevin Orr	Pfizer, Inc.	Dublin, OH
Joseph Oyler	The Boeing Company	Arlington, VA
Angela R. Phillips	Phillips Tube Group, Inc.	Middletown, OH
Rick Platt	Heath-Newark-Licking County Port Authority	Heath, OH
Damon Pratt	ACS Industries Inc.	Kent, OH
Ryan Preas	MW Metals Group	Dayton, OH
Mike Purcell	GBQ Partners LLC	Columbus, OH
Amy Rasmussen	Modula	Franklin, OH
Jeffrey W. Reed	American Honda Motor Company	Marysville, OH
Thomas Root	Verizon	Lewis Center, OH
Brent Rosebrook	PRO-TEC Coating Company	Leipsic, OH
Jim Samuel	Capitol Integrity Group	Columbus, OH
Claudia Santiago	The J.M. Smucker Company	Washington, DC
Scott Schweitzer	The Strategy Group Company	
Maximiliano Sepulveda	Ferrero U.S.A, Inc.	Washington, DC
Maxim Serezhin	Standard Power	New York, NY
Jim Sever	P S C Crane & Rigging	Piqua, OH
Lindsey Short	The Ohio Manufacturers' Association	Columbus, OH
Christopher N. Slagle	Bricker Graydon LLP	Columbus, OH
William E. Sopko	William Sopko & Sons Company, Inc.	Euclid, OH
William Sopko	Stameo Industries, Inc.	Euclid, OH
Gretchen Spear	International Paper	Bloomington, MN
Steve Staub	Staub Manufacturing Solutions	Dayton, OH
Duane Steelman	Cleveland-Cliffs, Inc.	Cleveland, OH
Jeff Swartz	Seaman Corporation	Wooster, OH
John Tate	Crown Equipment Corporation	New Bremen, OH
Kendy A. Troiano	Clark Grave Vault Company	Columbus, OH
Jeffrey C. Turgeon	Zaclon, LLC	Cleveland, OH
Jonathan Varner	Consultant	
Todd Washam	Cenovus Energy	Dublin, OH
Raymond Wayne	Heritage Thermal Services	East Liverpool, OH
Stephanie Weaver	General Mills, Inc.	Wellston, OH
Michael Weber	Schaeffler Group USA	Washington D.C., DC
Adam Weiser	Advanced Fiber Technology	Bucyrus, OH
Christopher Wellington	CBRE	Columbus, OH
Jason Wetzel	General Motors Corporation	Indianapolis, IN
Matthew W. White	Edison Welding Institute	Columbus, OH
Lena Zodda	Graphic Packaging International, Inc.	Germantown, TN

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Name	Company	Location
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Total Participants 110



Scott Schweitzer serves as the Chief Operating Officer for the Strategy Group, a national conservative advertising agency with a mission to lift America to a brighter future by partnering with candidates and causes to amplify their voice, vote, and victory.

Scott started his career helping candidates tell their stories when he started at The Strategy Group Company in 2000. Scott has served in every stage of the advertising process and has experience at every level of politics. Today, Scott oversees the financial aspects and operations of the firm and serves top legacy clients for statewide office, Congress, legislative caucuses, ballot issues, and third-party organizations.

Prior to joining The Strategy Group Company, Scott worked in Washington, D.C., specializing in grassroots lobbying strategies and public policy issues. When Scott returned to Ohio, he served as the Executive Director of a successful issue advocacy organization, managed and worked on numerous races, and served at the Ohio State House of Representatives.

In 2011, Scott was named a “Rising Star” by Campaigns & Elections magazine.

Scott graduated from Xavier University in Cincinnati, with a degree in Political Science.

Besides politics, Scott’s interests include finance and technology policy, playing drums, architecture photography, and traveling with his wife and three daughters. Scott serves on the board of EdHeads (a nonprofit that provides activities to encourage students to pursue careers in the STEM fields) and serves as President of Fashion Week Columbus (promoting Central Ohio’s booming fashion industry).



Jonathan Varner

Jonathan Varner has over 25 years of experience crafting compelling narratives and executing campaigns to educate, persuade, and mobilize constituents, consumers, stakeholders, and voters.

As president and founder of JVA Campaigns, Jonathan grew his business into one of the most highly regarded voter contact agencies in the nation, with nearly two dozen staff members across four offices and clients from coast to coast. In addition to advising myriad public officials, Jonathan regularly counseled Fortune 500 businesses on issues ranging from land use opposition and proxy campaigns to crisis management and legislative advocacy. After selling the company in 2023, he is now focused on his new business providing strategic communication and public relations services.

Throughout his career, Jonathan has developed a reputation for blending creativity with analytical thinking, ensuring that his clients receive tailored communication strategies designed to enhance their visibility and influence. His work spans a range of industries, including manufacturing, healthcare, finance, and the nonprofit sector, where he has helped brands communicate their mission with clarity and impact.

With a collaborative and hands-on approach, Jonathan has consistently delivered measurable results for his clients, earning him a reputation as a trusted advisor to many in public office and the C-Suite. His experience in both political and corporate communications allows him to bring a well-rounded perspective to every challenge, ensuring that his clients' messages are not only heard but also make a significant and lasting impression.

Jonathan lives in Upper Arlington with his wife and three children.

Matt Dole



Matt Dole has more than 20 years' experience as a communications and media consultant. He's worked with corporations, school districts, universities, government agencies, and non-profits on addressing communications challenges ranging from responding to a crisis to effectively advocating for regulatory or legislative solutions.

Mr. Dole has extensive experience to draw upon in helping clients communicate efficiently with stakeholders. He previously worked as a news reporter for a radio station in Southeast Ohio and continues to serve as a frequent television, radio, and newspaper commentator on current events. In the digital arena, Mr. Dole seeks out new apps and networks as an early adopter so that he can help clients navigate the constantly changing online space.

He has played an integral role in producing award-winning public affairs campaigns, television advertising, radio advertising, digital advertising, and printed material meant to inform and sway public opinion.

Dole published "[Red Alert: Task Management in the Age of Notification Overload.](#)" In 50 pages he outlines the task management system he's developed to be more efficient and productive in a world dominated by remote work, full email inboxes, and unlimited notifications across multiple devices. In 2022, he published an anthology of 25 stories about America's Civil War and World War II. The book is available [here](#).

He has served on numerous non-profit boards and currently serves as a Senate appointee on the Ohio Broadcast Educational Media Commission. In 2023 was appointed by Governor Mike DeWine as the [Commission's Chair](#). He graduated from Marietta College with a degree in history and currently resides in Licking County in Central Ohio.

J.P. Nauseef

President and Chief Executive Officer



J.P. Nauseef is the president and chief executive officer (CEO) of JobsOhio. As president and CEO, J.P. leads a dedicated team responsible for business attraction, retention and expansion efforts across the state.

J.P. has significant executive leadership experience in the private, public and nonprofit sectors. Before joining JobsOhio in March 2019, he was the chairman and co-founder of Krush Media, a digital media company spun out of Krush Technologies, another tech company he led and helped found. J.P. served as president and CEO of the Dayton Development Coalition, a JobsOhio regional partner; the chairman and co-founder of the Military Heroes Foundation; and a co-founder of Hometown Heroes.

J.P. graduated from the University of Dayton with a bachelor's degree in management information systems and then entered the Air Force as an officer, where he served as a technology development program manager. J.P. later earned a master's degree in systems management from the University of Southern California. J.P. is married and has four sons.

Ohio Public Policy Highlights September 2024

Overview

Ohio's General Assembly operates on a two-year cycle. The first year of the General Assembly is largely dedicated to completing the state operating budget and the second year is known as a campaign year. In this year's campaign cycle, all 99 Ohio House seats and half of the Ohio Senate's 33 seats are up for re-election.

The two chambers are not scheduled to meet until November. It is typical for campaign years to be lighter on the legislative side as members will spend time back in their districts, especially during the summer and fall months ahead of the general election.

Current priorities for the OMA include:

- Protecting competitive energy markets
- Pushing back on costly and burdensome environmental regulations
- Promoting manufacturing friendly energy policy
- Evaluating potential course of action on the 2024 redistricting ballot initiative
- Fighting federal agency rules enhancing union organizing

The OMA's testimony supporting legislative reforms can be found in today's leadership materials.

Generation Re-Regulation Threat

Energy reliability is a top priority for manufacturers. Ohio is part of a Regional Transmission Organization, PJM Interconnection, that is responsible for ensuring the grid is able to meet our state's power needs. A falsehood has been perpetuating about our state experiencing an electric power supply shortfall, leading to many discussions over the future of Ohio's restructured energy landscape.

Meanwhile, some electric utility companies are using the non-existent energy shortfall scare to argue for a return to monopoly power generation where utilities can secure guaranteed returns on the backs of captive customers. See more in energy report.

Energy

While energy reliability and the needs of Ohio's power grid continue to make headlines as the most frequently discussed issue, the legislature has been tasked with evaluating several different pieces of legislation regarding electricity ratemaking reform. While there are multiple pieces of legislation introduced, only one of the pending proposals would result in lower energy costs for consumers, Senate Bill 143.

Other pending energy legislation includes a proposal to benefit utilities under the guise of energy efficiency in House Bill 79, and the creation of a community solar program in House Bill 197 that would result in millions of dollars in cost shifting to non-participating ratepayers.

Workforce

The OMA has testified in support of several bills that would help lower barriers to employment. Senate Bill 198, recently passed by the Ohio Senate, would provide returning citizens with state ID cards and a copy of vocational training records and/or work records. Additionally, the OMA has supported a piece of legislation recently passed by the Ohio House, which seeks to address the

shortage of career technical instructors in the state. House Bill 432 would create alternative licensure pathways for career tech instructors and aims to better equip career technical planning districts to meet the growing needs of their services.

The OMA continues its programming with the Untapped Talent Working Group, comprised of manufacturing leaders, to provide guidance and advice to the OMA about recruitment and retention strategies. The working group seeks to identify best practices and common challenges in recruiting and retaining untapped talent populations, including women, formerly incarcerated Ohioans, people of color, and veterans.

The Ohio Manufacturers' Workforce Summit will be held on November 14 at the Greater Columbus Convention Center. This full-day event provides opportunities to learn, network, and exchange best practices with peers. Engage with innovative ideas, resources, and explore how strategic workforce investments prepare Ohio's manufacturing industry for a competitive future.

Ohio Auto & Advanced Mobility Workforce Strategy

The OMA's work on the Auto & Advanced Mobility (A&AM) Workforce Strategy focused largely on A&AM Super RAPIDS implementation this quarter. This Ohio Department of Higher Education initiative helps public universities and Ohio Technical Centers improve their manufacturing training programs by funding relevant equipment purchases. Equipment purchases must help these programs address manufacturers' skills needs, as reflected in the Ohio Manufacturing Competency Model. The OMA and OMA-Endorsed Industry Sector Partnership (ISPs) are guiding applicants and collecting project proposals across the state; the application process for all six Regional Hubs will conclude on December 31 of this year.

Several other A&AM initiatives also saw progress. The MakingOhio brand was revamped to focus on developing K-12 engagement tools in the short term; longer term plans include mapping comprehensive manufacturing career pathways and integrating the platform with the Ohio Manufacturing Competency Model. The OMA and state partners began preliminary work on developing and refining manufacturing training programs for justice-impacted youth and adults. State partners are also hosting focus groups to understand faculty shortages in manufacturing training programs.

Tax Policy

The most notable changes to tax policy are typically included in the state's operating budget. Although this is a campaign year, members of the legislature have introduced a pair of bills that would have a significant impact on the revenue Ohio brings in each year. Proposals to phase out Ohio's income tax and repeal the remainder of the Commercial Activity Tax by 2030 have been introduced in both chambers. These two taxes bring in approximately \$13 billion in revenue to our state, making up almost half of the tax revenue in Fiscal Year 2023. The bill sponsors have not yet produced a plan on how this large gap in revenue would be made up if the proposal were to be enacted into law.

Adult Use Marijuana

On August 6, the Ohio Department of Commerce officially granted the legal right for Ohio's medical dispensaries to sell cannabis for recreational use in the state. With many cannabis shops opting into the new form of sales, Ohio has already seen a noteworthy outcome within a month of launch. From Aug. 6 to Aug. 10, the Department of Cannabis Control said the state's dispensaries racked up \$11,530,708. The latest data from the week of Aug. 17 showed customers shed little steam in their interest in adult-use cannabis, coming close to doubling the dollar total for recreational sales.

Thankfully for employers, the OMA's supported employer protections for medical marijuana apply to recreational marijuana, allowing employers to maintain their drug free workplace policies. This statute provides employers with the strongest protections in the country.

See SWC report for the status of legislative reforms to the statute that have lost steam in recent months, but could be picked up in lame duck or next year's operating budget.

March-In Rights: Federal Assault on Manufacturers' Intellectual Property

The OMA made public comments opposing the proposed "March-In" rule by the National Institute of Standards and Technology, which seeks to empower the federal government to confiscate patents from manufacturers that make what the agency deems excessively priced products. This rule directly impacts manufacturers' intellectual property rights, posing a considerable threat to innovation in the United States, jeopardizing the nation's prominent position in the innovation economy. Those comments can be found in today's leadership materials. In addition to these comments, the OMA also signed onto a letter with a numerous national trade associations opposing the proposal which can also be found in today's materials.

Prompt Pay

The OMA joined forces with the Ohio Hospital Association to oppose House Bill 203 before the House Commerce and Labor Committee - the Prompt Pay Act. The bill presents a blatant infringement on freedom of contract rights for manufacturers. It requires owners of private construction projects (including manufacturers building, improving, or maintaining facilities in Ohio) to pay contractors within 30 days or face an exorbitant 18% interest rate.

The House passed the bill in late 2023 with an overwhelming majority (78-3). The bill received its first hearing for sponsor testimony in the Senate Higher Education and Workforce Committee in June.

Right to Repair

The OMA joined trade associations nationwide to oppose provisions in the National Defense Authorization Act that would require defense contractors to comply with right-to-repair policies by providing unlimited access to repair materials and information, compromising sensitive trade secrets. The provision would impose burdensome requirements, mandate pricing controls, and discourage companies from participating in the defense industrial base, all without clear benefits to national security. That letter can be found in today's leadership materials.

The OMA has historically opposed similar legislation at the state level including Senate Bill 73, which would impose similar requirements on the entire manufacturing sector. Read the OMA's testimony.

Minimum Wage Misses Ballot 2024, Will Return in 2025

The organizers of the Ohio minimum wage ballot initiative announced they had failed to meet the signature requirements to get the proposal on the November ballot. Despite falling short, Raise the Wage Ohio has stated that they plan to continue gathering signatures with the aim of placing the \$15 minimum wage measure on the 2025 ballot. The OMA will continue to monitor the effort and weigh options for engagement.

Forced Unionization Halted in the Senate

House Bill 205, the OMA-opposed labor mandate bill, has been temporarily halted in the Ohio Senate, thanks to collective efforts from the OMA, OMA members Cenovus and Nutrien, the unified business community, and, surprisingly, newfound opposition from unions.

Last summer, HB 205 faced a disappointing legislative process, hastily advancing through the House committee in just two weeks, with minimal hearings despite vehement opposition from Ohio's business community. Despite swift passage with Republican support, the Senate provided a fair hearing, allowing dissenting voices to be heard.

In a surprising turn, the United Steelworkers aligned with the business community, criticizing the bill for its failure to enhance worker safety and accusing proponents at the Associate Construction Trades Union (ACT Ohio) of shamelessly politicizing the tragic deaths of Toledo refinery USW workers to advance their political agenda. This united opposition likely paused the bill temporarily, although concerns linger about a potential resurgence in lame-duck legislative session.

OMA's labor relations counsel, Matt Austin, testified against HB 205 in both chambers, highlighting its overly broad and burdensome provisions favoring unions in construction contracts. This testimony is available in today's meeting materials.

OSHA Walk Around Rule

In April, OSHA finalized its proposed walkaround rule that will allow third-party non-employees, including union representatives and community activists, to accompany OSHA inspectors during routine inspections.

The OMA submitted comments opposing the rule, which garnered national recognition. The rule's implementation will compromise workplace safety by allowing union officials and other non-expert third-parties to enter non-unionized facilities without the employer's consent, disrupting operations and exposing trade secrets. The OMA's comments underscore the potential risks and adverse impacts on workplace safety and confidentiality if the proposed rule were to be enacted.

The OMA actively involved its membership in direct engagement with Ohio's congressional delegation, with nearly 200 OMA member companies endorsing a letter from OMA President Ryan Augsburger urging federal representatives to use their congressional authority to strike the rule. The National Association of Manufacturers have challenged the rule in federal court.

FTC Non-Compete Ban Halted By Courts

Last spring, despite OMA opposition, The Federal Trade Commission (FTC) voted 3-2 in April to ban noncompete agreements that prevent tens of millions of employees from working for competitors or starting a competing business after they leave a job.

Recent developments provide a win for Ohio manufacturers – as a federal judge in Texas recently barred the rule from taking effect that would ban noncompete agreements. The judge cited that the FTC does not have the authority to ban practices it deems unfair methods of competition by adopting broad rules.

The OMA previously led comments from Ohio's business community opposing the rule upon its introduction, noting the mutual benefits non-compete agreements provide to both employers and employees, along with the necessary protections to manufacturers' trade secrets. Those comments can be found in today's meeting materials.

Supreme Court Hands Businesses a Win in Overruling of Chevron Doctrine

In a major win for manufacturers, the U.S. Supreme Court recently overturned the Chevron Doctrine, a long-standing precedent that generally compelled federal courts to defer to federal agency interpretations of ambiguous statutes within their jurisdiction.

Legal experts expect the decision to place greater checks on agency authority, which has long been argued to have been too far-reaching, placing undue burdens on employers who have often been barred from seeking redress in the courts.

Economic Development

OMA's operating budget priorities for economic development have initiated their administrative roll out:

- **Innovation Hubs:** Funding to foster innovation in manufacturing through incentivized collaboration amongst regional private sector leaders, academic institutions and state government has been distributed to Toledo to establish a Glass Manufacturing Hub and Dayton for the development of new digital technologies. OMA supported the establishment of these innovation hubs as a means to spur innovation in Ohio's legacy manufacturing centers.
- **All Ohio Future Fund:** In August, Governor Mike DeWine announced the first location for future economic development with support from the new All Ohio Future Fund, a fund supported by the OMA to establish mega-site ready infrastructure. \$15 million of the \$750 million fund will be directed to Defiance to establish a project ready property.

Manufacturing Technology Assistance Program

The OMA worked with Representatives Santucci and Demetriou to introduce House Bill 435, which creates The Ohio Manufacturing Technologies Assistance Program (MTAP). MTAP aims to assist small to mid-size manufacturers by providing grants of up to \$150,000 for investing in modern smart technologies, machinery, equipment, and training. MTAP is designed to enhance productivity, efficiency, and competitiveness in Ohio's manufacturing industry. The program requires applicants to undergo a technical assessment and be in good standing with the state. Ohio's Manufacturing Extension Partnerships will be leading the assessment process for new technologies. MTAP aligns with nationwide Manufacturing 4.0 initiatives, supporting manufacturers to adopt automation, cybersecurity, robotics, and other innovative technologies, following successful models from states like Iowa and Indiana, initially funded with \$12,000,000 from the Ohio Department of Development. Ultimately, MTAP aims to empower businesses, drive growth, and ensure the resilience and success of Ohio's manufacturing sector in an evolving business landscape.

In June, OMA members testified before the Ohio House Finance Committee to support the bill. The OMA delegation included: Ethan Karp from MAGNET, John Holeman from TOSOH SMD, and Dale Foerster from Starr Manufacturing. That testimony can be found in today's meeting materials along with a draft letter of support to be sent to the Governor and members of the General Assembly. Let James Lee know if you would like to sign on or testify before members of the House committee in support.

Environment and the US EPA's Regulatory Onslaught

Federal EPA activity continues to ramp up, causing major headaches for manufacturers. Most recently, the US EPA finalized its National Ambient Air Quality Standards PM 2.5 rule, which set an unattainable standard for industry that will cost the US economy \$197 billion per year and

threaten nearly one million jobs. The OMA continues to publicly push back on the overzealous agency's regulatory onslaught, with new rules producing major regulatory cost increases to businesses totaling \$350 billion, a 25 percent increase from the last year of former President Obama's second term in office.

See the Environment report for updates on new finalized and proposed rules from the US EPA impacting manufacturers surrounding PFAS, Scope 3 emissions reporting (Bricker Memo included in ENV materials), and chemistry bans.

Campaigns and Elections

Ohio's U.S. Senate election will be one of the most closely watched in the nation as Republican businessman Bernie Moreno attempts to unseat incumbent Democrat Senator Sherrod Brown in the battle for the Senate majority. Moreno is closely aligned with the Trump camp, having earned his endorsement last year. A key area in this race to watch will be the Mahoning Valley, which has traditionally been a labor stronghold associated with Brown's traditional voter base, who provided substantial support to Moreno in the primary election.

In a major development for Ohio's political landscape, Senator J.D. Vance has been tapped to serve as former President Trump's running mate, leaving many to speculate who Governor Mike DeWine will appoint to serve as his successor to represent Ohio in the event of a Trump Victory.

Two members of the Ohio legislature have advanced from their primary races to go onto the general election for congressional seats. Republican State Senator Michael Rulli won his primary race against State Representative Reggie Stoltzfus and will appear on the ballot to replace former Congressman Bill Johnson in the deep red 6th House district. In the 9th House district, current State Representative Derek Merrin received a last-minute endorsement from former President Trump, which carried him over the finish line against State Rep. Craig Riedel in the March primary. Merrin will face incumbent U.S. Rep. Marcy Kaptur in November, who has represented Ohio in Congress since 1983.

Sixteen of Ohio's 33 Senate districts are on the ballot for election this year. Senate terms are four years, staggered so that approximately half the membership is elected every two years. Republicans presently control the Senate with a 26-7 supermajority. While there are a few races that may have close margins, such as the 18th Senate District currently held by Republican Senator Jerry Cirino, it is expected that Republicans will maintain their supermajority.

Over in the Ohio House, continued divisions within the House Republican Caucus stemming from last year's contentious speaker vote prompted a significant push for 11 primary challengers. These challengers targeted incumbent supporters of Speaker Jason Stephens to influence the outcome of the Speaker vote in the next General Assembly. Of those 11 incumbent Republicans challenged, four lost their primary elections. Senate President Matt Huffman has officially announced his intent to challenge Speaker Stephens for the gavel next year. Interested parties should monitor the results of open house seat elections and keep an ear for reports of behind-the-scenes horse trading that will have a major influence on who secures the gavel on the floor in next year's opening House session.

The seven-member Ohio Supreme Court has two of its Democrat justices up for re-election this year, in addition to an open Supreme Court seat being up for grabs. In order to flip the court's 4-3 Republican majority, Democrats would have to win all three races in the fall.

Redistricting Ballot Measure

The Citizens Redistricting Commission proposal, filed by the group Citizens Not Politicians, seeks to establish a 15-member commission composed of five Democrats, five Republicans, and five independents to oversee redistricting in Ohio. After initial rejections and revisions, the amendment was certified for the November 2024 ballot, despite opposition from Governor DeWine and other Republican leaders who prefer an alternative system based on Iowa's model. The proposal has become a central issue for the upcoming election, with significant campaign spending coming from outside the state of Ohio. The outcome of this issue is expected to heavily influence Ohio's political landscape. See the redistricting memo from Bricker Graydon in today's leadership materials and Bricker Graydon's Counsel Report for more information.

Leadership News

[Click here for Leadership Community articles from previous Leadership Briefings](#)

Miscellaneous Legislation of Interest to Manufacturers

Prepared by: The Ohio Manufacturers' Association

Report created on September 9, 2024

- HB2 STATE FUNDING-CAPITAL APPROPRIATIONS (CUTRONA A, UPCHURCH T) To provide authorization and conditions for the operation of certain state programs, to make capital appropriations and reappropriations for the biennium ending June 30, 2026, to make other appropriations, and to declare an emergency.
Current Status: 6/28/2024 - SIGNED BY GOVERNOR; eff. immediately
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-HB-2>
- HB16 ETHICS, FINANCIAL DISCLOSURE REFORM (MERRIN D) To enact the Ethics and Financial Disclosure Reform Act to revise the law governing ethics and lobbying.
Current Status: 3/28/2023 - House Government Oversight, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-HB-16>
- HB23 TRANSPORTATION BUDGET (EDWARDS J) To make appropriations for programs related to transportation for the biennium beginning July 1, 2023, and ending June 30, 2025, and to provide authorization and conditions for the operation of those programs.
Current Status: 3/31/2023 - SIGNED BY GOVERNOR; eff. 3/31/23
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-HB-23>
- HB27 COLLEGE COSTS, CAPITAL APPROPRIATIONS (MATHEWS A, THOMAS J) To require state institutions of higher education to provide financial cost and aid disclosure forms, to make an appropriation for the Adoption Grant Program, and to make certain capital appropriations and reappropriations for the biennium ending June 30, 2026.
Current Status: 2/28/2024 - PASSED BY SENATE; Amended on Floor, Bill Vote 30-2
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-HB-27>
- HB96 INCREASE MINIMUM WAGE (JARRELLS D, MOHAMED I) To increase the state minimum wage.
Current Status: 6/25/2024 - House Commerce and Labor, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-HB-96>
- HB144 AUGUST SPECIAL ELECTION (MANCHESTER S) To allow a special election to be held in August for certain purposes and to make an appropriation.
Current Status: 4/27/2023 - House Government Oversight, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-HB-144>
- HB179 VICARIOUS LIABILITY IN TORT ACTIONS (MATHEWS A, STEWART B) Relative to vicarious liability in tort actions and to provide that the tolling of the limitations period during the defendant's absence or concealment does not apply to statutes of repose.
Current Status: 7/24/2024 - SIGNED BY GOVERNOR; eff. 90 days
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-HB-179>

- HB203 TIMELY PAY OF CONTRACTORS (ROEMER B, SWEENEY B) To require owners of private construction projects to timely pay contractors.
Current Status: 6/26/2024 - Senate Workforce and Higher Education, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-HB-203>
- HB205 PROTECT OHIO WORKERS ACT (SWEARINGEN D, PLUMMER P) To enact the "Protect Ohio Workers Act" regarding construction services performed under a contract at a stationary source.
Current Status: 11/14/2023 - Senate Energy and Public Utilities, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-HB-205>
- HB340 EMPLOYEE MOBILITY GRANT PROGRAM (PETERSON B, DOBOS D) To authorize an employee mobility grant program to be administered by the Director of Development and to make an appropriation.
Current Status: 6/18/2024 - House Economic and Workforce Development, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-HB-340>
- HB432 TEACHING OF CAREER-TECH EDUCATION (JONES D) Regarding the teaching of career-technical education.
Current Status: 6/26/2024 - Senate Education, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-HB-432>
- HB435 MANUFACTURING TECHNOLOGIES GRANTS (SANTUCCI N, DEMETRIOU S) To create the manufacturing technologies assistance grant program and make an appropriation.
Current Status: 6/18/2024 - SUBSTITUTE BILL ACCEPTED, House Finance, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-HB-435>
- HB460 AUTOMATIC SEALING-CRIMINAL RECORDS (HILLYER B, SEITZ B) To enact the Getting Rehabilitated Ohioans Working Act to allow for the automatic sealing of certain criminal records.
Current Status: 6/11/2024 - SUBSTITUTE BILL ACCEPTED, House Criminal Justice, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-HB-460>
- HB464 WORKFORCE ASSISTANCE AFTER PUBLIC BENEFITS (JARRELLS D, WILLIAMS J) To establish the 'A HAND UP' pilot program, to designate this act as the Actionable Help And New Dignity for Upward Progression (A HAND UP) Act, and to make an appropriation.
Current Status: 5/8/2024 - House Finance, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-HB-464>
- HB555 PUBLIC NUISANCE PROHIBITIONS (MATHEWS A) To prohibit certain public nuisance actions.

Current Status: 5/21/2024 - Referred to Committee House Civil Justice
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-HB-555>

- HB609 CAMPAIGN FINANCE LAW - FOREIGN NATIONALS (HILLYER B, HOLMES A) To modify the Campaign Finance Law regarding foreign nationals and statewide initiatives and referenda and to declare an emergency.
Current Status: 6/4/2024 - House Government Oversight, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-HB-609>
- HB610 CHILD CARE CRED PROGRAM (JOHNSON M) To establish the Child Care Cred Program and to make an appropriation.
Current Status: 6/20/2024 - House Finance, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-HB-610>
- HB632 REAL PROPERTY FORECLOSURES (DANIELS J) Relating to real property foreclosures.
Current Status: 6/25/2024 - Referred to Committee House Civil Justice
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-HB-632>
- HB1001 CAMPAIGN FINANCE-FOREIGN NATIONALS, BALLOT ISSUES (SEITZ B) To modify the Campaign Finance Law regarding foreign nationals and ballot issues.
Current Status: 6/2/2024 - SIGNED BY GOVERNOR; eff. 90 days
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-HB-1001>
- HB1002 PRESIDENTIAL CANDIDATE DEADLINES-2024 ELECTION (DOBOS D) To delay the deadline for a major political party to certify its presidential and vice presidential candidates to the Secretary of State for the 2024 general election.
Current Status: 6/2/2024 - SIGNED BY GOVERNOR; eff. 90 days
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-HB-1002>
- HJR1 REQUIRE 60 PERCENT VOTE-CONSTITUTIONAL AMENDMENT (STEWART B) Proposing to amend Sections 1b, 1e, and 1g of Article II and Sections 1 and 3 of Article XVI of the Constitution of the State of Ohio to require a vote of at least 60% of the electors to approve any constitutional amendment and to modify the procedures for an initiative petition proposing a constitutional amendment.
Current Status: 4/19/2023 - REPORTED OUT, House Constitutional Resolutions, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-HJR-1>
- SB16 FOOD DONATIONS-LIABILITY PROTECTION (WILSON S) To alter the law governing immunity from liability for donations of perishable food, to make changes relative to the rights of crime victims, and to declare an emergency.
Current Status: 7/7/2023 - SIGNED BY GOVERNOR; eff. 7/7/23

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-SB-16>

- SB19 NON-RECOURSE CIVIL LITIGATION (WILSON S) To amend the law regarding the non-recourse civil litigation advance business.
Current Status: 12/6/2023 - SUBSTITUTE BILL ACCEPTED, Senate Judiciary, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-SB-19>
- SB63 ASBESTOS CLAIMS-DISCLOSURE REQUIREMENTS (LANG G) To require a plaintiff in a tort action alleging an asbestos claim to file specified disclosures.
Current Status: 6/11/2024 - Referred to Committee House Insurance
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-SB-63>
- SB67 FIRE, BUILDING CODE CHANGES (CIRINO J, O'BRIEN S) To amend section 3737.83 and to enact section 3781.062 of the Revised Code relating to the State Fire Code and Building Code and to amend the version of section 3737.83 of the Revised Code that is scheduled to take effect December 29, 2023, to continue the provisions of this act on and after that effective date.
Current Status: 3/1/2023 - Senate Veterans and Public Safety , (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-SB-67>
- SB73 DIGITAL FAIR REPAIR ACT (BLESSING III L) To enact the Digital Fair Repair Act.
Current Status: 3/28/2023 - Senate Financial Institutions and Technology, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-SB-73>
- SB146 INCREASE STATE MINIMUM WAGE (SMITH K, CRAIG H) To increase the state minimum wage.
Current Status: 9/27/2023 - Senate Workforce and Higher Education, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-SB-146>
- SB198 RELEASED INMATES-ID CARDS (LANG G, MANNING N) To provide inmates with state identification cards and documentation upon their release relating to work experience, education, and trade skills.
Current Status: 6/26/2024 - PASSED BY SENATE; Vote 31-0
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-SB-198>
- SB215 CAMPAIGN CONTRIBUTIONS-PROHIBIT FOREIGN NATIONALS (GAVARONE T, MCCOLLEY R) To prohibit foreign nationals from making contributions or expenditures regarding ballot issue campaigns.
Current Status: 2/28/2024 - PASSED BY SENATE; Vote 25-7
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-SB-215>

- SB273 ESTABLISH CHILD CARE CRED PROGRAM (REYNOLDS M) To establish the Child Care Cred Program and to make an appropriation.
Current Status: 6/12/2024 - Senate Workforce and Higher Education, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-SB-273>
- SJR2 CONSTITUTIONAL CHANGE-60 PERCENT REQUIREMENT (MCCOLLEY R, GAVARONE T) Proposing to amend Sections 1b, 1e, and 1g of Article II and Sections 1 and 3 of Article XVI of the Constitution of the State of Ohio to require a vote of at least 60% of the electors to approve any constitutional amendment.
Current Status: 5/10/2023 - Consideration of House Amendments; Senate Does Concur, Vote 26-7
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-SJR-2>

OHIO MANUFACTURERS' ENERGY CONFERENCE 2024

Thursday, September 19
Westerville, Ohio



A forum for manufacturers
and energy professionals

DATE: Thursday, September 19, 2024

TIME: 8:45– 3:30 p.m.

***doors open at 8:00 a.m.**

This unique learning and networking opportunity is for Ohio manufacturers and energy professionals. We're pleased to bring this event to you again this year.

KEY TAKEAWAYS:

- **Energy Markets and Power Trends** – Power markets are changing faster than ever, with new technologies competing with mature, proven electricity generators. Hear from market experts on what to expect, and how to protect your utility budget.
- **Electricity Regulation** – Keeping the market deregulated fosters innovation and competition. Get updates on energy regulation, policy, and protecting competitive electric markets from the OMA Energy Group members and counsel.
- **Transmission Costs and Reliability** – High voltage electricity transmission is in the hot seat as both causes and solutions to reliability failures and concerns – but at a cost. Invited national experts will share insights to this emerging concern for manufacturers.
- **On-Site Generation** – From gas-fired combined heat and power to rooftop solar, manufacturers are increasingly taking power back to manage their utility costs, carbon, and reliability!
- **Sustainability: Industrial Decarbonization** – Can it be done? Hear from companies starting a daunting and uncertain journey.
- **Networking Opportunities** – Connect with a diverse group of peers, colleagues and sponsors.

WHO SHOULD ATTEND:

- ✓ Energy managers, sustainability specialists, plant engineers
- ✓ CEOs, presidents and owners
- ✓ CFOs, COOs, CIOs
- ✓ Government and public affairs professionals
- ✓ All business strategists and managers

REGISTRATION FEE:

OMA Members: \$125

Non-OMA Members: \$250

Government Rate: \$99

[See details and register!](#)

QUESTIONS? Call (800) 662-4463

KEYNOTE SPEAKER:

Todd Snitchler – As the Electric Power Supply Association (EPSA)'s president and CEO, Todd Snitchler represents companies that own competitive power generation assets and advocates for policies that focus on achieving and maintaining well-functioning and properly regulated competitive wholesale electricity markets.

Prior to joining EPSA, Todd served as the Vice President of Market Development at the American Petroleum Institute where he worked with industry, government, and customer stakeholders to promote increased demand for and continued availability of our nation's abundant and clean natural gas resources.

Prior to that, Mr. Snitchler was a principal for Vorys Advisors, LLC in Ohio where he led the government affairs efforts in the energy and utility space where he represented competitive suppliers and independent power producers and developers. In that role he established strong relationships in Ohio and nationally with policy makers and industry participants supportive of competitive markets. Mr. Snitchler previously served as chairman of both the Public Utilities Commission of Ohio and the Ohio Power Siting Board. He was elected twice to represent the 50th House District in Stark County, Ohio.

The Ohio Manufacturers' Workforce Summit 2024

Sponsorship Packages



WHAT:

The premier gathering for Ohio's manufacturing community that provides opportunities to gain valuable insights, fresh ideas, resources, and tools.

WHEN:

Thursday, November 14, 2024
9:30 am – 3 pm

WHERE:

Greater Columbus Convention Center,
Columbus, OH

WHY:

To improve workforce skills and increase the supply of quality workers in Ohio's manufacturing industry.

WHO:

Expected attendance of 500 Ohio manufacturers, policymakers, K-12 leaders, community college and university leaders, economic development professionals, industry sector partnerships, and statewide workforce development suppliers.

GOLD

\$25,000

- Opportunities for participation in summit programming;
- Opportunity to display corporate banner near the stage (*company to provide banner*);
- Placement of company name included on social media promotion of summit (*with gold sponsor designation, company logo, and link to site*);
- Recognition as the lunch sponsor on tables during lunch (*with gold sponsor designation and company logo*);
- Exhibitor Booth;
- On-going recognition through Q1 of 2025 on workforce publications (*with gold sponsor designation and company logo*).
- Priority placement of company name on all pre-summit communications (*with gold sponsor designation, company logo, and link to site as well as an optional video*);
- Priority placement of company name on event site and mobile app (*with gold sponsor designation, company logo, and link to site as well as an optional video*);
- Priority placement of company name on signage at registration table (*with gold sponsor designation and company logo*);
- Recognition as a sponsor during opening and closing remarks (*with gold sponsor designation and company logo*);
- Two (2) complimentary registrations to the Summit.

SILVER

\$10,000

- Recognition as the post-event reception sponsor (*with silver sponsor designation, company logo*);
- Exhibitor booth;
- On-going recognition through Q1 of 2025 on workforce publications (*with silver sponsor designation and company logo*);
- Placement of company name on all pre-summit communications (*with silver sponsor designation, company logo, and link to site as well as an optional video*);
- Placement of company name on event site and mobile app (*with silver sponsor designation, company logo, and link to site as well as an optional video*);
- Placement of company name on registration welcome table signage (*with silver sponsor designation and company logo*);
- Recognition as a sponsor during opening and closing remarks (*with silver sponsor designation and company logo*); and
- Two (2) complimentary registrations to the Summit.

THANK YOU!

Your generous support will help develop and support the skilled workforce essential to Ohio manufacturing, for now and for the future.

BRONZE

\$5,000

- Placement of company name and logo on all pre-summit communications (*with bronze sponsor designation, company logo, and link to site as well as an optional video*);
- Placement of company name and logo on event site and mobile (*with bronze sponsor designation, company logo, link to site and optional video*);
- Placement of company name on registration welcome table signage (*with bronze sponsor designation and company logo*);
- Recognition as a sponsor during opening and closing remarks (*with bronze sponsor designation and company logo*); and
- Two (2) complimentary registrations to the Summit.

To secure your sponsor package, please contact:

Page 22



The Ohio Manufacturers' Workforce Summit 2024

Stellar Employer Strategies for Eclipsing the Competition



WHEN: Thursday, November 14, 2024
WHERE: Greater Columbus Convention Center | Columbus, Ohio

PURPOSE

The Ohio Manufacturers' Association (OMA) is excited to announce this year's Workforce Summit with the theme "Stellar Employer Strategies for Eclipsing the Competition." Manufacturing is a shining star in Ohio and this year's summit will be all about the needs of manufacturers, amplifying the manufacturer voice, and finding solutions to meet manufacturing workforce demands across Ohio.

Join your peers as the OMA spotlights contributions from across Ohio's manufacturing ecosystem. Learn how significant workforce investments are setting Ohio manufacturing up for a bright future by addressing emerging demands and enhancing workforce readiness. See firsthand how these initiatives are helping Ohio manufacturers eclipse the competition.

OHIO IS THE POWERHOUSE OF MANUFACTURING

\$134 billion

contribution to Ohio's GDP at as of Q3 2023.

\$48 billion

annual payroll, the highest total wages of any Ohio private industry sector

+690,000

Ohioans are employed, making manufacturing the largest of Ohio's 20 economic sectors

PROGRAM HIGHLIGHTS

1

AI AND NEW TECHNOLOGIES:

Engage in integrating AI and other emerging technologies into manufacturing processes to drive efficiency and innovation.

2

THE OHIO MANUFACTURING COMPETENCY MODEL:

Collaborate over the model's unified framework that supports industry-specific and foundational skills, enhancing workforce readiness across various manufacturing sectors.

3

EMERGING DEMAND AND NEEDS:

Connect on the Statewide Auto and Advanced Mobility Workforce Strategy and other initiatives address the needs of both new and existing sectors, ensuring alignment with the Ohio Manufacturing Competency Model.

4

UNTAPPED TALENT AND EARN-AND-LEARN:

Explore successes with the WorkAdvance program, the importance of high-impact apprenticeships, and key methods for reaching new talent and filling the skills gap in Ohio's manufacturing sector.

Sponsorship Opportunities:

Visit Summit webpage to view packages and contact Nick Miller to secure your package.
nmiller@ohiomfg.com • (614) 369-5354

REGISTER TODAY!

Registration opens August 13

Hosted by:

The Ohio Manufacturers' Association
www.ohiomfg.com
oma@ohiomfg.com

February 1, 2024

VIA ELECTRONIC SUBMISSION (<https://www.regulations.gov>)

Director Laurie E. Locascio
National Institute of Standards and Technology
100 Bureau Drive
Gaithersburg, MD 20899

Re: Response to Docket No.: 230831-0207; Document Citation: 88 FR 85593

Dear Director Locascio:

On behalf of The Ohio Manufacturers' Association (OMA), I appreciate the opportunity to respond to the National Institute of Standards and Technology's (NIST's) December 8, 2023, Request for Comment (RFC) on the *Draft Interagency Guidance Framework for Considering the Exercise of March-In Rights*.

For more than 100 years, the OMA has served as a member-supported, member-driven advocacy organization dedicated to protecting and growing manufacturing in the great state of Ohio. Our members work tirelessly to create jobs and enhance the quality of life across the state.

The OMA is a strong advocate for the advancement of modern manufacturing – the leading contributor to Ohio's GDP. Our diverse membership – spanning sectors from automotive manufacturing to the burgeoning semiconductor industry – relies heavily on intellectual property (IP) to drive innovation and remain at the forefront of the global economy.

As written, the framework's proposed changes to the exercise of Bayh-Dole's "march-in" rights would undermine these efforts.

The Bayh-Dole Act of 1980 has played a pivotal role in fueling manufacturing growth in Ohio by decentralizing and facilitating the licensing of government-funded university research to the private sector for commercialization. Since the law's passage, the public has reaped the benefits of tens of thousands of innovations, ranging from touch-screen technology to advanced ultrasound imaging.

The proposed framework would upend this 44-year-old innovation pipeline by misusing the Bayh-Dole Act's march-in provision. Under the framework, the government would be allowed to march-in and relicense patents on federally-supported inventions if it deems the products too expensive.

This proposed authority lacks a [legal foundation](#). The government's ability to march-in on patents was established to ensure government-supported innovations were commercialized. The authority also allows the government to step in if a critical public need is not being met or if promises of domestic development are ignored. There is no basis for the government to use march-in rights as a price-setting mechanism.

The OMA is deeply concerned by the prospect of exercising march-in authority in this manner, as it would jeopardize much-needed manufacturing investments, innovations, and jobs in Ohio and nationwide.

The proposed framework would place a shadow of uncertainty over the innovative biotechnology industry, where Ohio has become an emerging [leader](#). Our members operating in this industry face [billions in investment](#) requirements and years of effort to bring a single drug to market. Using government "march-in" to commandeer the intellectual property critical to this process would be nothing short of theft.

Furthermore, the proposed redefinition of march-in rights is not limited to drugs – it is technology-agnostic. The framework's price-setting powers would equally apply to green energy generation, aviation, and microchips – any avenue of innovation that benefited from even a penny of government funding in the development of patented technology.

Such misuse and expansion of march-in authority would have a chilling effect on any and all manufacturing of products linked to federal funding. If the government can, at any point, repossess the patent based on an arbitrary pricing standard, our members would hesitate to license, develop, and manufacture the next breakthrough technology. Necessary but steep investments in innovation are predicated on the security of the patent, and the proposed framework would erode that confidence.

The proposed framework also exposes Ohio manufacturers – and manufacturers across the country – to potentially adversarial campaigns abroad. Nothing would preclude foreign competitors from petitioning the U.S. government to invalidate our members' patents for the purpose of flooding the market with cheaper copies. Our members would be forced to allocate significant resources to defend themselves against attempts to steal their IP and the fruits of their investments in manufacturing.

The uncertainty introduced by this framework would disrupt the entire innovative ecosystem in the United States, stifling research and development) ventures and threatening millions of manufacturing jobs.

To help our manufacturers and economy, we urge you to withdraw this proposed framework.

Sincerely,



James Lee
Director of Public Policy
Ohio Manufacturers' Association

June 12, 2024

The Honorable Gina M. Raimondo
Secretary
U.S. Department of Commerce
1401 Constitution Avenue NW
Washington, DC 20230

Dear Secretary Raimondo,

We write to you as state and regional associations representing manufacturers of all sizes in all areas of the country. Manufacturers are integral to the fabric of our local communities, supporting well-paying jobs for people from all walks of life and driving economic growth for our states and the country as a whole.

Manufacturers are responsible for the development and commercialization of life-changing products that improve the quality of life for all Americans. Clean energy technologies, advanced semiconductors, life-saving medicines and more: these innovations are the result of years or decades of manufacturing ingenuity and investment. Manufacturers perform more than half of all private-sector research and development, while also bringing the industry's know-how to bear via partnerships with and licensing from America's research universities. But turning groundbreaking R&D into innovative products for the American people is only possible if creators—from university researchers to early-stage entrepreneurs to established businesses—can rely on strong intellectual property protections.

Unfortunately, the National Institute of Standards and Technology has proposed new guidance that would enable the government to “march in” and seize manufacturers' intellectual property. We respectfully urge you to immediately and unequivocally withdraw this proposal.

If finalized, the NIST march-in guidance would have significant, detrimental impacts throughout America's innovation economy—harming researchers, entrepreneurs, investors and manufacturers alike. Using march-in to undermine researchers' IP rights would hamper universities' ability to conduct groundbreaking research and manufacturers' ability to license innovative technologies and develop them into products for the American people. As a result, march-in would strike a blow to the local economies in our states that depend on university-centered innovation hubs for job creation and economic growth.

This proposal could leave federally funded research collecting dust on laboratory shelves—resulting in fewer groundbreaking technologies and a hobbled U.S. innovation economy. We urge you to protect our local, state and regional economies, which benefit from breakthrough research, entrepreneurship and modern manufacturing, by withdrawing the proposed march-in guidance.

Sincerely,

Alaska Chamber
Appalachian Hardwood Manufacturers, Inc.
Arkansas State Chamber/Associated Industries of Arkansas
Arizona Manufacturers Council
Associated Industries of Missouri
Associated Industries of Vermont

Association of Washington Business
Bay Area Manufacturers Association
Buffalo Niagara Manufacturing Alliance
Business & Industry Association of New Hampshire
California Manufacturers & Technology Association
Connecticut Business & Industry Association
Council of Industry of Southeastern New York
Georgia Association of Manufacturers
Graphic Media Alliance
Greater North Dakota Chamber
Illinois Manufacturers' Association
Iowa Association of Business & Industry
Kentucky Association of Manufacturers
Louisiana Association of Business & Industry
Lynchburg Regional Business Alliance
MACNY – The Manufacturers Association of Central New York
Marshall County Economic Development Council
Maryland Chamber of Commerce
Michigan Manufacturers Association
NC Chamber
Nevada Manufacturers Association
New Jersey Business & Industry Association
New Mexico Business Coalition
Northeast PA Manufacturers & Employers Association
Ohio Manufacturers' Association
Oregon Business & Industry
Rhode Island Manufacturers Association
South Carolina Chamber of Commerce
Tennessee Chamber of Commerce/Tennessee Manufacturers Association
The State Chamber of Oklahoma
Virginia Association of Manufacturers
West Virginia Manufacturers Association
Wisconsin Manufacturers & Commerce



**BEFORE THE FINANCIAL INSTITUTIONS AND TECHNOLOGY COMMITTEE
THE OHIO SENATE
SENATOR STEVE WILSON, CHAIR**

**SENATE BILL 73
TESTIMONY OF MATT KOPPITCH
THE OHIO MANUFACTURERS' ASSOCIATION**

MARCH 28, 2023

Chair Wilson, Ranking Member Smith, and members of the Senate Financial Institutions and Technology Committee, thank you for the opportunity to provide testimony on Senate Bill 73, the Digital Fair Repair Act.

My name is Matt Koppitch from the law firm Bricker & Eckler, representing The Ohio Manufacturers' Association (OMA). Created in 1910 to advocate for Ohio's manufacturers, the OMA today has approximately 1,300 members statewide. Its mission is to protect and grow Ohio manufacturing.

As you may know, manufacturing is the largest of the state's 20 major industry sectors. As of Q3 2022, manufacturing contributed more than \$130 billion annually to Ohio's economy, accounting for nearly one-fifth of Ohio's private industry GDP.

Our association strongly opposes Senate Bill 73 (SB 73).

First, the scope of this legislation goes far beyond the "right to repair" common consumer device maladies, including cracked screens, battery replacements and water damage. Indeed, if passed, this bill will impact a broad range of manufacturers, and it may well expose the intricacies of their innovation. The very thing that separates competing companies.

Indeed, OMA has serious concerns with the bill's broad application, as it potentially impacts nearly every industry of manufacturing. SB 73 applies to all products that fall within the legislation's broad definition of digital electronic equipment, which is defined to encompass nearly all products manufactured in this state including, but not limited to, small consumer electronics.

Second, SB 73 raises considerable intellectual property issues. OMA members rely on the ability to maintain trade secrets in order to keep a competitive advantage against firms at home and abroad.

While it may be argued that this legislation protects trade secrets, the actual language of SB73 indicates otherwise. SB73 requires manufacturers to disclose trade secrets "as necessary to provide documentation, parts, and tools on fair and reasonable terms." This is concerning to all OMA members.

Third, a continued obligation to provide updated source code or software updates, could – and likely would – lead to this information being widely broadcast. And the further this information is broadcast, the more likely vulnerabilities will be highlighted. OMA members must already be vigilant to an ever-changing cyber threat landscape. For those that

suggest this is hyperbole, the legislation itself requires the disclosure of any documentation, any parts, and any tools to disable locks or functions. Tools, parts, and information that could disable the lock or function of a device for repair, could disable the same for any purpose. Imagine, for a moment, the implications this bill could have on Ohio's burgeoning semiconductor industry.

Fourth, in regards to existing arrangements between manufacturers and authorized repair providers, SB 73 does not directly alter the terms of any existing arrangement between a manufacturer and an authorized repair provider. However, OMA members should be able to freely set terms with consumers and authorized repair shops within the parameters already authorized and regulated by the Federal Trade Commission.

Adding additional government intrusion at the state level to existing agreements is not only duplicative and unnecessary, but it has the potential to create unintended legal complications for all parties involved, posing significant economic and administrative burdens for consumers, authorized repair shops, and manufacturers.

The FTC has not only promulgated regulations that specifically prohibit product warranties that become void if the consumer seeks a repair from a non-authorized servicer, or uses parts not manufactured by the warrantor, but it actively enforces these regulations.

To the extent that consumers face limited or dwindling repair networks, a simple Google search shows approximately 15 device repair providers in the greater Columbus area. While I cannot speak to any independent repair provider's limitations, there appears to be plenty of options.

Finally, and perhaps most concerning, SB 73 places violations of the proposed law within Ohio's Consumer Sales Practices Act (OCSPA), exposing Ohio's manufacturers to additional private causes of action and the prospect of treble damages in certain circumstances. Even New York, who recently enacted a similar right to repair law, left enforcement to its State Attorney General.

Moreover, SB 73, as drafted, appears to expand the OCSPA beyond individual consumers to potentially include to business-to-business transactions. This is a dramatic expansion of the OCSPA.

Ohio's manufacturing industry has seen tremendous growth in recent years with continued onshoring of production and major expansions in our state. This growth is a direct result of the General Assembly and DeWine-Husted administration's efforts in establishing business friendly policies that allow our state's business community to

flourish. SB 73 poses a major threat to that progress. Companies looking for new states to call home want to ensure that their trade secrets are protected. Manufacturers invest considerable resources in developing cutting-edge technology and granting access to sensitive trade secrets, like source code, will jeopardize manufacturers' intellectual property and stifle innovation that consumer's desire. SB 73 would serve as a major deterrent for businesses wanting to call Ohio home.

Thank you for your time and I am happy to answer any questions you may have.

July 30, 2024

The Honorable Jack Reed
Chairman
Committee on Armed Services
U.S. Senate
Washington, DC 20510

The Honorable Roger Wicker
Ranking Member
Committee on Armed Services
U.S. Senate
Washington, DC 20510

The Honorable Mike Rogers
Chairman
Committee on Armed Services
U.S. House of Representatives
Washington, DC 20515

The Honorable Adam Smith
Ranking Member
Committee on Armed Services
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Reed, Ranking Member Wicker, Chairman Rogers, and Ranking Member Smith:

The undersigned associations, representing thousands of federal contractors across a wide range of industries, write to express our concerns regarding Section 828 of S. 4638, the National Defense Authorization Act for Fiscal Year 2025.

The Section would require Department of Defense procurement contracts to be contingent on a contractor's agreement to continually provide access to all repair materials and information, with no carve-outs or limitations to protect sensitive trade secret information. Moreover, the Section would enforce strict controls on the price at which such materials and information could be provided. This provision would impose significant burdens on contractors throughout the country, including the many small and medium-sized businesses and commercial suppliers that contractors rely on to support the Department's operational readiness and effectiveness.

Defense contractors, original equipment manufacturers, and their authorized dealers are critical to the Department's ability to repair and maintain its assets. Manufacturers already provide a wide range of resources, including parts, manuals, product guides, product service training, and diagnostic tools, to the Department. Further, most agreements between contractors and the Department already have repair and maintenance provisions that ensure materials and services are available and tailored to the products being procured. To enable access to sensitive proprietary and trade secret information beyond that necessary for standard repair and maintenance, customized license agreements can be tailored on a case-by-case basis to achieve specified repair and maintenance objectives.

Given these ongoing efforts to support the government's ability to repair products, Section 828's one-size-fits-all compulsory licensing mandate is unnecessary and would discourage companies from selling their products to the Department. Indeed, the Department has not reported barriers to maintenance and repair that would necessitate such an over-reaching policy, which would undermine the principle underpinning existing technical data rights statutes, which are designed to balance the government's technical data needs against contractors' need to protect sensitive proprietary and trade secret information.

The Department's recently announced Regional Sustainment Framework makes clear that more robust industry partnerships are necessary to support the Department's maintenance, repair, and overhaul ecosystem—as opposed to a compulsory licensing mandate that assumes Department personnel will be conducting all repairs and maintenance activities. At a time when

the number of small businesses participating in the defense industrial base has declined by more than 40% in the past decade, Congress should not implement policies that would encourage even more companies to exit the defense industrial base.

Further, Section 828 would require contractors to provide repair materials at prices equivalent to the most favorable prices offered by manufacturers or authorized dealers, including all discounts and rebates. Many large OEMs do not sell parts directly, but rather rely on authorized dealers to serve customers in their local communities. Section 828's price mandates on OEMs would ultimately fall on these dealers, significantly altering the economics of a dealer distribution model by effectively eliminating dealer margins. This would harm the network of manufacturers and authorized dealers, many of which are small and medium-sized businesses, that the Department ultimately relies on—compromising the very readiness the provision is ostensibly intended to enhance.

Section 828 would have a significant negative impact on companies of all sizes throughout the manufacturing supply chain and the defense industrial base, without a corresponding benefit to U.S. national security. As such, we respectfully encourage Congress to strike Section 828 from S. 4638 and not to enact any such mandate as it continues consideration of the FY2025 NDAA.

Sincerely,

AdvaMed
Aerospace Industries Association
Alaska Chamber
Arkansas State Chamber of Commerce/Associated Industries of Arkansas
Arizona Manufacturers Council
Associated Equipment Distributors
Associated Industries of Missouri
Association of Equipment Manufacturers
Association of Home Appliance Manufacturers
California Manufacturers & Technology Association
CBIA
Commercial Food Equipment Service Association - CFESA
Deep Southern Equipment Dealers Association
Electronic Industry Components Association
Equipment Leasing and Finance Association (ELFA)
Georgia Association of Manufacturers
Graphic Media Alliance
Illinois Manufacturers' Association
Indiana Manufacturers Association
Industrial Truck Association
Institute of Makers of Explosives
Iowa Association of Business and Industry
Iowa Nebraska Equipment Dealers Association
Irrigation Association
ISEA - International Safety Equipment Association
Medical Device Manufacturers Association (MDMA)
Metals Service Center Institute
Michigan Manufacturers Association
Mississippi Manufacturers Association

Montana Chamber of Commerce
Motorcycle Industry Council
National Association of Manufacturers
National Defense Industrial Association (NDIA)
National Marine Manufacturers Association
National Mining Association
National Shooting Sports Foundation
NC Chamber
Nebraska Chamber of Commerce & Industry
New Mexico Business Coalition
North American Association of Food Equipment Manufacturers (NAFEM)
North American Equipment Dealers Association
Northeast Equipment Dealers Association, Inc.
Northeast PA Manufacturers & Employers Association
Ohio Manufacturers' Association
Oregon Business & Industry
Outdoor Power Equipment Institute
Pennsylvania Manufacturers' Association
Pioneer Equipment Dealers Association
Plumbing Manufacturers International
Portable Generator Manufacturers' Association
Power Tool Institute
Professional Services Council
Recreational Off-Highway Vehicle Association
Rhode Island Manufacturers Association
Security Industry Association (SIA)
Specialty Vehicle Institute of America
TechNet
Tennessee Chamber of Commerce and Industry
Texas Association of Manufacturers
Textile Care Allied Trades Association
Truck and Engine Manufacturers Association
Utah Manufacturers Association
Wisconsin Manufacturers & Commerce



BEFORE THE HOUSE FINANCE COMMITTEE
REPRESENTATIVE JAY EDWARDS, CHAIRMAN

TESTIMONY OF
ETHAN KARP, MAGNET
OMA PARTNER

June 18, 2024

HB 435 - Proponent Testimony

Chairman Edwards, Ranking Minority Member Bride Sweeney and members of the House Finance Committee, thank you for the opportunity to testify in support of House Bill 435, sponsored by Representatives Santucci and Demetriou, which would create the Manufacturing Technology Assistance Grant Program (MTAP).

My name is Ethan Karp and I am representing MAGNET as a proud partner of the Ohio Manufacturers Association. MAGNET is both a Manufacturing Extension Partnership (MEP) and an Industry Sector Partnership (ISP). We support an important piece of Ohio's manufacturing ecosystem.

MEPs help Ohio's small and medium-sized manufacturers to increase sales, create jobs and generate cost savings through technological innovation, workforce training and improved management practices.

ISPs help fund collaboration between businesses, education and training providers, and other community leaders who are invested in improving their region's workforce. These collaborations create a more skilled workforce and benefit both Ohioans and Ohio's job creators.

As you know, small and medium-sized manufacturing companies are critical to Ohio, representing 90% of job growth for high-paying jobs. For every new manufacturing job that is created or retained, three to five supporting jobs are also created. This is why investing in this space is so important to Ohio's future.

House Bill 435 creates the **Manufacturing Technology Assistance Grant Program (MTAP)** that will provide an opportunity for manufacturers with under 500 employees to apply for \$150,000 in grant funding for equipment upgrades and smart technology integration.

Through collaboration with Manufacturing Extension Partnerships (MEPs) like ours in Northeast Ohio, MTAP will offer manufacturers access to expert guidance, further bolstering their ability to navigate the complexities of technology integration. In the past five years, MAGNET has served 442 manufacturers in Northeast Ohio, helping those companies achieve the following results:

- \$785.7 million in increased/retained sales
- \$100.2 million in cost savings
- \$329.7 million of investment in their operations
- Create or retain 4,596 manufacturing jobs

Much of MAGNET's work is focused on helping manufacturers implement Industry 4.0 and advanced technologies. A few examples include:

- **M-7 Technologies** (Youngstown, OH) provides precision measurement solutions to a wide range of industries through metrology inspection, laser scanning, and reverse engineering services. M-7 has reported \$30M in increased or retained sales, 40 new and retained jobs, and \$5M in new investments thanks to MAGNET. M-7 CEO Michael Garvey says: "MAGNET is our go-to resource for growth and technology implementation. They supported integration of our best-in-class software and hardware, which resulted in production increases of more than 75%."
- **Haltec Corporation** (Leetonia, OH), a leading manufacturer of specialty tire valve systems and pressure inflation solutions, needed to automate the assembly of valves to keep up with demand. MAGNET designed, built, and installed two tire inflation valve automated machines with Industry 4.0 technologies, including cobots and digital data. These custom machines have allowed Haltec to keep up with business growth and increase revenue. Haltec now produces 80 percent of its high-volume products through automatic valve assembly; more than 250,000 pieces were processed during the first year of the machines' operation. Haltec vice president of IT Jeff Kovacich says: "Automation is vital for the company, particularly the use of a valve assembly machine for parts previously produced entirely by hand. Though handcrafting is still central to operations, technology is key to production improvements."
- **Alloy Precision Technologies** (Mentor, OH) specializes in custom and standard manufacturing. MAGNET has completed multiple Industry 4.0 products with Alloy, with a reported impact of \$10 million increased and retained sales, 28 new and retained jobs, and \$4.5 million in new investment. Alloy President & CEO Michael Canty says: "MAGNET is our innovation and technology partner driving growth and bottom line results. Over the past five years, we have implemented advanced technologies including cobot machine tending, real-time machine monitoring and part inspection, proprietary process equipment, and cybersecurity."

Drawing inspiration from successful initiatives in neighboring states like Iowa and Indiana, MTAP has the potential to catalyze transformative growth and innovation across Ohio's manufacturing landscape.

We urge your support for this proposal, recognizing its significance in driving economic competitiveness, fostering innovation, and ensuring the continued success of Ohio's largest industry - manufacturing.

Thank you for your consideration of this program. I am happy to answer any questions you may have about this proposal or our organization.



BEFORE THE HOUSE FINANCE COMMITTEE
REPRESENTATIVE JAY EDWARDS, CHAIRMAN

TESTIMONY OF
DALE FOERSTER, STARR MANUFACTURING, INC.
OMA MEMBER

June 18, 2024

HB 435 -Proponent Testimony

Chairman Edwards, Ranking Minority Member Bride-Sweeney and members of the House Finance Committee, thank you for the opportunity to testify in support of House Bill 435, sponsored by Representatives Santucci and Demetriou, which would create the Manufacturing Technology Assistance Grant Program (MTAP).

My name is Dale Foerster and I represent Starr Manufacturing, Inc. as a member of the Ohio Manufacturers Association.

Starr Manufacturing, located in Vienna, Ohio (15 minutes north of Youngstown and 10 miles east of Pennsylvania), is a family-owned company founded in 1965, currently employing 50 highly skilled employees. We produce custom industrial equipment and machinery for diverse industries, with core competence in oil and gas (mainly as OEM), energy, material handling, waste management including environmental waste management.

House Bill 435 creates the **Manufacturing Technology Assistance Grant Program (MTAP)** that will provide an opportunity for manufacturers with under 500 employees to apply for \$150,000 in grant funding for equipment upgrades and smart technology integration.

MTAP represents a crucial opportunity to empower Ohio's small to mid-size manufacturers to thrive in an increasingly competitive global market. By providing grants for the adoption and integration of smart technologies, this program will not only drive operational improvements but also ensure the long-term sustainability of our manufacturing sector.

For our company, MTAP would help us realize operational efficiencies by allowing the state to partner with us on technological improvements. As our highly skilled team members retire, we're faced with a huge gap in knowledge which we can only overcome by a shift towards new technology and automation to bridge gaps between those retiring employees and emerging employees who will utilize automation to perform some of those dying hands-on skills. It's imperative that we adapt and tap into that new kind of skill and seemingly inborn ability in order to enable us and our emerging employees to thrive in the reality of the modern world. Embracing, teaching and implementing modern manufacturing technologies and at the same time teaching proven "old" process knowledge using the area technical education centers is vital to our long-term success and ever-tightening and more difficult competition. For small companies like ours, a boost made possible through this proposed grant would be of immeasurable value across the board!

With an initial funding allocation of \$12,000,000, this program will not only enable manufacturers to thrive in today's dynamic business environment but also maintain Ohio's position as a frontrunner in manufacturing technologies.

We urge your support for this proposal, recognizing its significance in driving economic competitiveness, fostering innovation, and ensuring the continued success of Ohio's largest industry - manufacturing.

Thank you for your consideration of this program. I am happy to answer any questions you may have about this proposal or our company.



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MEMORANDUM

TO: Ohio Manufacturers’ Association
 Ryan Augsburger
 James Lee

FROM: Bricker Graydon Government Relations Team

DATE: August 7, 2024

SUBJECT: 2024 November General Election Citizens Redistricting Commission Ballot Issue

I. Introduction.

This memorandum provides an overview of the proposed constitutional amendment to create the Ohio Citizen Redistricting Commission, which is set to appear on the ballot in Ohio for the November 2024 General Election. In the fall of 2023, a group of petitioners filed 1,000 signatures and a summary for ballot issue to amend Ohio’s constitution to create a Citizens Redistricting Commission. The Attorney General certified the summary of the ballot issue to be a fair and truthful statement of the proposed constitutional amendment. After this step, the Ohio Ballot Board certified the ballot issue to be a single issue. The group supporting this ballot issue, Citizens Not Politicians, began circulating petitions to collect the required signatures to appear on the ballot in November of 2023. Former Ohio Supreme Court Chief Justice Maureen O’Connor is helping lead the ballot issue effort. The group filed the petitions on July 1, 2024 with over 700,000 signatures. After the county board of elections reviewed the petitions and signatures, the Secretary of State announced the ballot issue qualified for the November General Election, with 535,005 valid signatures from 58 counties. Now, the Ohio Ballot Board is set to meet on August 16, 2024 to approve summary ballot language for the constitutional amendment.

II. Background.

In 2015 and 2018, Ohioans passed two Constitutional amendments proposed by the Ohio Legislature for the purpose of addressing ongoing political concerns with Ohio’s legislative redistricting and Congressional apportionment processes. Issue 1 in 2015 passed with 71% of the electorate and created a bipartisan Redistricting Commission (“Commission”) responsible for drawing and adopting state legislative districts. This Commission is comprised of seven members, one individual appointed by the Senate President, one individual appointed by the Speaker of the House, one individual appointed by the Senate Minority Leader, one individual appointed by the House Minority Leader, the Governor, the Auditor of State, and the Secretary of State. In 2018,



Issue 1 created a similar bipartisan Redistricting Commission to draw the congressional districts, but the full general assembly must adopt the plan of the Commission. This issue passed with 74% of the vote.

Following the 2020 census, the Ohio Redistricting Commission convened for the first time and drew the state legislative and congressional districts in 2021. After passing maps for both sets of districts, several lawsuits were filed against the maps. Ultimately, the Ohio Supreme Court found the four different maps to be unconstitutional by 4-3, due to Chief Justice O'Connor siding with the Democratic Justices in each of those decisions.¹ The Commission had to redraw the state legislative maps four times resulting Ohio's primary election in 2022 to be split up to the delay in district maps. After the 2022 election, the Commission had to redraw the state legislative maps in the fall of 2023 for the upcoming 2024 election, and the maps were approved by the Commission members 7-0. The state legislative map will be in effect until 2030. A similar lawsuit was filed challenging the congressional district maps in 2022 and the Ohio Supreme Court found the congressional maps to be unconstitutional.² Following, the Redistricting Commission had to redraw the maps to propose to the General Assembly. The General Assembly was only able to adopt the plan with a simple majority, so the map is only effective for four years. Therefore, the Redistricting Commission must reconvene to create a new plan for the congressional elections to be held in 2026.

III. Proposed 2024 Constitutional Amendment.

A. Analysis of Proposed Constitutional Amendment.

i. Commission Members.

The proposed constitutional amendment strikes the constitutional amendments made in 2015 and 2018 and proposes a new process of drawing state legislative and congressional maps. Specifically, the proposed amendment creates the Ohio Citizens Redistricting Commission ("Citizens Redistricting Commission"), composed of 15 members. Five of these members must be affiliated with the political party whose candidate for governor received the highest number of votes at the last preceding election for governor (First Major Party). Another five members must be affiliated with the political party whose candidate for governor received the second highest number of votes at the last preceding election for governor (Second Major Party). The last five members must not be affiliated with either Party mentioned above. Each member must be an Ohio resident, during the current year and for the six years immediately prior to their appointment to the Citizens Redistricting Commission.

Individuals who are current elected or appointive officials to federal, state or local officer and their immediate family members are ineligible to serve as a Commissioner. Additionally, a

¹ *League of Women Voters of Ohio v. Ohio Redistricting Comm.*, 168 Ohio St.3d 28, 2022-Ohio-342, Order on February 7, 2022; Order on March 16, 2022; Order on April 14, 2022, and Order on May 25, 2022.

² *Neiman v. LaRose*, 169 Ohio St.3d565, 2022-Ohio-247.



person who has served in any federal, state or local elective or appointive office in Ohio for any period during the current year and immediately preceding six years and their immediate family members cannot serve as a member of the Citizens Redistricting Commission. Paid consultants to any political party, political action committee, or campaign committee and their immediate family members are also ineligible to serve. Commissioners shall be ineligible to hold elective or appointive state office in Ohio for six years following the certification of the redistricting plan for the general assembly.

ii. Bi-partisan Screening Panel.

To become a member of the Citizens Redistricting Commission, the individual must apply through the bi-partisan screening panel (“Panel”). The application must collect the following information: the applicant’s qualifications, conflicts of interest, party affiliation, relevant experiences and skills, community ties, and commitment to impartiality, compromise and fairness. Party affiliation for an applicant shall be determined based on the applicant’s voting record in party primaries and various other relevant factors including but not limited, political contributions, campaign activities, and other reliable indicia of partisan affiliation. The Panel will consist of 4 Ohio retired judges- 2 from each major party as described above. The Panel members will be appointed by the four legislative appointees of the Ohio Ballot Board (current existing entity). Once formed, the Panel by a majority vote will create a pool of 90 applicants for the Citizens Redistricting Commission that collectively are from a geographically and demographically representative cross-section of Ohio. After narrowing the applicants to 90, the Panel will select 45 finalists. In a public meeting, the Panel shall randomly draw six names (two from each major party, and the last two being independents) from the finalist list to be on the Citizens Redistricting Commission. At a subsequent public meeting, the Panel shall select from the remaining pool by a majority vote, including at least one vote from a Citizens Redistricting Commission member affiliated with each major party and independent selected in the first meeting, another nine additional persons to be on the Citizens Redistricting Commission.

iii. Meeting and Redistricting Plan Requirements.

Once the Citizens Redistricting Commission is formed, the meetings must be public. The Citizens Redistricting Commission must hold at least five public hearings prior to the release of a draft redistricting plan to gather public input. Each hearing shall be held in each of the five geographic regions of the state (NE, SE, NW, SW, and Central). Then, the Citizens Redistricting Commission must hold at least five more public hearings in the five geographic regions to receive public comment on the draft plan. Before voting on the plan, the Citizens Redistricting Commission must hold at least two public hearings to receive public comment on any revised redistricting plan. The plan must be adopted by July 15 of each year ending in the number one, and only after the proposed final redistricting plans have been made public for at least three days, can the Citizens Redistricting Commission adopt final redistricting plans. If the Citizens Redistricting Commission fails to adopt any final redistricting plan, the amendment lays out a procedure to resolve the impasse.



The redistricting plan must adhere to certain criteria laid out in the constitutional amendment. The criteria sets forth requirements to ban partisan gerrymandering and prohibit the use of redistricting plans that favor one political party and disfavor others, the statewide proportion of districts in each redistricting plan that favors each political party shall correspond closely to the statewide partisan preferences of the voters of Ohio.

iv. Challenge of Redistricting Plan.

The Ohio Supreme Court will only have exclusive original jurisdiction in all cases that contend that an adopted plan fails to comply with the proportionality and incumbency and candidacy provisions set forth in Section 6 (B) of the amendment. Based on the amendment language, it does not appear that the Ohio Supreme Court will have jurisdiction over any other matters pertaining to the Citizens Redistricting Commission. Additionally, the amendment seems to tie the hands of the public, not allowing for any other challenges to be filed against the redistricting plan.

The proposed constitutional amendment constrains the Ohio Supreme Court's ability to review a case that challenges the adopted redistricting plan. The amendment requires the Panel (as described above) to create a pool of at least six potential Special Masters and the Ohio Supreme Court shall by a unanimous vote select two Special Masters from the pool. The Two Special Masters are charged with reviewing the record before the Citizens Redistricting Commission and holding a public hearing, after which they must issue a report as to whether the Citizens Redistricting Commission abused its discretion in its determination that the adopted plan complies with the partisan fairness criteria. If the person who filed a challenge or the Citizens Redistricting Commission disagrees with the report, they may file objections with the Ohio Supreme Court and after a public hearing on the objections and a review of the record before the Citizens Redistricting Commission, the Ohio Supreme Court must rule whether the Citizens Redistricting Commission abused its discretion in determining that the adopted plan complies with the certain sections of the proposed constitutional amendment.

v. Financial Support of Commission.

The proposed constitutional amendment language requires the General Assembly no later than December 10, 2024 to appropriate not less than seven million dollars for the first redistricting effort. For each redistricting cycle after 2025, an amount must be appropriated no later than January 1 of a year ending in zero that is not less than seven million dollars, adjusted for inflation. Additionally, the General Assembly shall make separate and timely appropriations to cover all of the Citizens Redistricting Commission's expenses in any related litigation.

B. Political Overview: Campaign Finance Filings, Governor DeWine Comments, & Growing Opposition.



In the latest mid-year 2024 campaign finance reports filed at the end of July, the proponents, Citizens Not Politicians, reported contributions of \$23 million during the first six months of 2024. However, the group reported spending \$24.85 million, therefore, closing the first half of the year with no dollars remaining—nearly \$17 million was used to reserve tv advertising time in the weeks leading up to the November 2024 election.

Various news reports and an analysis of the recent campaign finance reports indicate that more than 85 percent of the proponents' campaign contributions have come from progressive and liberal interest groups, entities, and individuals from outside of Ohio.

Ohio's campaign finance reports were filed on the same day that Governor DeWine made comments in opposition to the proposed constitutional amendment. In those comments, Governor DeWine called on Ohioans to reject the ballot issue and instead Ohio should consider adopting a population-based system, which is used in Iowa. Additionally, Governor DeWine stated he would work with Ohio's next General Assembly in 2025 to put an issue on the ballot that mimics the Iowa plan. Several Republican leaders, such as Speaker Jason Stephens (R- Kitts Hill) and President Matt Huffman (R-Lima), also denounced the ballot issue, but did not go as far to say that they supported the Governor's proposal. Lt. Governor Husted also stated that the proposed constitutional amendment focuses too much on the concept of proportionality, which would result in gerrymandering.

IV. Conclusion.

The proposed ballot issue makes significant changes to Ohio's Constitution relating to Ohio's legislative district and Ohio's congressional delegation maps. Clearly, the redistricting campaign, coupled with the Ohio Presidential and U.S. Senate elections, will create an undeniably chaotic political environment into the fall of 2024. If you have any questions regarding the impact of the possible redistricting amendment or others, please let us know.

To: OMA Government Affairs Committee
From: Lindsey Short
Re: Energy Public Policy Report
Date: September 11, 2024

Overview

Rumors continue to swirl about generation re-regulation in Ohio, fueled by a falsehood that Ohio will soon face a shortage of electricity. One of the OMA's top priorities is the preservation of competitive markets while ensuring that manufacturers have access to affordable, reliable energy. More details are below in the energy reliability section.

The legislature has been out on their summer recess but will have many bills to continue evaluating in their energy committees when policymakers return to Columbus for lame duck session. House and Senate committees are considering various proposals on electricity ratemaking reform, energy efficiency programs, community solar, regulation of carbon capture and storage technologies, and more. While there are many pieces of energy policy pending, only two pieces of standalone energy legislation have been enacted into law during this General Assembly.

Energy Reliability

Grid reliability is critical to the success of Ohio's manufacturing industry, which depends on reliable and affordable energy. Recently, many questions have been raised regarding the reliability of Ohio's power grid and have been further emphasized by PJM Interconnect, the RTO which services Ohio. PJM has a governmental obligation to manage the flow of electrons across the grid.

PJM recently held their capacity auction to secure commitments from power generators to deliver electricity when needed. The results demonstrated a comfortable reserve margin of 18%, well above the amount required to maintain grid reliability. PJM's reserve margin shows there is not a shortage of electricity in Ohio. However, prices are rising to attract generation in a hurry following years of PJM delaying their capacity auction. Customers will bear the brunt of PJM's costly auction delays, resulting in a nearly tenfold capacity price increase that will cost consumers nearly \$12 billion.

Instead of re-regulation, Ohio should enhance transparency and accountability in utility spending, particularly for transmission investments, and stay the course by maintaining competitive power markets. Regulatory oversight must ensure that customer funds are used effectively and that infrastructure investments align with actual needs. Emphasizing decentralized power plants and exploring distributed energy resources could provide cost-effective solutions to grid constraints.

The OMA will host a panel at our upcoming energy conference on September 19 to dive more into PJM's capacity auction results and what it means for manufacturers.

Re-Regulation Threat

Ohio has operated under a deregulated power generation market since the passage of Senate Bill 3 in 1999. Electricity generation prices are no longer set by state regulators but by auctions and only transmission and distribution systems remain regulated monopolies. New, efficient

plants have been built and older, less-efficient plants have been shut down. Customers can choose between electricity suppliers and regularly switch among them. Prices are set by PJM via auctions, and PJM manages the flow of power across the region to guarantee reliability.

Throughout this time, electric utilities have struggled to adapt and now some want to end deregulation and reenter the electric generation market supported by new mandatory customer fees to pay for the costs of building new power plants that are owned by utilities.

As the generation shortage scare continues, discussions of re-regulation have surfaced as a threat to energy customers in the state. Re-regulation would be a massive step backward for Ohio's energy landscape as it would drive other power producers away and cause power choice to disappear. In the absence of competition, prices would go up.

House Bill 6 Charges Update

FirstEnergy will pay approximately \$20 million to settle Ohio's House Bill 6 bribery investigations with the Ohio Attorney General and the Office of the Summit County Prosecutor. The company has also reached an agreement with the U.S. Securities and Exchange Commission, setting aside \$100 million for a potential settlement.

Former FirstEnergy VP Michael Dowling and former CEO Chuck Jones have pleaded not guilty to charges of bribery and money laundering, among others.

Former Speaker Householder appealed his conviction earlier this year. The Sixth Circuit Court of Appeals will decide the case, recently hearing from the U.S. Department of Justice who outlined why Householder's appeal should be rejected. Householder's attorneys have asked the appeals court for a new trial, a new sentence, or for the case to be dismissed entirely. The federal prosecutor asked for the 20-year sentence to remain in place.

PUCO Approves Post HB 6 OVEC Costs

The Public Utilities Commission of Ohio (PUCO) recently authorized three electric utilities to keep millions of dollars charged to customers to cover the costs of running two coal-fired plants. OMA's energy engineering consultant, RunnerStone LLC, has calculated that Ohioans will have paid nearly \$600 million in total subsidies to OVEC's utility owners since 2017, and is expected to exceed \$1 billion by 2030.

This order marks the PUCO's first interpretation of provisions of House Bill 6 that extended cost recovery for those plants to 2030 via a new Legacy Generation Rider and enshrined the mechanism in statute.

Legislative attempts to repeal the customer-funded subsidies for the coal-fired plants have stalled and are not anticipated to move during lame duck session.

Legislation Watch List

Details on energy proposals of note below:

- **Electricity Ratemaking**
Electricity ratemaking reform has been a consistent topic of discussion over the past few General Assemblies. One of the proposals, Senate Bill 102, fails to eliminate electric

security plans (ESPs). Rather, SB 102 would replace ESPs with a rate case of another name that would allow utilities to park entirely new categories of costs inside of distribution charges, imposing new costs on manufacturers without offsetting benefits. The OMA is opposing this legislation with significant concerns regarding how consumers' electricity bills will be affected.

Another bill has been introduced in the House that also fails to eliminate ESPs, HB 260. HB 260 would create new distribution riders, which are referred to as "trackers" in this legislation and would weaken customer protections. This bill has the support of Ohio's electric distribution utilities and is opposed by the OMA. The OMA recently provided opposition testimony on this proposal to House Public Utilities Committee.

- **Electric Security Plan Repeal**

Senator Mark Romanchuk has sponsored an OMA-supported bill, Senate Bill 143, to effectively repeal ESPs. ESPs have served as a mechanism that allows utilities to request the PUCO to approve customer charges that exceed market prices. This has turned into a windfall for regulated industries by allowing utilities to increase profits through numerous above-market charges added to customers' bills.

SB 143 would push utilities toward Market Rate Offers, which are more favorable to consumers and manufacturers. SB 143 is a win for manufacturers that will help lower costs on energy bills and increase consumer protections.

The OMA, along with other business groups representing energy customers across a wide variety of sectors, testified in support of the bill during a committee hearing earlier this year.

OMA Energy Committee Chairman Brad Belden, president of The Belden Brick Company, and Tim Ling, corporate environment director for Plaskolite, testified on behalf of the OMA in support of this legislation.

- **HB 201**

Several bills and resolutions have been introduced to prohibit local governments from restricting the use or sale of gasoline or diesel-powered motor vehicles. House Bill 201, passed by the legislature in December, would prohibit state agencies from adopting motor vehicle energy standards established by California.

Prior to its passage by the legislature, the bill was quickly amended with unrelated language to benefit natural gas utilities at the expense of customers. The language added to HB 201 erodes important customer protections and enables natural gas utilities to be fully compensated for potential "economic development" or "infrastructure" projects, regardless of whether the facilities are ever used, or the projects ever come to fruition.

The OMA supports cost-effective economic development for Ohio which can attract businesses, projects, and investments to our state. However, above-market charges on customers' natural gas bills for undefined, speculative projects are harmful to existing customers who have already invested in the state of Ohio.

- **"Energy Efficiency"**

Even though Ohio's electric utilities supported House Bill 6 that eliminated utility-administered energy efficiency programs, some utilities are backing a past legislative

concept to reinstate those programs. The OMA supports meaningful energy efficiency, but not utility giveaways. During the last General Assembly, we saw a proposal that would effectively give utilities control of competitively owned renewable energy and partially restore the HB 6 decoupling giveaway with “lost distribution recovery.” This bill was reintroduced as House Bill 79 and narrowly passed out of the House prior to the legislature’s summer recess following many attempts to secure the necessary votes for passage. The bill will now be considered in the Senate.

- **Community Solar**

The OMA supports state policies that enable customers to obtain a diverse array of generation options under competitive markets. Last session, a bill intending to support solar investment included a concerning “virtual net metering” provision, which OMA engineers estimated would create up to \$340 million per year in cost-shifting to non-participating ratepayers, including small and mid-sized manufacturers if the full 3,000 MW of community solar was built.

This session, similar language was introduced via House Bill 197 to create a community solar program. While there have been several substitute versions of HB 197 introduced in House Public Utilities Committee, each version would result in millions of dollars in cost-shifting.

- **Utility Related Services After Metered Point of Delivery**

Senate Bill 123 was introduced to exempt submeterers and billing agents in apartment complexes from being considered a public utility. It also prohibits the PUCO from adopting rules that allow utilities to prevent submetering except for safety and reliability reasons.

- **“Green” Nuclear Energy**

Bipartisan legislation has been introduced via House Bill 308 to categorize nuclear power as a green energy source. This bill’s introduction comes after Ohio and other states have recently designated natural gas as “green” or “clean” energy. HB 308 recently passed out of the House and will now go to the Senate for consideration.

- **Carbon Capture and Storage**

A pair of companion bills, House Bill 358 and Senate Bill 200, have been recently introduced declaring the General Assembly’s intent to regulate carbon capture and storage technologies through which carbon dioxide emissions can be kept from being immediately released into the atmosphere. These bills currently contain placeholder language but are anticipated to be amended with a more substantive version.

Energy News

[Click here for Energy Community articles from previous Leadership Briefings](#)

Energy Legislation

Prepared by: The Ohio Manufacturers' Association
Report created on September 9, 2024

- HB16 ETHICS, FINANCIAL DISCLOSURE REFORM (MERRIN D) To enact the Ethics and Financial Disclosure Reform Act to revise the law governing ethics and lobbying.
Current Status: 3/28/2023 - House Government Oversight, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-HB-16>
- HB41 UTILITY BILLING TRANSPARENCY (SKINDELL M) To enact "The Consumer Utility Billing Transparency Act" requiring the itemization of all riders, taxes, and other costs on certain utility bills.
Current Status: 4/24/2024 - House Public Utilities, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-HB-41>
- HB79 ELECTRIC DISTRIBUTION UTILITIES (SEITZ B, SWEENEY B) To permit electric distribution utilities to establish energy efficiency and demand reduction portfolios.
Current Status: 6/26/2024 - PASSED BY HOUSE; Vote 50-46
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-HB-79>
- HB120 REPEAL 133-HB6 (WEINSTEIN C, BRENNAN S) To repeal the legacy generation resource provisions of H.B. 6 of the 133rd General Assembly and provide customers refunds.
Current Status: 6/20/2023 - Re-Referred to Committee
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-HB-120>
- HB197 SOLAR PROGRAMS (HOOPS J, RAY S) To establish the community solar pilot program and the solar development program.
Current Status: 5/22/2024 - BILL AMENDED, House Public Utilities, (Seventh Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-HB-197>
- HB201 PROHIBIT CALIFORNIA EMISSIONS STANDARDS FOR MOTOR VEHICLES (HILLYER B, DEMETRIOU S) To prohibit a state agency, county, or township from restricting the sale or use of a motor vehicle based on the energy source used to power the motor vehicle; to prohibit a state agency from adopting the California emissions standards for motor vehicles; and to change the requirements for natural gas company infrastructure development riders and economic development projects.
Current Status: 12/28/2023 - SIGNED BY GOVERNOR; eff. 3/28/24
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-HB-201>
- HB226 CUSTOMER-OWNED WATER SERVICE LINES (ROBB BLASDEL M, JARRELLS D) To permit water-works companies to bear the costs for replacing certain customer-owned water service lines.
Current Status: 7/24/2024 - SIGNED BY GOVERNOR; eff. 90 days
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-HB-226>

- HB260 COMPETITIVE RETAIL ELECTRIC SERVICE (SEITZ B, ROBB BLASDEL M) Regarding public utilities and competitive retail electric service.
Current Status: 5/22/2024 - House Public Utilities, (Fifth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-HB-260>
- HB264 WASTE ENERGY RECOVERY SYSTEMS (PIZZULLI J, JOHNSON M) To make certain steam-producing facilities waste energy recovery systems for purposes of the state's energy efficiency laws.
Current Status: 5/22/2024 - Referred to Committee Senate Energy and Public Utilities
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-HB-264>
- HB308 INCLUDE NUCLEAR REACTION ENERGY AS GREEN ENERGY (STEIN D, BRENNAN S) To include energy generated by nuclear reaction as green energy.
Current Status: 6/26/2024 - PASSED BY HOUSE; Vote 87-10
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-HB-308>
- HB358 CARBON CAPTURE (ROBB BLASDEL M) To declare the General Assembly's intent to regulate carbon capture and storage technologies and the geologic sequestration of carbon dioxide for long-term storage.
Current Status: 6/12/2024 - House Energy and Natural Resources, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-HB-358>
- HB363 PUCO NOMINATING PROCESS CHANGES (TROY D) To make various changes to the Public Utilities Commission nominating council and nomination process.
Current Status: 1/9/2024 - Referred to Committee House Public Utilities
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-HB-363>
- HB393 REFUNDS FOR UNLAWFUL UTILITY CHARGES (BAKER R) To require refunds for utility customers when a utility charge was determined to be unlawful.
Current Status: 2/6/2024 - Referred to Committee House Public Utilities
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-HB-393>
- HB444 PUBLIC UTILITIES - POLITICAL EXPENDITURES (MIRANDA J, MCNALLY L) To prohibit certain public utilities from recovering political expenditure costs from their customers.
Current Status: 4/23/2024 - House Government Oversight, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-HB-444>
- SB6 ESG POLICIES-STATE ENTITIES (SCHURING K) Regarding environmental, social, and corporate governance policies with respect to the state retirement systems, Bureau of Workers' Compensation, and state institutions of higher education.
Current Status: 6/18/2024 - House Financial Institutions, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-SB-6>

- SB72 PUBLIC UTILITIES-SUBSTATION SECURITY (JOHNSON T) To require public utilities to provide twenty-four hour security systems at substations.
Current Status: 3/28/2023 - Senate Energy and Public Utilities, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-SB-72>
- SB102 ELECTRIC, NATURAL GAS SERVICES (WILKIN S) Regarding public utilities and competitive retail electric and natural gas services.
Current Status: 12/5/2023 - BILL AMENDED, Senate Energy and Public Utilities, (Fifth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-SB-102>
- SB121 NATURAL GAS INFRASTRUCTURE RIDER CHANGES (ROMANCHUK M) To make changes to the natural gas infrastructure development rider.
Current Status: 5/17/2023 - Referred to Committee Senate Energy and Public Utilities
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-SB-121>
- SB123 PUBLIC UTILITY REGULATION EXEMPTIONS (BRENNER A) To exempt from regulation as a public utility certain persons or entities providing utility related services after the metered point of delivery.
Current Status: 6/25/2024 - SUBSTITUTE BILL ACCEPTED, Senate Energy and Public Utilities, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-SB-123>
- SB143 ELIMINATING ELECTRIC SECURITY PLANS (ROMANCHUK M) To eliminate electric security plans and require all electric standard service offers to be delivered through market-rate offers, and to strengthen corporate separation requirements.
Current Status: 1/23/2024 - Senate Energy and Public Utilities, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-SB-143>
- SB149 PUBLIC UTILITIES - POLITICAL EXPENDITURES (SMITH K) To prohibit certain public utilities from recovering political expenditure costs from their customers.
Current Status: 9/20/2023 - Senate Energy and Public Utilities, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-SB-149>
- SB150 PROHIBIT TERMINATING ELECTRIC, GAS SERVICE (SMITH K) To prohibit terminating electric or gas service to certain households and establish a payment plan for these services.
Current Status: 9/20/2023 - Senate Energy and Public Utilities, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-SB-150>
- SB151 REPEAL 133-HB6 PROVISIONS (SMITH K) To repeal the legacy generation resource provisions of H.B. 6 of the 133rd General Assembly and provide customers refunds.

Current Status: 9/20/2023 - Senate Energy and Public Utilities, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-SB-151>

- SB174 NATURAL GAS-OFFERING CARBON OFFSETS (WILKIN S, LANG G) To allow for competitive retail natural gas service suppliers to offer carbon offsets to customers.
Current Status: 6/11/2024 - Senate Energy and Public Utilities, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-SB-174>
- SB200 LEGISLATIVE INTENT-CARBON CAPTURE (SCHAFFER T, LANDIS A) To declare the General Assembly's intent to regulate carbon capture and storage technologies and the geologic sequestration of carbon dioxide for long-term storage.
Current Status: 4/9/2024 - Senate Energy and Public Utilities, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-SB-200>
- SB227 CONSUMER UTILITY BILLING TRANSPARENCY (SMITH K) To enact "The Consumer Utility Billing Transparency Act" requiring the itemization of all riders, taxes, and other costs on certain utility bills.
Current Status: 2/28/2024 - Referred to Committee Senate Energy and Public Utilities
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-SB-227>
- SB228 UTILITY CUSTOMERS-UNLAWFUL CHARGE REFUND (SMITH K) To require refunds for utility customers when a utility charge was determined to be unlawful.
Current Status: 2/28/2024 - Referred to Committee Senate Energy and Public Utilities
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-SB-228>
- SB229 CHANGE PUCO NOMINATING COUNCIL PROCESS (DEMORA B, HICKS-HUDSON P) To make various changes to the Public Utilities Commission nominating council and nomination process.
Current Status: 6/11/2024 - Senate Energy and Public Utilities, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-SB-229>
- SB247 ESTABLISH COMMUNITY SOLAR PILOT PROGRAM (LANG G) To establish the community solar pilot program.
Current Status: 6/11/2024 - Senate Energy and Public Utilities, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-SB-247>
- SB251 PUBLIC UTILITIES RATE CASE TIMELINE (SMITH K) To require public utilities that serve more than 250,000 Ohio residents to file a rate case application with the Public Utilities Commission at least every four years.
Current Status: 4/24/2024 - Referred to Committee Senate Energy and Public Utilities
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-SB-251>

- SB266 OWNERSHIP-EV CHARGING STATIONS (REINEKE W) To regulate the ownership of electric vehicle charging stations.
Current Status: 6/12/2024 - Senate Transportation, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-SB-266>
- SB275 REGARDING VIRTUAL NET METERING, AGGREGATION (DOLAN M) Regarding virtual net metering and meter aggregation.
Current Status: 6/25/2024 - Senate Energy and Public Utilities, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-SB-275>
- SCR3 FEDERAL FUNDING-HYDROGEN HUBS (DOLAN M) Urging President Biden, the United States Department of Energy, and the Congress of the United States to designate federal funding for hydrogen hubs in Ohio.
Current Status: 3/8/2023 - Referred to Committee Senate Energy and Public Utilities
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-SCR-3>
- SR121 URGE CONTINUED INVESTMENT-NATURAL GAS (RULLI M) To recognize that natural gas and its production industry are vital to Ohio's economic future and to urge continued investment in natural gas infrastructure to make affordable energy available to every Ohioan.
Current Status: 4/24/2024 - ADOPTED BY SENATE; Amended on Floor, Vote 32-0
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-SR-121>
- SR296 URGE USEPA WITHDRAW PROPOSED REGULATIONS (REINEKE W, MCCOLLEY R) To urge the U.S. Environmental Protection Agency to withdraw its proposed regulations on greenhouse gas emissions and to urge the United States Congress to take action to prevent the regulations from taking effect.
Current Status: 5/8/2024 - ADOPTED BY SENATE; Vote 27-4
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-SR-296>



OPINION

Stay the course on competitive electric markets

The narrative pushed by certain investor-owned utilities — that the recent PJM capacity auction outcome somehow signals a need for re-regulation — is misleading.

Published Aug. 9, 2024

By Ryan Augsburger

Power lines leading into Cleveland, Ohio, at sunset. davelogan via Getty Images

Ryan Augsburger is president of The Ohio Manufacturers' Association.

The recent PJM capacity auction for the 2025-2026 period has contributed to the debate over the future of Ohio's restructured energy landscape. Some stakeholders, particularly investor-owned utility companies, argue that the auction results portend a shortfall in energy capacity to the region, necessitating re-regulation and subsidies for building new generation facilities.

This narrative is fundamentally flawed.

The PJM capacity auction is a critical mechanism that ensures reliability in the electric grid. By securing commitments from power generators to deliver electricity when needed, it safeguards against potential shortages. The recent auction results have demonstrated not a shortfall, but rather a comfortable reserve margin of 18%, well above the amount required to maintain grid reliability. This surplus capacity is a clear indicator that the market

is functioning as intended, providing a cushion that not only ensures reliability but also fosters competition and innovation.

The narrative pushed by certain public investor-owned utilities — that this auction outcome somehow signals a need for re-regulation — is misleading. These companies are using the specter of a non-existent energy shortfall to argue for a return to monopoly power generation where utilities can secure guaranteed returns on the backs of captive customers.

Such a move would undermine the functional competitive generation market that has attracted over ten billion dollars in new generation investments in Ohio alone over the past decade, replacing uneconomic generation units along the way. The reality is that the current market structure, characterized by competition and market-based pricing, is delivering reliable and affordable energy to Ohioans.

While customers occasionally pay higher electricity prices to attract this competitive investment, competitive power generators stand to lose money if they don't earn customers' purchases. In contrast, the call for re-regulation is more about rewarding utility owners and executives with guaranteed profit at the expense of consumers and the broader economy.

Furthermore, the argument for re-regulation and subsidies is fundamentally at odds with the principles of a free market. Subsidizing new-generation facilities distorts the market, leading to inefficiencies and potentially higher costs for consumers. It discourages competition and innovation, as companies become reliant on government support rather than striving to improve their operations and reduce costs. In contrast, a competitive market encourages efficiency, innovation and cost-effectiveness, benefiting consumers and the economy as a whole.

The PJM capacity auction's results are a testament to the success of Ohio's deregulated energy market. The reserve capacity not only ensures that there is no immediate threat to the reliability of the grid but also provides a strong foundation for future growth and innovation. The market is sending clear signals to independent energy producers that there is a demand for new generation capacity, and they are well equipped to meet this demand.

Be wary of the claims of a looming energy shortfall serving as a mask for re-regulation and a monopolistic energy market. While PJM needs to make significant reforms to its interconnection process and auction process, its capacity auction still demonstrates that Ohio has a healthy reserve margin, providing ample capacity to meet future energy needs.

Ohio's energy future is bright, driven by a competitive market that encourages innovation, efficiency and affordability. Let us continue to support a free and fair market, where independent energy producers can thrive and deliver the reliable, affordable energy that Ohioans deserve.

The Electric Utilities' Threat to Ohio's Economy

Background

For twenty-five years, Ohio has operated a deregulated electricity market, allowing customers to choose their power suppliers, while only transmission and distribution remain regulated. This model has led to lower wholesale prices, the replacement of outdated power plants, and advancements in technology. However, some utilities are pushing to end the competitive market structure and re-enter the generation market, citing a purported electricity shortfall that they argue cannot be met by market forces alone.

Key Issues and Questions

- 1. Economic Impact of Ending Deregulation:** Utilities' proposal to end competitive markets and re-regulate power would result in higher prices for customers and reduced competition for the markets. Their plan involves re-regulating power and building new power plants funded by mandatory customer fees, effectively reversing the benefits of competition.
- 2. Opaque and Exaggerated Utility Claims:** Utilities assert that Ohio faces an imminent shortfall of generating and transmission capacity due to increased demand from new technologies and the retirement of old plants. However, Ohio and the broader PJM region, which supplies Ohio's power, consistently have a robust reserve capacity and competitive wholesale prices, indicating no current or imminent shortfall. In fact, in recent years PJM has had excessive reserve capacity and low wholesale electricity prices. Utilities stand to financially benefit from these exaggerated claims, particularly if they lead to the elimination of competitive markets.
- 3. Alternative Policies:** Instead of re-regulation, Ohio should enhance transparency and accountability in utility spending, particularly for transmission investments, and stay the course by maintaining competitive power markets. Regulatory oversight must ensure that customer funds are used effectively and that infrastructure investments align with actual needs. Emphasizing decentralized power plants and exploring distributed energy resources could provide cost-effective solutions to grid constraints.

Utility Proposals

- **End Competitive Power Markets:** Utilities aim to re-regulate power, which would diminish competition, drive up prices, and create a financial windfall for utilities.
- **Allow More Subsidized Transmission:** Utilities' claims of a constrained electric grid could lead to unneeded, costly transmission lines being built. Meanwhile, opaque and unchecked spending on local transmission projects continues to drive up customer electricity costs with no improvement in electric reliability.

Recommendations

- 1. Stay the Course on Competitive Markets:** Continue with the competitive free markets model to foster competition, lower prices, and enhance innovation, but repeal or reform policies like the Electric Security Plans (ESPs) to address questionable subsidies and charges.
- 2. Increase Transparency and Accountability:** Implement stricter oversight of new power production and customer interconnection queues, supplemental transmission spending, and power outage investigations, both at the PUCO and at PJM. Use power grid heat maps to direct economic development.
- 3. Promote Distributed Generation and Competitive Microgrids:** Encourage localized energy solutions to reduce the need for extensive transmission infrastructure.

Conclusion

Ohio's deregulated electricity market has delivered substantial benefits, including lower prices and increased choice. The current push by utilities to end deregulation is driven by their financial struggles and desire for guaranteed revenue. To protect Ohio's economy and ensure fair pricing, it is crucial to maintain deregulation while improving regulatory oversight and transparency. Addressing these issues effectively will safeguard Ohio's competitive advantage and foster a robust, innovative energy market.

Myth vs. Fact

MYTH: There is an electric power supply shortfall.

FACT: There are plentiful power supply options.

- PJM, the grid operator, has procured 18% more power than it needs during peak grid stress.¹
- PJM double-counted risks of power plant failures, once in its reserve margin target, and again in its Effective Load Carrying Capacity ratings, resulting in tighter supply and demand margins on paper.²
- Excess power supply and competitive markets previously led to lower electricity prices benefitting consumers and forcing inefficient generators into retirement.³ Constrained power supply will lead to higher prices and new power plants will enter the market.

MYTH: The competitive market will fail to procure enough power supply by 2030.

FACT: Many options exist to keep the power on through 2030.

- PJM has stated that modest amounts of renewable energy and new natural gas power can meet needs by 2030.⁴
- Competitive businesses would like to build a wave of new power. 134,694⁵ MW of new renewable, battery, and gas power awaits approval in PJM's queue.
- PJM has not modeled competitive market responses to power scarcity.⁶

MYTH: Only states or monopoly utilities can ensure enough power supply for their customers.

FACT: Regional transmission operators, like PJM, are tasked with ensuring there is sufficient power supplied to their regions, including Ohio.

- Although recent auctions have been delayed, PJM is structured to run competitive auctions years ahead of time to procure ~15-17% more power than it needs at all times.⁷
- PJM offers above-market payments to retiring generators to keep them online for reliability purposes if needed, through a mechanism called Reliability Must Run.⁸
- The federal government can order generators to stay online to meet reliability needs in emergencies.⁹

¹ [2025/2026 Base Residual Auction Report, Page 4](#)

² ["PJM Claims Its Generation Capacity Market Changes Ensure Reliability."](#) Runnerstone memorandum to The Ohio Manufacturers' Association, May 6th, 2024.

³ [2023 Annual State of the Market Report for PJM:](#) "33,744 MW of thermal resources are expected to retire by 2030 for economic reasons, based on expected forward prices. The probability of retirement is...significantly lower for units identified as uneconomic. Higher market prices would reduce the MW identified as uneconomic. For example, a doubling of market revenues would reduce the units identified as uneconomic by...44%."

⁴ [PJM Resource Retirements, Replacements & Risks Report, 'High New Entry' Scenario adds 107 GW nameplate/30.6 GW-capacity after ELCC derations.](#)

⁵ [Queed Generation Fuel Mix as of 1:13 PM EPT, 7/23/2024.](#) Wind (20 GW) + Storage (50 GW) + Solar (65 GW)

⁶ [PJM's Reliability Report Misses the Mark.](#)

⁷ [PJM Learning Center | Capacity Market and Reliability Pricing Model](#) – The essential elements of the capacity market are: 1) Procurement of capacity three years before it is need through a competitive auction and 2) locational pricing for capacity that varies to reflect limitations on the transmission system.

⁸ [PJM Inside Lines](#) – "While PJM cannot compel a unit to remain in service, in unique circumstances such as this, PJM can formally request that the unit owner continue operating the unit to support reliability. This process, detailed in Part V of the PJM Open Access Transmission Tariff, offers a deactivating unit the opportunity to remain in service and recover its operating costs until all necessary transmission upgrades are in place."

⁹ [Under Federal Power Act \(FPA\) section 202\(c\), ... the Secretary of Energy may require by order temporary connections of facilities, and generation, delivery, interchange, or transmission of electricity as the Secretary determines will best meet the emergency and serve the public interest.](#)

MYTH: Allowing electric utilities to rate-base, own, and operate power supply resources is not re-regulation.

FACT: Allowing electric utilities to rate-base, own, and operate power supply resources is re-regulation, eliminating competitive markets.

- Allowing electric distribution utilities to own power plants, as proposed by some parties, is re-regulation.
- Recovery of the utility's fixed costs and operating costs to construct and run power plants through base rates and riders, as proposed by some parties, is re-regulation.
- Preserving competition and retail electric supply choice does not prevent re-regulation if an electric utility is allowed to own and operate a power plant and rate-base its costs.

MYTH: Projected doubling of electric demand in Central Ohio is a problem for Ohio.

FACT: Ohio has ample transmission and supply capacity to attract new businesses to Ohio.

- Duke, AES, and FirstEnergy all have forecasted flat or declining electricity needs through 2030, which means that new businesses have a natural market incentive to build outside of Central Ohio.¹⁰
- AEP Ohio has sufficient transmission and supply capacity to meet its new customer needs in Central Ohio through 2030.¹¹
- Utilities have not supported speculative claims of skyrocketing electric demand.¹²
- The grid operator's, PJM, planning documents show generation exports from Ohio to the mid-Atlantic states in future years.¹³

¹⁰ [PJM Load Forecast Report – January 2024](#)

¹¹ Direct Testimony of Matthew S. McKenzie on Behalf of Ohio Power Company, Case No. 24-508-EL-ATA, "AEP Ohio can import enough power...to serve the new data centers that have signed ESAs to bring 5,000 MW of data center load by 2030."

¹² Direct Testimony of Matthew S. McKenzie on Behalf of Ohio Power Company, Case No. 24-508-EL-ATA, "AEP Ohio expects that many potential data center customers will be willing to make this commitment and will sign the ESA, but there will likely be some customers who will not sign because their interest in building a data center has passed or was speculative to being with."

¹³ [PJM Reliability Analysis Update](#), Slides 10 & 11.

TO: OMA Government Affairs Committee
FROM: James Lee
RE: Environment Public Policy Report
DATE: September 11, 2024

Overview

The OMA has been engaging on a wide range of environmental activity at both the state and federal levels this quarter.

Legislative initiatives from state lawmakers have slowed down significantly following the passing of the state budget in the summer of 2023 and the recent short stint of legislation that accompanied the 2024 capital budget process. Slow activity is likely to remain as political squabbling between House and Senate leadership has placed the legislature in gridlock. New issues begin to emerge as the Ohio EPA is gearing up for a proposal in next year's budget cycle that will increase air permit fees that will require approval from the legislature.

On the state regulatory front, downgraded Ozone designations for northeast Ohio are on the horizon, impacting industry in the area with new emission requirements.

Unfortunately, federal EPA activity continues to ramp up. President Biden's EPA continues to take an aggressive anti-business approach, implementing numerous burdensome regulations that threaten America's manufacturing competitiveness. That pace is likely to accelerate following the president's recent announcement that the president will not be seeking a second term. The OMA continues to publicly pushback against overzealous regulations, which have already increased costs to businesses by \$350 billion, with the current administration's total regulations already exceeding the total amount of regulations established in all 8 years of the Obama presidency.

OMA's Editorial Highlighting Manufacturers' Leadership in Environmental Stewardship

The OMA was recently featured in a Cleveland Plain Dealer editorial, which highlighted the significant contributions of Ohio's manufacturers to the state economy and their leadership in environmental stewardship. The editorial presented data showing the industry's remarkable reductions in water and air pollution through innovative technologies, as well as its leading position in recycling practices among all economic sectors. You can read the full article in today's materials.

Environment Legislation

Ohio EPA Proposed Air Permit Fee Increases

The Ohio EPA has opened conversations to stakeholders to discuss a potential increase in air permit fees to support the Division of Air Pollution Control's (DAPC) staffing operations and remain compliant with US EPA standards. The EPA has not raised its fees since being adopted over thirty years ago in the legislature, leading to budget shortfalls that will require the US EPA Region 5 to administer Ohio's air program if revenues do not increase. Ohio EPA notes that their proposed fee structure is lower than neighboring states who have also been prompted to raise their fees in recent years.

The Ohio EPA has proposed the following fee structure to generate 7 million in additional revenue:

1. Title V facilities

- Additional base fee of \$5,000 per year
- The annual emission-based fee structure will remain the same.

2. Synthetic Minor facilities

- Additional base fee of \$5,000 per year
- 50% increase to the current annual emission-based fee structure

3. Permit To Install (PTI) Fees

- 50% increase of current PTI fee structure

Senate Bill 200: Carbon Capture

Senators Tim Schaffer and Al Landis introduced a placeholder bill in Senate Energy and Public Utilities Committee stating their intent to move legislation to establish a comprehensive regulatory framework to ensure the safe and secure deployment of carbon capture and storage technologies in Ohio. The proposed legislation aims to regulate CCS technologies and carbon dioxide storage in geological formations, potentially granting Ohio regulatory authority over such operations.

While formal language has not been released to the public, proponents of the legislative concept testified in support of the effort to implement policies that encourage innovation and the development of CCS technology to drive economic growth and reduce greenhouse gas emissions, highlighting the critical impact on Ohio's industrial sectors by providing new avenues for companies to operate competitively while reducing their environmental impact and creating jobs.

The OMA will keep members informed on the potential impacts to manufacturers when a formal sub bill is introduced.

Senate Resolution 296: Opposing Biden's Greenhouse Gas Emissions

Senators Rob McColley and Bill Reineke have introduced a senate resolution condemning the Biden administration's regulations targeting greenhouse gas emissions from coal and natural gas-fired powerplants. The resolution criticizes the proposals for exceeding the US EPA's regulatory authority and highlights the threats to the US economy by imposing unachievable emission reduction timelines for greenhouse gases, while also requiring the adoption of new technologies that are not yet commercially available, including carbon capture. The Resolution was passed and adopted by the Ohio Senate.

Solid Waste Fees Defeated

The OMA continues to monitor Senate Bill 119, which aimed to raise solid waste fees for Ohio manufacturers in response to concerns about out-of-state waste in Seneca County. Proposed by Senator Reineke, the bill sought to deter waste export by increasing state fees from \$4.75/ton to \$8.50/ton, impacting construction debris fees as well. This would cost Ohio over \$150 million annually and hinder business growth. After opposition from the OMA and testimony by Tim Ling, Senator Reineke agreed to amend the bill, removing the fee hikes—a significant victory for Ohio manufacturers. The bill received a fourth hearing in the House but is unlikely to pass.

ESG Investing

Senate Bill 6, a bill barring state funds from investing based on environmental, social or governance practices, has passed the Senate and is currently awaiting House action. Under this proposed legislation, the board that governs specific funds will not be allowed to adopt a policy under which the board makes investment decisions with the primary purpose of influencing any social or environmental policy.

State Regulatory Activity

US EPAs Good Neighbor Rule Paused in Ohio due to Yost's Successful Challenge

In June, the U.S. Supreme Court granted a stay against the U.S. EPA's so-called "Good Neighbor Plan," temporarily blocking its implementation in Ohio. In their decision, the court ruled that the emissions-reductions standards set by the plan were likely to cause "irreparable harm" to nearly half of all U.S. states.

The rule significantly expands federal oversight of interstate air emissions. Ohio Attorney General Dave Yost joined Indiana and West Virginia in the suit to successfully obtain stay on the rule which will cost manufacturers and industrial producers an estimated \$910 million in yearly compliance costs. Manufacturers of cement, iron and steel, glass, and chemicals will be severely impacted by new regulations. Multiple justices on the court have publicly stated their skepticism of the rule and are set to issue an opinion on its constitutionality in a separate case before the court.

The OMA issued a statement on the block, pointing out the unattainable and damaging standards the rule would have put in place, and thanking Ohio Attorney General Dave Yost for leading the charge to challenge the rule. Bricker Graydon has produced a memo for OMA members, outlining the Good Neighbor Plan's impact on Ohio manufacturers which can be found in today's environment materials.

Lucas County and Toledo Sue USEPA Over Maumee Watershed TMDL General Permit

Lucas County and the City of Toledo have filed a lawsuit against the U.S. Environmental Protection Agency (US EPA). The lawsuit alleges that the EPA knowingly violated the Clean Water Act by approving the total maximum daily load (TMDL) plan to restore the western basin of Lake Erie. This legal action is part of a broader effort to combat harmful algal blooms in Lake Erie, which have been a persistent environmental issue. The county commissioners argue that the TMDL plan, which is a regulatory component of the Clean Water Act intended to address the cleanup of impaired waters, fails to meet the legal standards necessary to prevent the pollution that leads to these algal blooms. They are particularly concerned about the runoff from "mega farms" and other non-point sources, which they believe is a significant contributor to the problem. The OMA advocated for the northwest region's manufacturers during the drafting of the TMDL plan, pushing back against inequitable policy proposals unfairly targeting point sources, which are not responsible for the major sources of pollution that come from non-point sources like agricultural runoff.

H2Ohio PFAS Rivers Survey

The Ohio EPA has announced plans to utilize H2Ohio Funds for a comprehensive statewide river survey focused on PFAS contamination. This initiative positions Ohio as the first state in the country to embark on such an extensive survey. Although the Governor has clarified that this effort is not a prelude to immediate regulations and defers to the federal government for remediation guidelines, concerns over data collection remain as the results could be weaponized as a precursor to future regulatory actions from succeeding administrations or the legislature.

Federal Regulatory Activity and OMA Action

Biden Administration Publishes "Wish List" for Upcoming Regulations

The Biden Administration recently unveiled a "wish list" of regulations to add to the regulatory onslaught coming out of Washington. The list includes the U.S. EPA's rule on greenhouse gas

emissions from existing natural gas power plants, the last of its rules on implementing the 2016 amendments to the Toxic Substances Control Act, and the final version of a far-reaching update to hazardous air pollutant reporting requirements. The entire list can be found on the Regulation Information website: <https://www.reginfo.gov/public/do/eAgendaMain>

PM2.5 Standard

In a devastating blow to manufacturers, the Biden administration finalized the US EPA's PM 2.5 rule, lowering the National Ambient Air Quality Standards for fine particulate matter to 9 micrograms per cubic meter. Lowering this standard will force manufacturers to comply with unattainable emissions requirements, cost as much as \$197 billion in lost U.S. economic activity, and result in a loss of 974,000 jobs nationwide.

The OMA has made numerous efforts to oppose the rule through public comments and coalition letters to federal agencies, congress, and the white house. Upon release of the final rule, President Ryan Augsburger issued as statement opposing the rule as a disaster for manufacturers in Ohio.

In June, the National Association of Manufacturers (NAM) filed the opening brief in litigation opposing the rule. The OMA will keep its members apprised of the efforts to fight this rule in the courts. The OMA hosted an informational webinar with Ohio EPA staff on May 29 outlining next steps for the state's rule out of these new regulations that can be found on the OMA's website.

US EPA Reinserts Nuisance Rule

U.S. EPA issued a proposed rule in February to reverse its prior November 2020 final action removing Ohio's air nuisance rule from the Ohio State Implementation Plan (SIP). The proposed rule follows a 6th Circuit decision remanding the 2020 removal action back to the EPA for further consideration.

The OMA supported the November 2020 final action and filed an amicus brief in the 6th Circuit matter, urging the court to uphold the EPA's decision. The current proposed rule would determine that the prior November 2020 action was in error and correct that action by reinstating the air nuisance rule back into the SIP.

The rule is a direct threat to manufacturers, making it easier for environmental activists to target companies with frivolous lawsuits. The OMA has made formal comments to the US EPA opposing the rule. Contact James Lee at jlee@ohiomfg.com if you wish to read the comments. Staff will keep members informed of future actions to oppose the reinstatement of this rule.

SEC Finalizes Scaled Back Climate Disclosure Rule

The Securities Exchange Commission (SEC) finalized its proposed climate disclosure rule that will institute broad, sweeping climate reporting obligations for publicly traded companies. The mandates reporting on complex climate-related information — including greenhouse gas emissions — regardless of whether the information has an impact on the company's financial performance, potentially exposing industry to unfeasible reporting requirements, frivolous litigation and public relations attacks from environmental activists.

Though the rule still imposes many burdensome reporting requirements on manufacturers, the industry can celebrate a silver lining in the rule in its final version, as the agency dropped its proposed Scope 3 reporting requirements that would force manufacturers to track and disclose all emissions within their supply chain. This was a main point of contention from the business community, which the OMA has publicly opposed. In addition to the Scope 3 change, the SEC

exempted smaller public companies from Scope 1 and Scope 2 emissions reporting and delayed the rule's effective dates. The final rule also is more narrowly focused on so-called "material" information (data investors need to make informed decisions) than what had been proposed previously.

A memo on the rule from Bricker Graydon is available in today's meeting materials.

PFAS Drinking Water Standards

The Biden administration finalized its excessively stringent PFAS Drinking Water Standards rule that will require utilities to reduce PFAS compound levels to the lowest level they can be reliably measured. The already exceptionally low standards will be reduced from 70 parts per trillion to 4 parts per trillion. The rule will lead to significant cost increases throughout the supply chain impacting not only manufacturers but the US economy as a whole.

The OMA has engaged on this rule through multiple comments to federal agencies and alerted state regulators of its detrimental impact since the rule was proposed in 2023. In the weeks prior to finalization, The OMA wrote to the Biden White House asking the administration to rescind their unattainable drinking water standards that fail to provide benefits to public health and threaten Ohio's manufacturers with inordinate compliance burdens and costs. That letter can be found in today's Environment materials.

Additional PFAS Regulations

Actions on PFAS from federal and state policy makers have been making headlines. Manufacturers should be keeping up with multiple developments including:

- The Recent publication of US EPA's final rule designating PFOA and PFOS hazardous substances under CERCLA. The rule is the agency's first-ever use of CERCLA § 102 to designate hazardous substances – and in a recent announcement the US EPA announced their enforcement discretion policy essentially stating that they will not target public entities and agriculture – suggesting their focus for enforcement is set solely on manufacturers (See Beveridge & Diamond Article in today's materials).
- The US EPA's TSCA rule broadening scope mandated reporting requirements on the presence of 1,462 PFAS chemicals in their processes and products dating back to 2011.
- Proposed TRI rules that would Categorize all PFAS as chemicals of special concern (COCS), eliminate exemptions for reporting trace amounts of PFAS and mandate suppliers to inform purchasers of any product containing COCS, regardless of quantity or concentration.
- Extensive new PFAS Air Emission reporting requirements proposed under the US EPA's Air Emissions Reporting Requirements (AERR)
- Incoming proposed rules from the US EPA that that would require the investigation and clean-up of certain PFAS at facilities that manage hazardous waste
- Finalized Automatic Additions of Seven PFAS compounds required for TRI reporting in 2024 (due July 1 2025 – see article in today's materials for more information).
- The DeWine Administration's efforts to implement a statewide survey of Ohio's rivers for PFAS contamination.
- The DeWine Administration's use of Battelle's PFAS Annihilator to destroy stockpiled firefighting foam containing PFAS. Battelle's technology has been patented to effectively destroy and remediate PFAS compounds in wastewater to non-detectable levels.

AERR Revisions

The OMA made comments in opposition to the US EPA's proposed revisions to the Air Emissions Reporting Requirements (AERR). The proposed revisions will significantly impact manufacturers by increasing compliance costs, introducing uncertainty in reporting, and mandating the collection of hazardous air pollutants (HAPs). This will place serious financial burdens on manufacturers, particularly small businesses, potentially leading to increased litigation and compromising the accuracy of emissions data. Additionally, the revisions include substances like PFAS in their requirements without providing sufficient toxicity data, potentially opening reporting to the nearly 15,000 PFAS compounds that exist in the supply chain.

According to the EPA's own estimates, the proposed Air Emissions Reporting Requirements will have a compliance cost of over \$3 billion and impact 120,000 facilities, of which 43,000 are small businesses.

Methylene Chloride Ban

The US Environmental Protection Agency has finalized its ban on specific uses of methylene chloride.

The OMA submitted comments opposing the proposed ban which takes a throw-the-baby-out-with-the-bath-water approach by extending the ban to commercial and industrial entities, including manufacturers, who have been safely using methylene chloride for specific critical functions for decades. There is no viable alternative for manufacturers to methylene chloride for certain adhesive production.

Though the finalized rule imposes significant chemical and safety regulatory burdens on manufacturers, the OMA's comments, which garnered national media attention, were effective in securing certain carveouts for manufacturers that allow continued use of methylene chloride as an adhesive for acrylics and polycarbonate, with select exemptions being granted allowing continued industrial use of Methylene chloride for the next 5 years.

You can find the OMA's comments in this section's meeting materials.

[Click here for Environment Community articles from previous Leadership Briefings](#)

Environment Legislation

Prepared by: The Ohio Manufacturers' Association
Report created on September 9, 2024

- HB33 FY24-25 OPERATING BUDGET (EDWARDS J) To make operating appropriations for the biennium beginning July 1, 2023, and ending June 30, 2025, to levy taxes, and to provide authorization and conditions for the operation of state programs.
Current Status: 1/24/2024 - Consideration of Governor's Veto; Senate Overrides Veto, Vote 24-8
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-HB-33>
- HB469 CREATE RIVER COMMISSION (ROBB BLASDEL M, JONES D) To create the Ohio River Commission of Ohio.
Current Status: 6/25/2024 - House Economic and Workforce Development, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-HB-469>
- HR33 TRAINS - HAZARDOUS MATERIALS (ROBB BLASDEL M, MCNALLY L) To urge the United States Congress to pass legislation requiring railroad companies to inform local and state government officials when trains carrying potentially hazardous materials travel through their respective jurisdictions.
Current Status: 3/23/2023 - ADOPTED BY HOUSE; Amended on Floor, Resolution Vote 94-1
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-HR-33>
- SB6 ESG POLICIES-STATE ENTITIES (SCHURING K) Regarding environmental, social, and corporate governance policies with respect to the state retirement systems, Bureau of Workers' Compensation, and state institutions of higher education.
Current Status: 6/18/2024 - House Financial Institutions, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-SB-6>
- SB119 WASTE DISPOSAL LAW CHANGES (REINEKE W) To make changes to the laws governing the transfer and disposal of solid waste and construction and demolition debris, including increasing certain fees.
Current Status: 5/1/2024 - House Energy and Natural Resources, (Fourth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-SB-119>
- SR36 URGE CONGRESS-TRAIN LEGISLATION (RULLI M) To urge the United States Congress to pass legislation requiring railroad companies to inform local and state government officials when trains carrying potentially hazardous materials travel through their respective jurisdictions.
Current Status: 3/8/2023 - Referred to Committee Senate Transportation
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-SR-36>



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Ohio's manufacturers at the forefront in pursuit of environmental stewardship: James Lee

Updated: May. 31, 2024, 5:45 a.m. | Published: May. 31, 2024, 5:45 a.m.

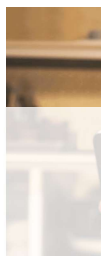


By Guest columnist, [cleveland.com](https://www.cleveland.com) and [The Plain Dealer](https://www.thepaindealer.com)

COLUMBUS, Ohio -- Manufacturing is the foundation of Ohio's economy and the greatest contributor to the state's GDP, to the tune of \$133 billion, providing high-paying employment opportunities to nearly 700,000 Ohioans of all education levels.

These jobs pave the path to the middle class and lay the foundational building blocks for growing economic prosperity in communities throughout the state. Manufacturers understand that these strengths mean little, however, if they come at the expense of the places we live.

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Contrary to aging stereotypes of smokestacks and wasteful byproducts, manufacturing's success today has not come at the expense of our state's air, water, or soil. Rather, Ohio's manufacturers are leading the charge in reducing air emissions, water discharge pollution, and pioneering recycling efforts – all while providing economic benefits for their employees and surrounding communities.



James Lee is the director of public policy for the Ohio Manufacturers' Association, specializing in environmental policy. ohio manufacturer's association

Let's look at the facts:

One of the most notable achievements of Ohio's manufacturing industry is its remarkable progress in reducing air emissions. Through billions of dollars in investments toward innovative technologies, manufacturers have significantly lowered their carbon footprint, improved air quality, and safeguarded public health. From investing in cleaner energy sources to implementing energy-efficient practices, Ohio's manufacturers have demonstrated their commitment to combating climate change while maintaining their competitive edge.

Since 1988, industrial investments in air quality have contributed to a nearly 90% reduction in total air emissions, according to the Ohio Environmental Protection Agency, as noted in our 2024 "Ohio Manufacturing Counts" report. Since 1980, per the same source, Ohio has seen a 60% reduction in carbon monoxide emissions and a nearly 90% reduction in nitrous oxide and particulate matter. Sulfur dioxide emissions have also seen a reduction of over 95%.

But Ohio's manufacturers are not resting on their laurels.

Earlier this year, steel manufacturer Cleveland-Cliffs, glassmakers O-I Glass and Libbey Glass, and ketchup titan Kraft Heinz were among the recipients of a \$6 billion investment from the U.S. Energy Department for decarbonization efforts. This commitment from the manufacturing industry to further advance environmental stewardship is projected not just to slash emissions by up to 99%, but also create thousands of jobs.

Intel Corp., which is constructing a \$28 billion production facility in central Ohio, dubbed the Silicon Heartland, is emblematic of other leading technology manufacturers, setting a goal of achieving net zero greenhouse gas emissions by 2040. The Intel campus just east of Columbus will use 100% renewable electricity and achieve net positive water worldwide by 2030.

In addition to mitigating air and water pollution, Ohio's manufacturing industry has emerged as a leader in recycling efforts. Manufacturers have implemented comprehensive recycling programs to reduce waste and promote circular economies, turning industrial byproducts into valuable resources.

In fact, according to the Ohio EPA, Ohio's industrial recycling practices far outpace that of any other competing business sector, with manufacturers leading the way in reducing and recycling 53% of materials in 2021 as compared to 28% by residential and commercial users. Examples include innovative product packaging, recycling scrap materials, and repurposing production waste.

Ohio's manufacturers are driving innovative environmental solutions across the supply chain to the benefit of us all. While many might first associate manufacturing with family-sustaining careers and other economic benefits, it is important to remember the positive environmental impact the industry provides for our communities, and part ways with outdated misperceptions to the contrary. Ohio manufacturers' commitment to reducing environmental impact is a testament to the transformative power of innovation and collaboration.

James Lee is the Director of Public Policy for the Ohio Manufacturers' Association, specializing in environmental policy. Previously, Lee served on the legislative affairs team for the Ohio Department of Development in the DeWine administration and worked in various roles for the Ohio House of Representatives.

Have something to say about this topic?

* [Send a letter to the editor](#), which will be considered for print publication.

* Email general questions about our editorial board or comments or corrections on this editorial to Elizabeth Sullivan, director of opinion, at esullivan@cleveland.com

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PROTECTING & GROWING OHIO MANUFACTURING

For Immediate Release

The OMA Issues Statement on SCOTUS Halt of 'Good Neighbor' Rule

COLUMBUS, Ohio – The Ohio Manufacturers' Association President Ryan Augsburger today issued the following statement on the temporary block of the Environmental Protection Agency's 'Good Neighbor Plan' by the U.S. Supreme Court:

"The decision by the Supreme Court today is a win for manufacturers across the country against the onslaught of unobtainable standards being pushed out of Washington.

The 'Good Neighbor Plan' sets a scientifically unobtainable air emissions standard that threatens to hamstring Ohio's competitiveness, job growth, and the livelihoods of communities with only a negligible benefit to the environment.

Ohio manufacturing leaders commend Attorney General Dave Yost for his leadership in challenging the unreasonable regulations before the highest court to defend Ohioans from higher costs and lost jobs."

###

The Ohio Manufacturers' Association is Ohio's largest statewide business association comprised solely of manufacturers. Established in 1910, the OMA's mission is to protect and grow Ohio manufacturing. It represents manufacturers of all sizes in every subsector of the industry. Manufacturing is Ohio's largest economic sector, employing approximately 690,000 Ohioans and contributing more than \$133 billion annually to the economy. Visit ohiomfg.com, or follow us on [LinkedIn](#), [Twitter](#), [Facebook](#), and [YouTube](#).

Tom Evans

Director, Communications and Marketing

(614) 557-0937

tevans@ohiomfg.com

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PROTECTING & GROWING OHIO MANUFACTURING

For Immediate Release

The Ohio Manufacturers' Association Issues Statement on Biden Administration PM2.5 Rule

COLUMBUS, Ohio – Following the decision by the Environmental Protection Agency (EPA) to lower the National Ambient Air Quality Standards for fine particulate matter (PM2.5) to 9 micrograms per cubic meter, The Ohio Manufacturers' Association President Ryan Augsburger issued the following statement:

"The implementation of the Biden administration's new PM2.5 rule is a disaster for manufacturers in Ohio. The unobtainable standards will only kneecap manufacturing investments, weaken our economy, and erode our nation's competitive advantage. This rule is an unnecessary and blatant assault on our nation's manufacturing industry."

###

The Ohio Manufacturers' Association is Ohio's largest statewide business association comprised solely of manufacturers. Established in 1910, the OMA's mission is to protect and grow Ohio manufacturing. It represents manufacturers of all sizes in every subsector of the industry. Manufacturing is Ohio's largest economic sector, employing approximately 690,000 Ohioans and contributing more than \$133 billion annually to the economy. Visit ohiomfg.com, or follow us on [LinkedIn](#), [Twitter](#), [Facebook](#), and [YouTube](#).

Tom Evans

Director, Communications and Marketing

(614) 557-0937

tevans@ohiomfg.com

The Ohio Manufacturers' Association
33 North High Street | Columbus, OH 43215



February 17, 2023

U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

**RE: Reconsideration of National Ambient Air Quality Standards for Particulate Matter
(Docket ID No. EPA-HQ-OAR-2015-0072)**

The Ohio Manufacturers' Association (OMA) is Ohio's largest statewide business association comprised solely of manufacturers. Established in 1910, the OMA's mission is protect and grow Ohio manufacturing. Our association represents manufacturers of all sizes in every subsector of the industry. Manufacturing is Ohio's largest economic sector, employing more than 695,000 Ohioans and contributing more than \$130 billion annually to the economy.

As the leading coalition for manufacturers in Ohio, we join manufacturers across the U.S. in strong opposition to EPA's PM2.5 rule proposal that would impose stricter air standards on businesses. American families are already concerned about the threat of a recession. Imposing new, burdensome regulations on the private sector, especially at a time of economic instability, will only further weaken an already slowing economy. The OMA fears this regulation will disproportionately affect our members' supply chains and operational expenses.

The U.S. already has some of the strongest environmental performance standards in the world. Levels of major pollutants have declined dramatically. The U.S. EPA's own data show that the U.S. reduced six common NAAQS pollutants (including PM2.5) by 78% between 1970 and 2020. Moreover, the U.S. EPA affirms that PM2.5 levels have dropped 44% since 2000, while the Ohio EPA notes that particulate pollution has been on a downward trend statewide over the past decade.

The proposed PM2.5 standards would not only hurt existing manufacturing facilities but could also jeopardize the new, clean energy manufacturing that is needed to address climate change. When the U.S. doesn't manufacture, capital investment shifts to other countries that do not have the same commitment to environmental stewardship as the U.S.

Let manufacturers do what they do best: innovate and develop modern technologies that address air quality, reduce emissions, and protect the environment, while protecting manufacturing jobs and growing the economy. On behalf of Ohio's manufacturing community, the OMA strongly urges the U.S. EPA to reconsider its PM2.5 proposal. Thank you.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ryan Augsburger". The signature is fluid and cursive, with a long horizontal stroke at the end.

Ryan Augsburger
President

Chairman of the Board
DALE LAWS
Vice President, Manufacturing Operations
Laundry, Dishwashers & Small Appliances
Whirlpool Corporation, North American Region



President
RYAN AUGSBURGER

April 19, 2023

The Honorable Sherrod Brown
United States Senate
503 Hart Senate Office Building
Washington, DC 20510

Dear Senator Brown,

On behalf of Ohio's manufacturing community, this letter is to inform you that The Ohio Manufacturers' Association is strongly opposed to the U.S. EPA's National Ambient Air Quality Standards (NAAQS) PM2.5 rule proposal that would impose stricter federal air standards.

Businesses and families across Ohio are already concerned about the threat of a recession. Imposing new, burdensome, and unnecessary regulations during a time of economic instability will only weaken a slowing economy. Moreover, this proposed rule will disproportionately affect manufacturing, which is Ohio's largest economic sector, employing nearly 700,000 Ohioans and contributing more than \$133 billion annually to the economy.

It's worth noting the EPA's own data show the U.S. reduced six common NAAQS pollutants (including PM2.5) by 78% between 1970 and 2020. Moreover, the U.S. EPA affirms PM2.5 levels have dropped 44% since 2000, while the Ohio EPA notes particulate pollution has been on a downward trend statewide over the past decade.

Changes to the PM2.5 standards would not only hurt existing manufacturing facilities, they could also jeopardize efforts to bring new manufacturing to our state. When the U.S. doesn't manufacture, capital investment shifts to other countries – punishing local economies and communities, as every Ohioan knows too well.

Thank you for your attention to this important issue.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ryan Augsburger".

Ryan Augsburger
President

Washington's regulatory onslaught endangers Ohio's manufacturing momentum: Ryan Augsburger



• Published: Jul. 16, 2023, 5:35 a.m.

Manufacturers have led the Buckeye State's surge as manufacturing payrolls once again boast more than 690,000 jobs. Manufacturing economic output continues to smash records, contributing more than \$134 billion annually to our state's economy. David Petkiewicz, cleveland.com

Guest columnist, cleveland.com and The Plain Dealer

COLUMBUS, Ohio -- While the drumbeat of dismal economic forecasts has been steady since the early days of the pandemic, Ohio's economy has kept its head above water.

More accurately, it has thrived.

Manufacturers have led the Buckeye State's surge as manufacturing payrolls once again boast more than 690,000 jobs. Manufacturing economic output continues to smash records, contributing more than \$134 billion annually to our state's economy.

Unfortunately, some in Washington, D.C., are working overtime to repel this momentum.

The latest survey conducted by the National Association of Manufacturers (NAM) finds that U.S. manufacturers' concerns over federal regulations have reached a six-year high as nearly 100 new major regulations – from 30 federal agencies and offices – threaten jobs and investment.

Ryan Augsburger is president of The Ohio Manufacturers' Association, which represents approximately 1,500 manufacturers statewide.

A new report by the conservative American Action Forum shows the Biden administration's near and long-term plan to issue approximately 3,200 rulemakings within the next year or so includes 280 "major rules" and 1,326 "significant rules," representing high-water marks for both categories over the past decade.

The Ohio Manufacturers' Association (OMA) has partnered with NAM to push back against the regulatory onslaught. What takes place in D.C. and key federal agencies ultimately impacts Ohio manufacturers and their communities.

Here are just a handful of examples of recent regulations that will affect our industry:



Feb 22, 2024

The Honorable Richard Revesz
Administrator
Office of Information and Regulatory Affairs
U.S. Office of Management and Budget
Washington, D.C. 20503

Dear Administrator Revesz,

On behalf of The Ohio Manufacturers' Association (OMA), I write today to request that the Biden administration take a consistent, measured, and scientifically sound approach to regulating per- and polyfluoroalkyl substances (PFAS) under the Safe Drinking Water Act (SDWA).

The OMA is Ohio's largest statewide business association comprised solely of manufacturers. Established in 1910, the OMA's mission is to protect and grow Ohio manufacturing which continues to serve as the backbone of our state. Our association represents manufacturers of all sizes in every subsector of the industry. Manufacturing remains Ohio's largest economic sector, employing more than 690,000 Ohioans and contributing more than \$130 billion annually to the economy.

PFAS are used in a wide variety of applications, including critical components needed to achieve the President's stated priorities around clean energy technologies and domestic semiconductor manufacturing. Among their many uses, this family of chemicals is used in batteries, electric grid infrastructure, semiconductors, automotive equipment, and virtually all sources of energy in our power sector, including solar panels and wind turbines. In many cases, there is no alternative to PFAS in the manufacturing process. Accordingly, regulations on this topic should be achievable and allow for reasonable flexibility.

Unfortunately, the Environmental Protection Agency's (EPA) current regulatory proposal under the SDWA does not reflect a balanced or technically feasible approach to addressing PFAS. The EPA's proposed limits are below 10 parts per trillion (PPT). For comparison, a PPT is a single drop of water in an Olympic swimming pool, effectively setting an unachievable standard that will cost everyone billions of dollars to chase. Regulations set near zero are technologically and economically impossible to achieve. Limits at such low levels have the three-fold impact of raising prices for consumers across the country, threatening manufacturing supply chains, and imposing a severe financial burden on local communities and ratepayers who will foot the bill for cleanup efforts.

In fact, a report released last year from the [American Water Works Association](#) projected that potential regulatory compliance for just two of the six PFAS covered under the new rules would cost \$3.8 billion per year. As such, the proposed rule threatens to wreak havoc on Ohio's supply chains and hurt the manufacturing of key products. The severity of the proposed regulations will mean higher prices for everything from community water and waste systems to medical treatments. The onslaught of regulations facing the industry is putting at risk new investment, slowing hiring, and reducing innovation on products critical to everyday life.

Given the significant economic consequences of the new SDWA regulations, we respectfully request that the EPA withdraw the current proposal to regulate PFAS under the SDWA and reissue a proposal that considers the real-world impacts on local taxpayers and manufacturers in Ohio. Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ryan Augsburger". The signature is fluid and cursive, with a prominent initial "R" and "A".

Ryan Augsburger
President
The Ohio Manufacturers' Association



May 30, 2023

VIA ELECTRONIC SUBMISSION (<https://www.regulations.gov>)

U.S. EPA, Existing Chemicals Risk Management Division
Office of Pollution Prevention and Toxics
1200 Pennsylvania Avenue, NW.
Washington, DC 20460-0001

Re: Comments on U.S. EPA's Proposed Methylene Chloride Action under the Toxic Substances Control Act
Docket ID: EPA-HQ-OPPT-2020-0465

Dear Sir or Madam:

The Ohio Manufacturers' Association (OMA) is hereby providing U.S. EPA (EPA) with written comments on the agency's proposed action on methylene chloride under the Toxic Substances Control Act (TSCA) (Docket ID# EPA-HQ-OPPT-2020-0465).

The OMA is dedicated to protecting and growing manufacturing in Ohio. The OMA represents over 1,300 manufacturers throughout Ohio. For more than 100 years, the OMA has supported reasonable, necessary, and transparent environmental regulations that promote the health and well-being of Ohio's citizens.

Pre-emption of OSHA Workplace Safety Standards

OMA can appreciate EPA's desire to restrict use of methylene chloride to the general public, retailers, and consumers such as home contractors/remodelers who may not be fully aware of the necessary precautions to safely use this chemical. However, this proposed rule is a case of "throwing-the-baby-out-with-the-bathwater".

Commercial and industrial entities, including manufacturers, have, for decades, been safely using methylene chloride for specific critical functions where there is no viable alternative, under OSHA workplace safety regulations and industry best practices, including OSHA Permissible Exposure Limit (PEL) of 25 ppm, OSHA Short Term Exposure Limit (STEL) of 125 ppm, and American Conference of Governmental Industrial Hygienists (ACGIH) Threshold Limit Value (TLV) of 50 ppm.

With this proposed rule, EPA is overturning long-established OSHA (and ACGIH) workplace safety regulations, limits and practice with the imposition of arbitrary and capricious EPA Existing Chemical Exposure Limit (ECEL) of 2 ppm and EPA STEL of 16 ppm. In Section 4 of the proposed rule, which provided the justification for the development of these ECEL and STEL

values, EPA clearly “cherry-picked” the worst-case, unrealistic information, including use of modeling and statistically insignificant studies, in order to craft the ECEL and STEL values – which are well below existing OSHA PEL, OSHA STEL and ACGIH TLV that are well protective to human health.

We have grave concerns that EPA is going beyond its statutory authority with this rule, and usurping OSHA’s authority to regulate workplace safety by replacing OSHA’s limits with EPA’s own limits and practices. We also have concerns that this rule will set precedent for EPA to likewise usurp OSHA’s regulatory authority in the future.

Therefore, we urge in the strongest terms that the final rule exempts commercial and industrial sectors, that are already highly regulated by OSHA, from the EPA ECEL, EPA STEL and Workplace Chemical Protection Program (WCPP) requirements, and to limit the proposed requirements to the general public, retailers and consumers that fall outside of OSHA’s regulatory authority.

Methylene Chloride Use in Chemical Bonding of Acrylic and Polycarbonate

In the proposed rule, EPA described “a lack of viable alternatives for the use of methylene chloride in chemical bonding of acrylic and polycarbonate, specifically for specialty batteries for use in military and space applications...EPA consulted with NASA, and NASA provided information on its effort to screen alternative adhesives for the chemical bonding of acrylic and polycarbonate...Results submitted to EPA indicate that none of the materials tested met the technical requirements for chemical bonding applications”.

In fact, the lack of viable alternatives for methylene chloride as the active ingredient in chemical bonding extends beyond the stated example of specialty batteries. For critical acrylic and polycarbonate applications that require very strong bonds, such as large aquariums and critical liquid storage, chemical bonding is the only option where the separate plastic surfaces to be bonded are dissolved by methylene chloride, and then chemically fused together to become continuous, monolithic plastic.

There are adhesives for acrylic and polycarbonate applications that do not dissolve or melt the plastic, but merely act as a separate adhesive or glue layer that causes the plastic to stick, but not fuse, to plastic or other materials; however, these adhesive bonds are weaker than those created through chemical bonding.

Restricting adhesives that contain methylene chloride from the market will disrupt critical industries, not just NASA and the military. Therefore, we are requesting that EPA treat chemical bonding of acrylic and polycarbonate in the industrial sector (already under OSHA regulation) in the same category as for NASA and the military, including the 10-year exemption to possibly search for viable substitutes.

Alternatively, we are requesting that EPA consider the industrial and commercial use of methylene chloride in chemical bonding of acrylic and polycarbonate in the same category as its industrial and commercial use as a laboratory chemical.

Onerous New Workplace Chemical Protection Program

We have grave concerns with the introduction of the WCPP program, which overlaps and exceeds OSHA's methylene chloride standard (29 CFR 1910.1052). As proposed, the new WCPP is an onerous, top-down, command-and-control, bureaucratic process that is going to be layered onto the existing OSHA workplace safety program.

Rather than develop an entirely new process (as-proposed WCPP), we strongly urge for deference to the OSHA methylene chloride standard (29 CFR 1910.1052), which can be achieved by reference, or by incorporating as much of the exposure monitoring and control process that is already found in this OSHA standard. Another suggestion would be to provide an alternative compliance method to the WCPP by following the exposure monitoring and control process in the OSHA methylene chloride standard.

Finally, we would request a three (3) year implementation timeline, typical of other EPA rules, such as MACT, for such a substantive regulatory requirement.

The OMA appreciates the opportunity to provide these comments for the proposed methylene chloride action under TSCA. If EPA has any questions regarding the foregoing, please do not hesitate to contact me (614) 224-6834 or OMA's environmental counsel, Christy Schirra at Bricker Graydon LLP (614) 227-8810.

Regards,



James Lee
Director of Public Policy
The Ohio Manufacturers' Association

cc: Christy Schirra, Esq.
Julianne Kurdila, Chair



Division of Air Pollution Control (DAPC)

Funding Needs

DAPC ensures air is safe for Ohioans to breathe

Balances the needs of economic growth

Sets safe limits for large manufacturing and utility facilities

Thirty years ago, Ohio EPA adopted the minimum fee established by the Clean Air Act.

The fee is not adequate to maintain DAPC's program. If Ohio EPA cannot fund the Title V Program, U.S. EPA will step in.

Ohio's Proposal



Generate
\$7M in
Additional
Annual Revenue

DAPC looked to neighboring states facing the same issue. Many have instituted an annual base fee – Indiana (\$6,100), Michigan (\$5,250-\$45,000), Pennsylvania (\$8,000), Tennessee (\$10,000).

DAPC is proposing a base fee of \$5,000 for all Title V and synthetic minor facilities and a 50% increase in synthetic minor emission fees along with a 50% increase in Permits to Install fees.

	Number of Facilities	Fee Increase Proposal	Increased Revenue
Title V Fee	509	\$5,000 Base Fee	\$2,545,000
PTI Fee		50% increase	\$400,000
Synthetic Minor Fee	791	50% increase + \$5,000 base fee	\$4,121,000
Total Additional Revenue			\$7,066,000



MEMORANDUM

TO: James Lee, The Ohio Manufacturers Association
FROM: Christy Rideout Schirra, Bricker Graydon
DATE: January 28, 2024
RE: U.S. EPA's Good Neighbor Plan

I. Summary Overview

The United States Environmental Protection Agency's (U.S. EPA) Good Neighbor Plan (GNP), which went into effect on August 4, 2023, requires Ohio manufacturers in certain industries to implement emissions reductions through the installation and implementation of strict nitrogen oxide emission controls. Previous iterations of GNP only applied to the power industry, but U.S. EPA's new plan widely applies to industry across 20 states, including Ohio, which have been identified by U.S. EPA as "upwind" states contributing significantly to air quality in downwind states.

GNP is currently stayed in twelve of the twenty-three states to which it more broadly applies as a result of pending litigation. Notably, this does not include Ohio. However, Ohio, Indiana, and West Virginia, along with industry groups, initiated litigation currently pending before the U.S. Supreme Court to argue that application of the GNP to the remaining eleven states is unfair and arbitrary, and therefore the stay should apply to all twenty-three states while the various court cases are pending.

II. Detailed Discussion

1) What is the Good Neighbor Plan? What does it require and will it impact manufacturers?

The GNP is a set of new regulations issued by U.S. EPA that went into effect on August 4, 2023. U.S. EPA issued this new rule in compliance with the Clean Air Act (CAA), which requires U.S. EPA to review and update the air quality standards for six pollutants that are considered harmful to the public's health and the environment. In particular, the GNP regulates emissions of one of these pollutants: nitrogen oxide (NO_x) (also referred to as "ground-level ozone" or "smog").

The goal of the GNP is to reduce NO_x pollution during the "ozone season" (typically May 1 – September 30 each year) from power plants and industrial facilities in states that contribute to NO_x pollution in other states. In determining which states would be subject to the new regulations, the U.S. EPA went through a four-part framework to identify "downwind" states that are not expected to meet the air quality standards required by the CAA and the "upwind" states that

significantly contribute to the air quality issues in the identified downwind states. This framework was also used to determine what pollution reduction measures would be imposed.

Under the GNP, industrial facilities in twenty states, including Ohio, are subject to emission budgets beginning in 2024 that “decline over time based on the level of reductions achievable through phased installation of” existing and new NOx emission controls.

While this type of program is not new (prior iterations of the GNP have been in effect), the GNP is unique because beginning in 2026, it applies to certain emission sources in nine additional, new industries, including manufacturers. Previous iterations of the plan applied only to the power industry. The additional emission sources and industries covered by GNP are as follows:

- (1) reciprocating internal combustion engines used in the Pipeline Transportation of Natural Gas;
- (2) kilns used in Cement and Cement Production Manufacturing;
- (3) reheat furnaces and boilers used in Iron and Steel Mills and Ferroalloy Manufacturing;
- (4) furnaces used in Glass and Glass Products Manufacturing;
- (5) boilers used in Metal Ore Mining;
- (6) boilers used in Basic Chemical Manufacturing;
- (7) boilers used in Petroleum and Coal Products Manufacturing;
- (8) boilers used in Pulp, Paper, and Paperboard Mills; and
- (9) combustors and incinerators used in Solid Waste Combustors or Incinerators.

Specific to power plants, GNP further subjects power plants in twenty-two states, including Ohio, to a cap-and-trade program for NOx emissions. This program is described as a “revised and strengthened” version of previous ozone season trading programs. The program sets daily emissions limits for large (at or above 100 MW) coal fired units that, when exceeded by more than 50 tons, will result in a 3-for-1 surrender of emission allowances. For units that already have post-combustion controls installed, the limits become effective in September of 2024. For units that are planning to install emission controls after 2024, the limits become effective one year after installation, but not later than 2030. The program also provides for an annual recalibration of the emissions allowance bank and the emissions budget bank, with the latter beginning in 2030 to account for changes in power generation.

U.S. EPA estimates that the GNP’s compliance costs will be approximately \$910 million annually and the Plan’s benefits will be anywhere from \$4.3 to \$15 billion in 2026.

2) What is the effectiveness of the rule? Is there any ongoing litigation that has the potential to affect the rule?

Despite the fact that the GNP went into effect in August 2023, it has not been implemented in twelve of the twenty-three states to which it applies, due to pending court actions in those states. To understand the arguments in those cases, it is necessary to understand how the CAA operates. Under the CAA, each state is required to develop and implement a “state implementation plan” (SIP) to ensure it is not significantly contributing to non-attainment of U.S. EPA’s air quality

standards for certain pollutants. U.S. EPA is then tasked with approving or disapproving each SIP. If the U.S. EPA disapproves of a state’s SIP, it must develop a “federal implementation plan” (FIP), such as the GNP. Accordingly, before implementing the GNP, U.S. EPA issued a final order disapproving SIPs developed by twenty-one states.

Following U.S. EPA’s order, twelve affected states filed claims against U.S. EPA, and courts “stayed” the disapproval order, which effectively prevented implementation of the GNP in those states. As a result, the following states are not subject to the new standards or requirements in the GNP and will not be subject to them, unless a Court finds U.S. EPA lawfully disapproved of their SIPs: Alabama, Arkansas, Kentucky, Louisiana, Minnesota, Mississippi, Missouri, Nevada, Oklahoma, Texas, Utah, and West Virginia.

Further, in December 2023, the U.S. Supreme Court decided to hear a case regarding the GNP brought by industry groups and three states: Ohio, Indiana, and West Virginia. These parties argue that because the GNP has not been implemented in twelve of the states originally subject to the GNP, its application to the remaining eleven states is unfair and arbitrary. As a result, they argue the GNP should not be implemented in any state while the various court cases are pending. The Supreme Court is scheduled to hear oral arguments on this case on February 21, 2024.

Given the mounting legal battles U.S. EPA faces in implementing the GNP, it is unclear what the fate of the new regulations will be.

Sources:

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- US EPA, *EPA Announces Final “Good Neighbor” Plan to Cut Harmful Smog, Protecting Health of Millions from Power Plant, Industrial Air Pollution* (Mar. 15, 2023), <https://www.epa.gov/newsreleases/epa-announces-final-good-neighbor-plan-cut-harmful-smog-protecting-health-millions>.
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- INSIDEEPA, *Supreme Court sets argument on Good Neighbor Rule* (Jan. 8, 2024), <https://insideepa.com/daily-feed/supreme-court-sets-argument-good-neighbor-rule?s=mhe>.
- US EPA, *EPA’s “Good Neighbor Plan” Response to Comply with Stay Orders Pending Judicial Review – Overview Fact Sheet*, <https://www.epa.gov/system/files/documents/2023-09/Fact%20Sheet%20-%20EPA%E2%80%99s%20Good%20Neighbor%20Plan%20Response%20to%20Comply%20with%20Stay%20Orders%20Pending%20Judicial%20Review.pdf>, (last visited Jan. 10, 2024).



MEMORANDUM

TO: The Ohio Manufacturers Association
FROM: Bricker Graydon, Environmental Counsel to The OMA
DATE: March 14, 2024
RE: SEC Climate Disclosure Rules

I. Summary Overview

The U.S. Securities and Exchange Commission's (SEC) widely anticipated climate disclosure rules were released on March 6, 2024. The rules require public companies to release certain information about climate-related risks and expenditures. While the final rules are less demanding than the SEC's proposed rules, released in 2022, they will still obligate many companies to gather new types of data and implement additional reporting mechanisms. Notably absent from the final rules is the previously proposed requirement that large companies report their indirect emissions from their supply chain ("Scope 3" emissions). The SEC estimates compliance costs will range from \$197,000 to \$739,000, depending on a variety of factors.

The rules have faced widespread criticism. Environmental groups argue that the SEC substantially weakened its rules due to industry pressure. Other groups and industries argue that the SEC went too far and exceeded its statutory authority. The final rules are sure to be plagued by ongoing litigation in the future.

II. Detailed Discussion

A. Overview of the Rule

On March 6, 2024, the SEC released the final version of its climate-related disclosure rules, requiring all public companies to disclose certain information regarding the financial effect of climate risks on the company and how the company is managing those risks. The impetus for the widely anticipated rules was the growing demand from investors for these types of disclosures. The SEC published guidance in 2010 that encouraged climate-related disclosure, but that guidance was not widely implemented. While a growing number of companies do release some version of climate-related disclosures already, the SEC has noted that the lack of a formalized reporting system makes these statements difficult to verify and compare. According to the SEC, the new rules improve the "consistency, comparability, and reliability of climate-related information for investors."

The final rules mandate that public companies make the following disclosures in their SEC registration statements and annual reports:

- Material Climate-Related Risks:
 - Climate-related risks that have had or are reasonably likely to have a material impact on the registrant’s business strategy, results of operations, or financial condition
- Material Climate-Related Costs:
 - If, as part of its strategy, a registrant has undertaken activities to mitigate or adapt to a material climate-related risk, a quantitative and qualitative description of material expenditures incurred and material impacts on financial estimates and assumptions that directly result from such mitigation or adaptation activities
 - The capitalized costs, expenditures expensed, charges, and losses incurred as a result of severe weather events and other natural conditions, such as hurricanes, tornadoes, flooding, drought, wildfires, extreme temperatures, and sea level rise, subject to applicable one percent and de minimis disclosure thresholds, disclosed in a note to the financial statements
 - The capitalized costs, expenditures expensed, and losses related to carbon offsets and renewable energy credits or certificates if used as a material component of a registrant’s plans to achieve its disclosed climate-related targets or goals, disclosed in a note to the financial statements
- Risk Management Practices:
 - The actual and potential material impacts of any identified climate-related risks on the registrant’s strategy, business model, and outlook
 - Specified disclosures regarding a registrant’s activities, if any, to mitigate or adapt to a material climate-related risk including the use, if any, of transition plans, scenario analysis, or internal carbon prices
 - Any processes the registrant has for identifying, assessing, and managing material climate-related risks and, if the registrant is managing those risks, whether and how any such processes are integrated into the registrant’s overall risk management system or processes
 - If the estimates and assumptions a registrant uses to produce the financial statements were materially impacted by risks and uncertainties associated with severe weather events and other natural conditions or any disclosed climate-related targets or transition plans, a qualitative description of how the development of such estimates and assumptions was impacted, disclosed in a note to the financial statements.
- Corporate Governance:
 - Any oversight by the board of directors of climate-related risks and any role by management in assessing and managing the registrant’s material climate-related risks
- Climate Policy:
 - Information about a registrant’s climate-related targets or goals, if any, that have materially affected or are reasonably likely to materially affect the registrant’s business, results of operations, or financial condition. Disclosures would include material expenditures and material impacts on financial

estimates and assumptions as a direct result of the target or goal or actions taken to make progress toward meeting such target or goal

- Greenhouse Gas Emissions (GHG):
 - For large accelerated filers and accelerated filers that are not otherwise exempted, information about material Scope 1¹ emissions and/or Scope 2² emissions
- Attestation:
 - For those required to disclose Scope 1 and/or Scope 2 emissions, an assurance report at the limited assurance level, which, for large accelerated filer, following an additional transition period, will be at the reasonable assurance level

The rules become effective on April 5, 2024 (60 days after publication in the federal register), but compliance will be phased in, depending on the company's status with the SEC and the contents of the disclosure. Large accelerated filers have the tightest compliance deadlines, with most disclosures required by fiscal year beginning (FYB) 2025. The GHG emissions disclosures are required by FYB 2026, and the limited assurance attestation of these disclosures is required by FYB 2029, followed by the reasonable assurance attestation deadline in FYB 2033. For accelerated filers, most disclosures are required by 2026, followed by the GHG emissions disclosures in FYB 2028, and the limited assurance attestation in FYB 2031. For small reporting companies, emerging growth companies, and non-accelerated filers, all disclosures are required by FYB 2027, except for disclosures regarding material expenditures and impacts relating to mitigation activities, transition plans, and climate targets and goals, which are required by FYB 2028. Filers in these categories are not required to disclose GHG emissions.

The final rules also provide several accommodations. Most notably, the rules provide companies with protection from private liability for disclosures related to transition plans, scenario analysis, internal carbon pricing, and climate targets and goals, as long as such disclosures are *forward-looking*. Notably missing, the rules do not provide compliance exceptions or delays for companies making their initial public offering.

B. The Rules' Impact

The final rules are scaled back in several ways from the rules as proposed on March 21, 2022. In particular, the SEC added a materiality element to the GHG emissions disclosures and lengthened compliance deadlines for these disclosures and the required attestations. Further, the SEC removed the requirement that companies disclose GHG Scope 3 emissions, which would have required companies to disclose emissions they are indirectly responsible for throughout their supply chain and based on the products they use. The SEC's final rules also limit GHG disclosure requirements to large companies.

However, the rules will require massive compliance costs, which will put workers' jobs at risk, increase costs for consumers, and decrease payouts to shareholders. This may disproportionately affect smaller companies that do not already have disclosure protocols in place.

¹ Scope 1 emissions are emissions that originate from sources that a company owns or controls.

² Scope 2 emissions are a company's indirect emissions, that originate from a company's purchase of electricity, steam, heating, or cooling.

The SEC's climate-disclosure rules will undoubtedly increase compliance costs for all companies, including manufacturers. However, the cost of compliance will vary greatly from company to company based on a number of factors, such as industry, already existing climate governance and climate risk- or cost-related tracking, and whether the company is required to track GHG Scope 1 and 2 emissions. The SEC conservatively estimates that compliance costs could range anywhere from \$197,000 to \$739,000 annually for the first ten years. Further, it estimates up-front costs will be greater as companies and consultants familiarize themselves with the new rules and establish the necessary data-capturing and reporting mechanisms.

For large manufacturers that are required to report GHG emissions, compliance costs are likely to be closer to the high end of the SEC's estimate. This metric will be difficult to capture, given the complexity in determining indirect emissions. While smaller manufacturers do not have a reporting requirement, they may likely face larger up-front compliance costs to establish climate governance structures and update reporting and data-management systems accordingly. And while compliance costs can certainly be mitigated in certain areas, it is likely that, as compliance is phased in for most companies, investors will expect to receive this information regardless of whether it is required by the regulations.

Another potential effect of the rules is increased risk of litigation for manufacturers due to the "materiality" element of many of the newly required disclosures. The concern is that companies will face mounting legal battles regarding whether they made all the necessary "material" disclosures, which will hinge on what disclosures are considered "material." To mitigate for this risk, outside consultants might be helpful to assist with making these disclosures, especially in the first few years of required compliance. Although the climate-related disclosures are new, public companies are required to make other disclosures of "material" risks, so experienced consultants are well-versed in this determination.

C. Litigation

Ten states, led by West Virginia, filed suit on March 8, 2024 in the U.S. Court of Appeals for the Eleventh District, asking the court to find that the SEC exceeded its statutory authority and vacate the final rule. West Virginia is joined by Alabama, Alaska, Georgia, Indiana, New Hampshire, Oklahoma, South Carolina, Virginia and Wyoming. On the flip side, the Sierra Club and the Sierra Club Foundation filed suit on March 14, 2024 over the SEC's failure to include Scope 3 emissions as part of the final rule, arguing that such omission is arbitrary.

TO: OMA Government Affairs Committee
FROM: James Lee
RE: Human Resources Public Policy Report
DATE: September 11, 2024

Overview

There has been a flurry of activity in the HR space at both the federal and state level.

On the state level – the business community was relieved to see that the proposed ballot issue to increase the minimum wage to \$15 an hour failed to make the 2024 ballot; however, this threat remains as organizers are in a good position to make the ballot in 2025.

Threats of forced unionization continue to loom, though movement on this front appears to be stifled now in the state legislature. The OMA is monitoring potential efforts to bring these policies back to life during a lame-duck session.

The federal government has recently finalized and proposed several major policy changes that will require significant attention from manufacturers who will now be forced to comply with new overtime rules, bans on non-compete agreements, and rules that will provide open access of plants to union representatives.

In a win for manufacturers, the recent US Supreme court decision to overrule decades of chevron doctrine precedent opens broader avenues for businesses to challenge these burdensome and intrusive agency regulations.

2024 Minimum Wage Ballot Initiative Withdrawn but Not Dead

The organizers of the Ohio minimum wage ballot initiative announced they had failed to meet the requirements to get the proposal on the November ballot. However, they later backtracked, stating they would explore all options before the deadline, including a second review of their collected signatures. Despite falling short of the county requirements, they plan to continue gathering signatures with the aim of placing the \$15 minimum wage measure on the 2025 ballot.

The product also opens employers to ambiguity in drug free workplace policies as the drug may or may not show-up or be reported on drug tests.

Forced Unionization Halted in the Senate

House Bill 205, OMA-opposed legislation that would force defined manufacturers to hire union workers, appears to have been halted in the Ohio Senate for the time being thanks to efforts from the OMA and its members, Cenovus and Nutrien, along with a united coalition of members from the business community, and surprisingly newly adopted union opposition.

Last summer, HB 205's legislative process was more than disappointing. Despite a unified outcry of opposition from Ohio's business community, the bill was rammed through the House committee process in just two weeks, with only three hearings on the legislation. The bill was subsequently passed with a majority of Republican support just 2 hours after the bill's first opponent hearing.

The Senate thankfully provided a fair hearing process that allowed opponents voices to be heard. In a surprising turn of events, the United Steelworkers joined the business community to oppose the bill, stating that the bill would fail to improve worker safety, and calling the legislation out as a political ploy for the Associate Construction Trades Union

(ACT Ohio). Unified business and labor opposition to the bill has likely halted the bill for now, but fears remain that the legislation could resurface in a lame duck session.

OMA labor relations counsel, Matt Austin, testified against the bill in the House and Senate, citing its overly broad and unduly burdensome provisions that grant unions a monopoly on construction contracts. You can find Austin's testimony in today's meeting materials.

HB 327: E-Verify Mandate

A bill requiring all employers with over 75 employees to use the E-Verify System was passed in the Ohio House and currently sits in Senate Committee. According to the bill sponsors, House Bill 327 was introduced with the intent to "streamline the hiring process for employers" while making it "harder for human traffickers to exploit illegal workers in Ohio"

E-Verify is a web-based system offered at no cost to the user by the United States Government to verify employment eligibility; however, using E-Verify is not mandatory under federal law for private employers. If passed, HB 327 would mandate use of the system for manufacturers operating in Ohio.

The OMA is monitoring this bill, which has yet to receive a hearing in the senate. Though many manufacturers currently utilize the E-Verify system, the bill has the potential to bring new amendments that could place additional burdensome requirements on hiring practices. The OMA will continue to monitor the bill through the committee process. See the memo from OMA Counsel Bricker Graydon located in today's meeting materials for more information on the bill.

SCOTUS Overturns Chevron Doctrine in Loper Bright Enterprises V. Raimondo

The end of the Chevron doctrine marks a significant shift in how courts will review agency rules, particularly affecting regulatory bodies like OSHA. Previously, courts often deferred to agencies' interpretations of ambiguous statutes, but now, judges will have more authority to independently interpret the law, potentially limiting the agencies' power. For manufacturers and other employers, this means a greater ability to challenge agency rules and citations, which could result in more rigorous judicial scrutiny of regulations that impact workplace safety. The change could lead to a reduction in the influence of regulatory agencies on manufacturers' operations, especially in contentious rulemaking processes.

OSHA Finalizes Union Walkthrough Rule

Federal regulators finalized a proposed rule to give designated union representatives, or virtually any non-expert third party individual, the right to accompany OSHA inspectors during facility "walkarounds" or inspections — regardless of whether the representative is an employee of the facility. The rule took effect on May 31, 2024. In May, the National Association of Manufacturers (NAM) joined a coalition of national business associations challenging the rule.

The OMA made public comments to OSHA opposing the rule on the grounds that allowing virtually anyone to join an OSHA inspection process transforms a safety-focused endeavor into a tool for union organizing, a tactic for attorneys in litigation, a threat to trade secrets, and a means to harass employers.

You can find The OMA's comments in today's meeting materials. In follow up advocacy efforts, the OMA sent a letter to Ohio's congressional delegation with nearly 200 of our

member companies signing on to urge legislative action against the rule. That letter can also be found in today's meeting materials.

FTC Non-Compete Agreement Ban Struck Down in Courts

Last spring, despite OMA opposition, The Federal Trade Commission (FTC) voted 3-2 in April to ban noncompete agreements that prevent tens of millions of employees from working for competitors or starting a competing business after they leave a job.

Recent developments provide a win for Ohio manufacturers – as a federal judge in Texas recently barred the rule from taking effect. The judge cited that the FTC does not have the authority to ban practices it deems unfair methods of competition by adopting broad rules.

The OMA previously led comments from Ohio's business community opposing the rule upon its introduction, noting the mutual benefits non-compete agreements provide to both employers and employees, along with the necessary protections to manufacturers' trade secrets. Those comments can be found in today's meeting materials.

Feds Make Significant Expansion to Overtime Rule

The Biden Administration recently finalized a new rule set to make millions of salaried workers eligible for overtime pay in the U.S.

Starting July 1, employers will be required to pay overtime to salaried workers who make less than \$43,888 a year in certain executive, administrative and professional roles, the Labor Department said Tuesday. That cap will then rise to \$58,656 by the start of 2025.

Workforce

Alternative Licensure Pathways for Career Tech Instructors

The OMA recently provided testimony in support of House Bill 432, which aims to address the shortage of career technical instructors in Ohio by creating alternative licensure pathways. As employers continue to cite talent availability concerns, it is essential that Ohio's students have access to education programs to assist them as they evaluate in-demand career pathways, including manufacturing.

Enhancing Ohio's Workforce Through Preparation of Returning Citizens

Senate Bill 198 is currently pending in Senate Small Business and Economic Opportunity Committee. This bill would require the Ohio Department of Rehabilitation and Corrections and Ohio Department of Youth Services to provide an eligible inmate with necessary identification documents to assist in obtaining employment once released from prison. These documents include a photo ID, a social security card, birth certificate, and a copy of the vocational training/work record of the inmate, if applicable. This bill reduces barriers to employment for individuals who are focused on re-entering the workforce.

[Click here for Human Resources Community articles from previous Leadership Briefings](#)
[Click here for Workforce Community articles from previous Leadership Briefings](#)

Human Resources, Health Care & Employment Law Legislation

Prepared by: The Ohio Manufacturers' Association

Report created on September 9, 2024

- HB12 REFORM OHIO DEPARTMENT OF EDUCATION (JONES D, DOBOS D) To rename the Department of Education as the Department of Education and Workforce; to create the position of Director of Education and Workforce; and to reform the functions and responsibilities of the State Board of Education and the Superintendent of Public Instruction.
Current Status: 4/18/2023 - House Primary and Secondary Education, (Fifth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-HB-12>
- HB49 HOSPITAL PRICE INFORMATION (FERGUSON R, BARHORST T) Regarding facility fees and the availability of hospital price information.
Current Status: 6/26/2024 - Consideration of Senate Amendments; House Does Not Concur, Vote 2-93
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-HB-49>
- HB92 SAVE OHIO SAFE RX (YOUNG T, SANTUCCI N) To establish the Canadian Prescription Drug Importation Program, to name this act the Save Ohio Safe Rx Act, and to make an appropriation.
Current Status: 6/12/2024 - House Public Health Policy, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-HB-92>
- HB106 PAY STUB PROTECTION ACT (JARRELLS D, LIPPS S) To enact the Pay Stub Protection Act requiring employers to provide earnings and deductions statements to each of the employer's employees.
Current Status: 4/9/2024 - Senate Small Business and Economic Opportunity, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-HB-106>
- HB203 TIMELY PAY OF CONTRACTORS (ROEMER B, SWEENEY B) To require owners of private construction projects to timely pay contractors.
Current Status: 6/26/2024 - Senate Workforce and Higher Education, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-HB-203>
- HB205 PROTECT OHIO WORKERS ACT (SWEARINGEN D, PLUMMER P) To enact the "Protect Ohio Workers Act" regarding construction services performed under a contract at a stationary source.
Current Status: 11/14/2023 - Senate Energy and Public Utilities, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-HB-205>
- HB327 REQUIRE CERTAIN CONTRACTORS TO USE E-VERIFY (WIGGAM S) To require government contractors, private nonresidential contractors, and certain employers to use E-verify.
Current Status: 6/25/2024 - Referred to Committee Senate General Government
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-HB-327>

- HB384 CAP COST SHARING FOR INSULIN DRUGS (ABDULLAHI M, HALL T) To cap cost sharing for prescription insulin drugs and diabetes devices.
Current Status: 5/22/2024 - House Insurance, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-HB-384>
- HB427 GREATER OPPORTUNITIES FOR PERSONS WITH DISABILITIES ACT (JARRELLS D, LIPPS S) To phase out the subminimum wage for individuals with physical or mental disabilities and to name this act the Ohio Employment First and Greater Opportunities for Persons with Disabilities Act.
Current Status: 4/16/2024 - House Government Oversight, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-HB-427>
- SB1 REFORM OHIO DEPARTMENT OF EDUCATION (REINEKE W) To rename the Department of Education as the Department of Education and Workforce; to create the position of Director of Education and Workforce; and to reform the functions and responsibilities of the State Board of Education and the Superintendent of Public Instruction.
Current Status: 5/9/2023 - House Economic and Workforce Development, (Fourth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-SB-1>
- SB9 LAW CHANGES-MEDICAL MARIJUANA (HUFFMAN S, SCHURING K) To amend the law related to medical marijuana.
Current Status: 5/16/2023 - Senate General Government, (Seventh Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-SB-9>
- SB30 YOUTH WORKING HOURS (SCHAFFER T) To allow a person under sixteen years of age to be employed after 7 p.m. during the school year.
Current Status: 5/9/2023 - REPORTED OUT, House Commerce and Labor, (Fourth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-SB-30>
- SB31 LEGISLATIVE OVERSIGHT - UNEMPLOYMENT COMPENSATION (SCHAFFER T) To establish legislative oversight of executive action regarding voluntary federal unemployment compensation programs.
Current Status: 3/29/2023 - Senate Insurance, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-SB-31>
- SB47 LEAVE USE PROHIBITION-UNION ACTIVITIES (HUFFMAN S) To prohibit a public employer from providing paid leave or compensation for a public employee to engage in certain union activities.
Current Status: 2/8/2023 - Referred to Committee Senate Judiciary
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-SB-47>

- SB96 LABOR LAW NOTICES-POSTING (LANG G, WILSON S) To allow employers to post certain labor law notices on the internet.
Current Status: 6/11/2024 - REPORTED OUT, House Commerce and Labor, (Fourth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-SB-96>
- SB98 FRAUDULENT, DECEPTIVE BUSINESS PRACTICES (RULLI M) To address fraudulent business filings, deceptive mailings, reinstatement of canceled business entities, and addresses of statutory agents, and to make changes regarding property taxation, fire investigator firearms, acting or assigned judge reimbursements, common pleas clerk of court duties, recreational vehicle park and camp operation licenses, and state ballot numbering.
Current Status: 7/24/2024 - SIGNED BY GOVERNOR; eff. 90 days
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-SB-98>
- SB126 NONCOMPETE PROVISIONS-HEALTH CARE (JOHNSON T) Regarding the use of noncompete provisions in certain health care professional employment contracts with nonprofit hospitals.
Current Status: 1/24/2024 - Senate Health, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-SB-126>
- SB146 INCREASE STATE MINIMUM WAGE (SMITH K, CRAIG H) To increase the state minimum wage.
Current Status: 9/27/2023 - Senate Workforce and Higher Education, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-SB-146>
- SB180 UNEMPLOYMENT BENEFITS-STRIKING WORKERS (HICKS-HUDSON P) To provide unemployment benefits to striking workers and to declare an emergency.
Current Status: 11/15/2023 - Referred to Committee Senate Insurance
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-SB-180>

President
RYAN AUGSBURGER

1/26/2024

RE: OSHA's Walkaround Rule – Docket No. OSHA-202300008 / RIN 1218-AD45

Members of the Ohio Congressional Delegation:

The Ohio Manufacturers' Association (OMA) – comprised of approximately 1,300 member companies, including the signatories below – strongly opposes the U.S. Department of Labor's proposed Occupational Safety and Health Administration (OSHA) rule change (RIN 1218-AD45). This rule would permit non-employees, including union personnel, to accompany OSHA inspectors during workplace inspections.

The safety and well-being of Ohio's manufacturing employees are paramount to our association. For more than a century, we have supported critical regulations that have enhanced workplace safety.

However, OSHA's proposed rule poses significant risks to our industry and the safety inspection process. Allowing non-employees to join inspections raises legitimate concerns among manufacturers – primarily in the areas of workforce safety, union organizing, and trade secrets.

Specifically, the proposed rule threatens Ohio manufacturers with the potential for the following:

- Deliberate union organizing tactics targeting non-union workers.
- Expansion of inspection scope beyond OSHA's original intent.
- Exposure of trade secrets and proprietary information.
- Misuse of information by attorneys involved in litigation.
- OSHA's unchecked discretion in selecting third-party individuals to join inspections.

We urgently request your attention to review and prevent the implementation of these rules using your congressional authority. This proposed rule change jeopardizes workplace stability and could result in substantial expenses for all parties involved in the inspection process.

Attached are the OMA's public comments, which provide an in-depth analysis of the detrimental impact this rule will have on Ohio's largest industry. Thank you for your service to Ohio and its manufacturing community.

Sincerely,



Ryan Augsburger
President
The Ohio Manufacturers' Association

Enclosure

Rable Machine Inc
International Hydraulics
Inc.
Catania Medallie
Wilkinson Law, Ltd
ProFusion Industries
Wells Manufacturing
Company, LLC
Miba Bearings US LLC
Fox Lite, Inc.
Herbert E. Orr Company
Armaly LLC
Taylor Metal Products
Company
Chemical Services Group,
Inc.
Brilex Industries, Inc.
De Nora Tech LLC
Fiber-Tech Industries
Major Metals Company
Haviland Drainage
Products
Ohio Transitional Machine
& Tool Inc.
Coyne Graphic Finishing
Inc
Modern Plastics Recovery
Advanced Fiber
Technology
Haviland Culvert Company
Haviland Plastic Products
Universal Metal Products
Inc.
General Die Casters, Inc.
Solmet Technologies
OPC Polymers LLC
Hirzel Canning Company
BettsHD
A&M Refractories, Inc.
Eagle Elastomer Inc.
Roki America Co., Ltd
A&M Refractories, Inc.
Pentaflex, Inc.
Eastgate Group Ltd
Contour Forming Inc.
Applied Specialties, Inc.
Syensqo
Die Co., Inc.
Heritage Thermal Services
Mid West Fabricating
Company

Advanced Fiber
Technology
Applied Specialties Inc
Mid West Fabricating Co.
Verhoff Alfalfa Mills, Inc.
Mid West Fabricating Co.
Mid West Fabricating
Principle Business
Enterprises, Inc.
Electric Eel Mfg Co Inc
Rhodes Manufacturing,
LLC
Osco Industries, Inc.
Spartan Chemical
Company, Inc.
General Die Casters
Cooper Enterprises, Inc.
Mid West Fabricating
The Dupps Company
The Champion Company
FabOhio, Inc.
LIVI STEEL, INC.
Wm. Sopko & Sons Co
OPC Polymers LLC
OPC Polymers LLC
Tusco Limited Partnership
Lukjan Metal Products
Flexmag Industries, Inc.
Spray Products
Corporation
Hitch-Hiker Mfg., Inc.
Empire Die Casting
Company
High Tech Molding and
Design, Inc.
Staub Manufacturing
Solutions
Ohio Carbon Blank
Fusion Ceramics, Inc.
Thermotion, LLC
Rudolph Foods
Company, Inc
Etched Metal Company
John Cockerill Industry
Zaclon LLC
Mid West Fabricating
Delta Systems Inc.
Midwest Fabricating
Mid West Fabricating
Company
Plaskolite, LLC

31 Inc
Angel Printing &
Reproduction Inc.
Charter Steel
International Metal Hose
The Scotts Miracle-Gro
Company
NMG Aerospace
White Castle System, Inc.
The Belden Brick
Company
Midwest Fabricating
Haviland Plastic Products
AMG Vanadium LLC
claffin company
Central Coated Products
Inc
RESPONSE PIPING
SYSTEMS
Universal Metal Products,
Inc.
Ghent Manufacturing
Profusioin Industries
Norwalk Concrete
Industries
Chas Svec Inc
Clarke Power Services,
Inc.
Harrison Paint Company
The Lanly Company
ScottsMiracle-Gro
French Oil Mill Machinery
Company
Central Coated Products,
Inc.
GMI Companies
Airstream
The Yost Superior Co.
Advanced Composites Inc.
Liberty Casting Company
Seilkop Industries, Inc.
Summers Rubber Co
Elliott Machine Works, Inc.
EPP Inc.
Haviland Drainage
Products
Channel Products Inc
Riverview Industrial Wood
Products
McGregor Metal
Robin Industries, Inc.

Columbiana Boiler
Company, LLC.
The Distillata Company
Air Technical Industries,
Inc.
The Wilson Bohannan
Company
Built-Rite Box & Crate inc
Bowerston Shale Co.
Benchmark Woodworks
Co.
FC Brengman &
Associates
Warren Rupp, Inc.
Creative Plastics
International, Inc.
Copeland
Iten Industries Inc
WURM'S
WOODWORKING CO.
Unverferth Manufacturing
Company
Jergens, Inc
American Light Metals
LLC, dba Empire Die
Casting Company
Fort Recovery Industries,
Inc.
G L Heller Co. Inc.
DAI Ceramics LLC
Lee's Grinding, Inc.
LifeLine Mobile, Inc.
Ferragon Corporation
Lion Group, Inc.
Smithers-Oasis Company
Superior Forge & Steel
Ernst Metal Technologies
LLC
Dayton Phoenix Group
JB3Moto
Integrated Development
and Manufacturing
Company
Phillips Tube Group, Inc.
R & J Cylinder and
Machine, Inc.
NEMCO FOOD
EQUIPMENT CORP
Durable Corporation
Bernard Labs
FC Brengman & Assoc.

CDC REAL ESTATE
HOLDING LLC
McWane Ductile Ohio
PTC Inc
FDI Cabinetry LLC
American Bronze Corp
Mechanical Rubber
Coate Concrete Products
Inc
Johnson Bros. - West
Salem Inc.
OPC Polymers LLC
Starr Manufacturing, Inc.
Lukjan Metal Products, Inc
Falcon Industries Inc
Hi-Tek Manufacturing, Inc
Starr Manufacturing, Inc.
Starr Manufacturing, Inc.
PPG
Canfield Industries, Inc.
Elite Biomedical Solutions,
LLC
Koester Corporation
IMCO Carbide Tool Inc.
THE BUCKEYE
STAMPING CO INC
Kaivac, Inc
MTM MOLDED
PRODUCTS COMPANY
Lima Pallet Company Inc.
Lima Pallet Company, Inc.
French Oil Mill Machine
CO
HEXPOL Compounding
Americas
Kinetics Noise Control Inc
G.L. HELLER CO. INC.
T.J. Clark International,
LLC
Ft. Recovery Industries,
Inc
Nelson Manufacturing
Company



October 17, 2023

VIA Electronic Submission (<http://www.regulations.gov>)

Attn: Mr. Douglas L Parker
Assistant Secretary of Labor for OSHA
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210

**Re: Public Comment – Worker Walkaround Representative Designation
Process – Docket No. OSHA–2023–0008 / RIN 1218-AD45**

The Ohio Manufacturers' Association (OMA) is providing the Department of Labor's Occupational Safety and Health Administration (OSHA) with written comments on RIN 1218-AD45, the agency's proposed rulemaking that seeks to redefine the worker walkaround representative designation process.

The OMA is dedicated to protecting and growing manufacturing in Ohio by representing over 1,300 manufacturers where safety and health are paramount to their operations. For more than 100 years, the OMA has supported reasonable and necessary regulations that promote the safety and health of employees who work for OMA member companies. RIN 1218-AD45 is neither reasonable nor necessary to promote safety or health at work.

History of OSHA's Walkaround Representative Policy

Under current federal OSHA regulations, outside union officials and other third parties who do not work at the site are not automatically entitled to accompany an OSHA inspector during an OSHA inspection, often referred to as a "walkaround."

Per current regulation, a third party is permitted to attend an inspection only if OSHA believes "good cause has been shown why accompaniment by a third party who is not an employee of the employer (such as an industrial hygienist or a safety engineer) is reasonably necessary to the conduct of an effective and thorough physical inspection of the workplace." CFR § 1903.8(c).

On February 21, 2013, OSHA issued a letter of interpretation authored by then Obama-era OSHA Deputy Assistant Secretary Richard Fairfax (the Fairfax Memo) in response to questions posed by the United Steelworkers of America union. The Fairfax Memo unilaterally permitted union representatives or other third parties to accompany OSHA inspectors during onsite inspections even if the worksite was non-union and the "representative" was not an employee of the employer. This interpretation expanded who could accompany an OSHA inspector on a walkaround from "industrial hygienist or safety engineer" as defined by the

OSH Act, to unions, community organizations, and virtually anyone else acting on behalf of employees.

The National Federation of Independent Businesses sued OSHA in federal district court alleging that the Fairfax Memo's interpretation of the OSH Act amounted to a legislative rule adopted without notice and comment as required by the Administrative Procedures Act of 1946.

OSHA moved to dismiss the lawsuit, but the court found that the NFIB had stated a claim upon which relief could be granted. Before resolution of the lawsuit, however, President Trump was sworn into office, and on April 25, 2017, the Trump administration formally rescinded the guidance set forth in the Fairfax Memo, and the NFIB withdrew its lawsuit.

President Biden, who has repeatedly said, "I intend to be the most pro-union president leading the most pro-union administration in American history," has, through RIN 1218-AD45, resurrected *and expanded* the Fairfax Memo's ideologies.

Proposed Changes to OSHA's Walkaround Representative Policy

The Executive Summary of RIN 1218-AD45 concedes, "a district court concluded that [the Fairfax Memo's] interpretation was not consistent with the regulation." OSHA is now using the rulemaking procedure to legitimize its position that unions and other third-party representatives may accompany employees during OSHA inspections. This rule seeks to make two significant and unnecessary changes to the law.

First, the current regulation states: "[t]he representative(s) authorized by employees **shall be an employee** of the employer." (emphasis added) The proposal rule would change this language to: "The representative(s) authorized by employees **may be an employee** of the employer **or a third party**."

Second, the current regulation allows a non-employee "such as an industrial hygienist or a safety engineer" only if it "is reasonably necessary to the conduct of an effective and thorough physical inspection of the workplace." In practice, only those with technical expertise and credentials, or perhaps a unique language interpreter, have been permitted to accompany an OSHA inspector on an inspection.

The proposed rule eliminates the requisite technical credentials when stating that a third-party representative may be "reasonably necessary" simply because of "relevant knowledge, skills, or experience with hazards or conditions in the workplace or similar workplaces, or language skills."

These changes do not make the workplace safer or healthier. They simply remove any qualifying barriers to who can traipse through a worksite. The Notice of Proposed Rulemaking admits this, too, when it states:

There are a multitude of third parties who might serve as representatives authorized by employees for purposes of the OSHA walkaround inspection, [including] worker advocacy organizations, labor organization representatives, consultants, or attorneys who are

experienced in interacting with government officials or have relevant cultural competencies may be authorized by employees to represent them on walkaround inspections.

Permitting just about anyone to accompany an OSHA inspection would convert the inspection from being focused on workplace safety to being an organizing tactic for unions, a litigation strategy for attorneys, and an opportunity to harass employers.

The Impact of the Proposed Changes to OSHA's Walkaround Representative Policy

Union Organizing

The OSH Act has always allowed an employee who is represented by a union to accompany OSHA inspectors conducting onsite inspections. But the proposed rule would allow union representatives access inside non-union workplaces.

This would give unions unprecedented leverage in union organizing campaigns by granting them the unfettered ability to communicate directly with non-union employees during an OSHA inspection while those employees are at work. Pro-union employees could file OSHA complaints and select a union representative to accompany the CSHO on the walkaround. Unions would also be incentivized to monitor OSHA complaint filings, contact employees, and attempt to receive authorization to attend walkarounds. Unions could then take credit for any subsequent OSHA citations in a thinly veiled attempt at demonstrating their value to non-union workers. Moreover, since anyone can file an OSHA complaint, a strong argument could be made that if the union files the OSHA complaint, the union is automatically an interested party and entitled to accompany the CSHO on the walkaround.

Expansion of Inspection

CSHOs are only permitted to inspect allegations in the complaint or anything they see in plain view. This is called the "plain view doctrine." The proposed rule would expand the plain view doctrine by allowing union officials, community organizers, or others to physically walk with the CSHO but constantly scan other parts of the employer's facility to find potential violations of the OSH Act while the OSHA inspector is focused on inspecting the allegations of the complaint.

These additional sets of eyes could nefariously bring attention to unrelated parts of the facility necessitating a detour of the inspection. That detour would not only delay the conclusion of the inspection, but it could effectively convert a targeted inspection based on a complaint to an unnecessarily comprehensive and time-consuming "wall-to-wall" inspection. OSHA has neither the personnel nor budget for this effect.

Bilingual

The Notice of Proposed Rulemaking permits CSHOs to allow bilingual community organizers or advocates with no relevant safety experience access to employees and the work site during an inspection solely because of their language skills. This is a big departure from the current rule that permits bilingual individuals if they have the requisite technical credentials.

If communicating with non-English speaking workers is a goal of OSHA, then OSHA could send one of its inspectors who speak the same language as the employee. Or OSHA could retain the services of an accredited translator. But that is obviously not the goal of the proposed rule. Instead, the rule is focused on allowing anyone employees desire to accompany them on the inspection and walk throughout the private parts of an employer's property.

Trade Secrets

The proposed rule effectively permits anyone to accompany a CSHO during a walkaround inspection. This unfettered access to an employer's private property does not make the workplace safer or healthier. Alternatively, it exposes the employer's trade secrets and proprietary information to the public who has no legitimate right to access the private property or know the proprietary information.

Employers may be able to restrict third-party access to areas containing proprietary information, according to the proposed rule. But there is neither a guarantee that the restriction will be followed by the CSHO, that through the expansion of the plain view doctrine the third-party would not discover proprietary information in an area not within the scope of the initial inspection, or that the employer, CSHO, and third-party would not agree on whether the inspection will reveal proprietary information.

From a practical perspective, employers will declare the entire property is rife with proprietary information and deny any third-party access to it. This will result in delayed investigations, search warrants, and litigation over whether the third-party is entitled to accompany the CSHO and the parameters of that entitlement.

Attorneys Litigating against the Company

Another potential abuse of this unnecessary extension of law is attorneys for injured or deceased workers who are preparing to sue an employer or are in the middle of a lawsuit against the employer. These unscrupulous attorneys could gain access to the inner workings of a company and discover things that are beyond the scope of the discovery process and the attorney would otherwise never have learned. Litigation has strict discovery procedures. The proposed rule would effectively make many of those procedures moot.

CSHO has Complete Discretion

The participation of non-employees during an OSHA walkaround would not need the employer's approval. With only an inspector's permission, a community activist or a union's safety expert could participate in the inspection of a non-union manufacturer.

This authority is given to CSHOs without any oversight. CSHOs have the "authority to resolve all disputes as to who the representative is authorized by the employer and employees for the purpose of this section" 29 CFR 1903.8(b).

Nothing guides the CSHOs' decisions to ensure they follow the law. As drafted, the new rule will leave employers with no recourse, short of refusing an inspection, if a CSHO selects someone to accompany him or her on the inspection that the employer objects to joining the inspection.

Although the proposed regulation *currently* requires a CSHO to determine that the presence of a third party is "reasonably necessary," OSHA's request for public comments suggests it may scrap that requirement. OSHA has asked whether it should "defer to the employees' selection of a representative" without consideration of whether that representative would aid in the conduct of the inspection. This complete abscondence of a check and balance of who has access to a private company's property is absurd.

If finalized, the proposed rule will insert instability and unpredictability into the inspection process. It will open an unprecedented avenue for union organizing. And it will cause delay and increased expense to everyone involved in the OSHA inspection process.

The OMA appreciates the opportunity to provide these comments. If OSHA has any questions regarding the foregoing, please do not hesitate to contact me at (614) 224-5111.

Sincerely,

A handwritten signature in blue ink, appearing to read "James Lee", written in a cursive style.

James Lee
Director of Public Policy
Ohio Manufacturers' Association

cc: Matt Shurte, Committee Chair



**BEFORE THE HOMELAND SECURITY COMMITTEE
THE OHIO HOUSE OF REPRESENTATIVES
REPRESENTATIVE HARAZ GHANBARI, CHAIR**

**HOUSE BILL 205
TESTIMONY OF MATT AUSTIN
THE OHIO MANUFACTURERS' ASSOCIATION**

JUNE 21, 2023

Chair Ghanbari, Vice Chair Plummer, Ranking Member Thomas and members of the House Homeland Security Committee, thank you for the opportunity to testify on House Bill 205.

My name is Matt Austin. I own the law firm Austin Legal. My firm specializes in labor relations. I have practiced labor relations law which encompasses relationships between employers and unions for 20 years. I am here today to testify on behalf of the Ohio Manufacturers Association.

The Ohio manufacturers' Association strongly opposes House Bill 205.

This Bill seeks to regulate certain companies performing construction services in the petroleum refining industry in the name of safety. We can all agree that safety for refinery workers and their communities is important. House Bill 205, though, has less to do with safety and more with stripping private businesses of their ability contract.

As written, HB 205 is overly broad, unduly burdensome, gives union employees a virtual monopoly on performing work, will increase the cost for construction services, and seeks egregious monetary penalties for non-compliance with the statute.

1. Definitions are Overly-Broad

House Bill 205 requires an owner or operator that enters into a contract for construction services to use only companies that have skilled journeypeople. The Bill defines many of these terms in a way that forces companies to hire union labor.

A. Definition of "Construction".

For example, the definition of "construction" includes "maintenance, repair, assembly, disassembly, alteration, demolition, modernization, installation services, and capital improvements." Although proponent testimony for the bill repeatedly focused on "turnarounds" where the refinery is shut down for a month or more to allow hundreds of construction workers to perform work at the refinery, the bill never mentions turnarounds or shutdowns.

The Bill does not limit or define the performance of "maintenance, repair, assembly, disassembly, alteration, demolition, modernization, installation services, and capital improvements." As written, any activity performed by a covered employer that falls under these categories must comply with the journeyperson requirements.

This Bill would require an HVAC company performing routine maintenance on the air conditioner to meet the journeyperson quota in the same manner as the electrician installing new lighting in the cafeteria, the landscape company cutting the grass, the remodeling company modernizing front offices, and the asphalt company improving the parking lot. None of these remotely touch on safety at oil refineries, yet they are covered by House Bill 205.

B. Definition of "Journeypersons".

The term "journeypersons" in HB 205 is defined to exclude non-union personnel. A "Class A Skilled Journeyman," is someone who graduated from a registered apprenticeship program.

In practice, when a construction union hires a worker, he or she is placed in the union's hiring hall. Companies that are signatory to a union's collective bargaining agreement request people

from the hiring hall. The union is the employer, not the company that needs workers. The union places the worker with a company for the duration of that project. When the project is over, the person goes back to the hiring hall and waits to be assigned to another union company that needs workers for another project. When workers are “sitting on the bench” in the hiring hall awaiting to be assigned to a company for a project, the union typically has the person go through classroom and laboratory training so the worker’s skills do not diminish. After four years, that person becomes a Class A Journeyman as defined by House Bill 205.

Non-union companies do not define employees as Journeymen and do not usually send employees to apprenticeship programs. They hire people, train their employees in-house, and, as the employee’s skill improves, he or she is tasked with more responsibilities and can perform more jobs. Non-union companies commit to keeping their employees employed full time. Non-union construction employees are continuously working in the field without the need for a formal apprenticeship program.¹ Moreover, I am not aware of any non-union apprenticeships for refinery workers.

C. Definition of Journeyman Quota.

The Journeyman to non-Journeyman quota in House Bill 205 further eliminates non-union companies from performing “construction” work. Starting in January 2024, at least 65% of employees working “construction” at oil refineries must be Class A Journeymen. That percent increases to 80% in January 2025. Class B Journeymen will round out the remaining 35% and 20% respectively.²

In summary, since HB 205 requires the overwhelming majority of people working in “construction” at “oil refineries” to be “journeymen,” it effectively restricts the owner’s ability to contract with non-union companies to perform this work.

2. HB 205 will Cause a Labor Shortage of Qualified Workers.

Proponent testimony argued that HB 205 would be “an enormous opportunity to hire Ohio workers” who live in Ohio, shop in Ohio, and will reinvest in Ohio. Testimony also focused on out-of-state workers in Ohio necessitating the “fluency in English” requirement. Yet, HB 205 curiously does not have an Ohio residency requirement.

The State of Ohio simply does not have enough Class A journeymen to perform construction work as defined by this Bill.

Union membership throughout the United States is at an all-time low. Roughly 12% of workers in the construction industry are in unions.³ Less than 12% are journeymen. Specialized trades and skills have even less journeymen. This means HB 205 eliminates at least 90% of qualified

¹ The Bill also provides for Class B Journeymen to perform work at oil refineries. But it defines a Class B Journeyman as someone who has at least 6,000 hours of on-the-job training. Employees need to work nearly 4 years to accumulate 6,000 hours of experience.

² The parameters of using apprentices are unclear and undefined. While the Bill says apprentices may be used, it also says that after fulfilling the Class A journeymen quota, “the contractor or subcontractor shall employ class B skilled journeymen *for the remaining portion* of the contractor’s or subcontractor’s employees performing construction services who are not required to be Class A skilled journeymen or apprentices....”

³ Department of Labor Bureau of Labor Statistics’ annual Union Members Summary, Jan. 19, 2023. <https://www.bls.gov/news.release/union2.nr0.htm>

companies that can perform construction work on oil refineries just because they are not signatory to a union contract.

The demand for workers to perform construction work on oil refineries will be much greater than the supply of available workers if this Bill passes. The Bill does have a carve-out permitting the use of non-journeypersons if the hiring hall does not have enough journeypersons to refer to the jobsite. The carve-out is only after a 48-hour grace period, though. Union hiring halls can import workers from other states during this 48-hour period to assure that the journeyperson quota is fulfilled despite an objective of the Bill being to hire Ohio workers who reinvest in Ohio.

The Bill is silent on what happens if the hiring hall does not have enough journeypersons to refer, the owner or contractor hires its own workers who start performing work on the project, another union project ends and those journeypersons return to the hiring hall, and the hiring hall then refers those journeypersons to the operator or contractor of the oil refinery. Will the operator or contractor be forced to layoff their employees and hire the now-available journeypersons from the union's hiring hall? We don't know.

3. Penalties for Non-Compliance are Draconian.

House Bill 205 requires copious recordkeeping and compliance reporting. This necessitates hours of work by front-office personnel for the owner or operator of a facility on a regular basis. The list of information required on each report is staggering.⁴ Requiring companies to prepare these reports each time a company performs maintenance or repairs something on-site is absurd. As a reminder, the Bill is not limited to only shutdowns or turnarounds; it covers many other routine activities performed at oil refineries.

While an owner of a refinery will not be required to sign a union's collective bargaining agreement, a company that operates the refinery, like a facilities management company, would be required to fulfill the journeypersons quotas which means the facilities management company must be union. Any violation of the collective bargaining agreement could result in the owner and operator being jointly liable even if the owner was non-participatory in the decision that led to the breach of the collective bargaining agreement.

The owner and/or operator of a refinery is also charged with enforcing the statute and may be liable for the non-compliance by contractors and subcontractors. This places a nearly impossible burden on the owners / operators to ensure contractors and subcontractors follow HB 205. And non-compliance can cost up to \$10,000 per day, per violation.

For example, if a contractor has the requisite 80% Class A Journeypersons on the job, but one person called in sick, that call-in drops the percent of Class A Journeypersons to below 80%. This is a violation of HB 205. The contractor (and owner and operator) can be penalized up to \$10,000 each day the percent of Class A Journeypersons is below 80%. If that person missed a week of work, the penalty could be \$50,000. If that person returns to work, but another person is out and the percent dropped again, it could mean another \$50,000 penalty that week. This could be

⁴ Each report requires at least the following information: Name and address of contractor; Name and title of report preparer; Name and address of owner; Name of project and project number, if one; Total dollar value of the contract; Name and address of all subcontractors; Total number of Class A and B journeypersons and apprentices; Name and address of each registered apprenticeship program where Class A journeypersons graduated; Name and address of each registered apprenticeship program training apprentices; Certification that contractor complied with the 65% / 80% quotas.

financially catastrophic for companies, especially during high sick times like flu season or high vacation times like summer and holidays.

For another example of how over-the-top the penalties are, an owner is liable if a subcontractor (hired by a general contractor) did not verify that Class B Journeypersons met the Bill's requirements to be a Class B Journeyperson. The Bill permits Class B Journeypersons to occasionally work on construction projects but only after having at least 6,000 hours of industry experience and only after filling the Class A Journeyperson quota. Contractors are responsible for verifying the 6,000+ hours of experience. If the contractor cannot prove that it verified that each Class B Journeyperson has the requisite 6,000+ hours of experience (which may be impossible to do if the person worked for other companies that have since went out of business), the owner, operator, contractor, and subcontractor could all be liable for a \$10,000 per day penalty.

These penalties add up quickly since each day is a separate violation. For example, a subcontractor that does not properly verify that four employees who have worked on the project for 20 days have the appropriate hours of experience could face an \$800,000 penalty (\$10,000 per day x 20 days x 4 employees). Attorneys fees are also recoverable for non-compliance should the Bill become law.

Mr. Chairman and members of the committee, thank you for the opportunity to testify before you today. I am happy to answer any questions you may have.



THE OHIO COUNCIL OF

Retail Merchants
The voice of retail since 1922



April 17, 2023

Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, D.C. 20580

Re: Comments on Proposed Non-Compete Clause Rule, 16 CFR Part 910, RIN 3084-AB74 Matter No. P201200

On behalf of the Ohio business community, we write to oppose the Federal Trade Commission's (FTC) proposed rule to impose a nationwide ban on nearly all non-compete clauses (16 CFR Part 910, RIN 3084-AB74 Matter No. P201200).

A total prohibition of non-compete clauses would have a significantly detrimental impact on Ohio's businesses, employees, and the state's economy at large. An overreaching near total prohibition would have a similar negative impact. These clauses are not only necessary sources of protection for employers, but a key incentive for businesses to attract talented employees and invest in their professional development.

Non-compete clauses are mutually beneficial for both employees and employers. The elimination of non-competing agreements will remove a key motivating factor to provide high-quality and specialized training to an employee who could potentially move to a competing firm.

These agreements are also fundamental in establishing trust between employers and employees. In many cases, comprehensive employee training programs require a company to provide privileged information to employees including some of the businesses' most valuable and highly protected trade secrets. Removal of such protections would inevitably make employers second-guess investing in their workforce; thereby limiting, or potentially eliminating, opportunities for employees.

Aside from the necessary benefits these agreements provide, enforcement and the reasonableness of non-compete clauses have historically been regulated at the state level. Ohio courts and the Ohio General Assembly have upheld these agreements as a legitimate tool. The law in the State of Ohio is well-established and sufficiently addresses whether a non-compete clause is reasonable. The Ohio judicial system, with decades of applicable precedent, is the proper venue for addressing any alleged harm from non-compete clauses, not the FTC.

The proposed rule would cause substantial harm to many Ohio businesses and employees. Our organizations urge the FTC to leave this matter to state authorities and refrain from implementation. Thank you for considering the perspective of Ohio's business community.

Sincerely,



Ryan Augsburger
President
Ohio Manufacturers' Association



Steve Stivers
President/CEO
Ohio Chamber of Commerce



Gordon Gough
President/CEO
Ohio Council of Retail Merchants



Chris Ferruso
State Director
NFIB in Ohio



Pat Tiberi
President/CEO
Ohio Business Roundtable

CC:

Senator Sherrod Brown
Senator JD Vance
Representative Bill Johnson
Representative Bob Latta
Representative Brad Wenstrup
Representative David Joyce
Representative Emilia Sykes
Representative Greg Landsman
Representative Jim Jordan
Representative Joyce Beatty
Representative Marcy Kaptur
Representative Mike Carey
Representative Mike Turner
Representative Max Miller
Representative Shontel Brown
Representative Troy Balderson
Representative Warren Davidson



Proposed Mandatory E-Verify Bill
House Bill 327 – 135th General Assembly
January 12, 2024

In November 2023, State Representatives D.J. Swearingen, R-Huron, and Scott Wiggam, R-Wayne County, introduced legislation to require many Ohio employers to use the federal government’s E-Verify system to ensure they are hiring individuals who are authorized to work in the United States. (<https://www.e-verify.gov/>)

E-Verify is a web-based system offered at no cost to the user by the United States Government to verify employment eligibility; however, using E-Verify is not mandatory under federal law for private employers. Under federal law, E-Verify is voluntary for private employers, excluding federal contractors.

Using a Form I-9 to verify identity and eligibility is mandatory under federal law. Employers who use E-Verify set up accounts where they enter information from Form I-9 where it is compared to records available to the federal government from the Social Security Administration and U.S. Department of Homeland Security. While not required by federal law, many states require using E-Verify or have proposed legislation to require using the system. Arizona became the first state to mandate E-Verify for all new hires in 2008 and approximately ten other states have followed suit.

E-Verify System and Process

Every employer must use a Form I-9 to verify an employee’s identity and employment authorization within three (3) days of their start date. E-Verify uses the same information an employer would collect and review in completing a Form I-9 during the same three (3) day time frame with a few differences. E-Verify requires a Social Security number, photos on identification documents (List B of Form I-9) and may not be used to re-verify expired employment authorizations.

Employers have to set up an on-line account through the E-Verify webpage (<https://idp.uscis.gov/enroll/everify>) to use this system.

If an employer enrolls in E-Verify, existing employees and their information are not entered into the new account. It is only used for new employees after an employer enrolls. Employers must

continue to safeguard employee's personal identification information (e.g., Social Security numbers).

E-Verify is fairly straight-forward and easy to use. Employers need Internet access, updated Web browsers (e.g., Google Chrome, Microsoft Edge), a printer and the ability to create Portable Document Format (PDF) files. The system offers step-by-step guidance to creating an E-Verify account, guidance to open a case to verify an employee for hire, a fully electronic verification process, and notices/reminders when further action is needed.

Because information is compared with records maintained by the federal government, E-Verify provides employers with assurances of compliance with confirming their employee's eligibility to work in the United States.

Intent of the bill

State Rep. Swearingen said, "[t]his bill will streamline and ease the hiring process for our employers, while simultaneously empowering the Ohio worker, and help ensure that workers who are in this country illegally will not obtain jobs in Ohio." State Rep. Wiggam stated, "[o]nce implemented, the E-Verify program will help protect Ohio's workforce against job loss and lower wages by making it harder for human traffickers to exploit illegal workers in Ohio."

Summary of the bill

House Bill 327, in its introduced and current form, aims to achieve the following:

- Require employers of seventy-five or more employees to use E-Verify;
- Require all contractors and sub-contractors on public works construction projects to use E-Verify for its project workforce; and
- Require contractors and sub-contractors on all other construction projects to use E-Verify for their project workforce, apart from single, double, or triple family residential construction or construction for agricultural purposes.

If passed, an employer found in violation of the mandate will be ordered to pay \$5,000 for each violation and suspended from bidding on any state contract for a one-year period. After the one-year period has elapsed, the employer may file a sworn affidavit with the attorney general to regain eligibility.

Employment considerations

If passed into law, the mandate would require qualified employers to use the E-Verify system to verify eligibility of employment within three (3) days of the employee's starting date. The timing to complete verification of employment through E-Verify is the same for using a Form I-9. In the majority of cases, the system confirms the employee's eligibility within seconds. The system has seen some technical glitches in the past, but has typically been reliable to use. Employers who are not currently using E-Verify do not have to 'reinvent the wheel' because a newly established E-Verify account would be used to verify new employees after the account is set-up.

Regardless of whether E-Verify will be mandated in Ohio, employers should review their onboarding procedures and Form I-9 processes to ensure compliance.

Conclusion

The legislation just began the legislative committee process and could still undergo modifications. Opponents of the bill maintain that mandatory E-Verify is ineffectual. Arizona and other states have not been successful or consistent at enforcing the requirement.

The full impact to the Ohio manufacturing community depends greatly on whether the employer is using Form I-9s, and maintaining paper files of all verification documents, or if they operate on a digital platform. E-Verify can be simple to use and can provide a beneficial tool for employers to confirm compliance with federal immigration laws.



April 23, 2024

The Honorable Adam Bird
Chairman
House Primary & Secondary Education Committee
Ohio Statehouse
1 Capitol Square
Columbus, OH 43215

RE: House Bill 432 – Written Proponent Testimony

Dear Chairman Bird:

The Ohio Manufacturers' Association (OMA) was created in 1910 with the mission to protect and grow Ohio manufacturing. Today, it has nearly 1,300 members representing the largest economic sector in the state, which contributed more than \$133 billion to Ohio's economy in 2023. According to the most recent data, nearly 700,000 Ohioans work in manufacturing, and manufacturing has the largest payroll of any Ohio economic sector.

The OMA has devoted significant resources to improving workforce development. To help ensure an adequate talent pipeline, manufacturers have embraced forward-thinking strategies, including industry sector partnerships (ISPs), workforce credentialing programs like TechCred, adoption of next-generation technology, new opportunities in career-technical education, and earn-and-learn programs.

However, employers in the state continue to cite talent availability as one of the biggest challenges they currently face. Sustained growth in the workforce pipeline will require efforts to further build up Ohio's career technical education programs. One of the factors contributing to the workforce shortage is an insufficient amount of career technical instructors to match the need for our state's growing demand in the manufacturing industry.

Manufacturers and their stakeholders have led the way in innovation to solve their talent challenges. Retaining our state's legacy as a manufacturing powerhouse means Ohio must continually innovate to grow a capable workforce. House Bill 432 is a step in the right direction to help ensure that Ohio's next generation of workers have access to critically important education programs that can assist them as they evaluate various in-demand career pathways such as manufacturing.

House Bill 432 would help address the shortage of career technical instructors by creating alternative licensure pathways. As Ohio's students explore career pathways to find the one that best suits them, our state must have enough qualified and engaged instructors to meet the growing demand for a skilled workforce.

Ohio manufacturers need public policies that protect the state's manufacturing advantage, and addressing workforce challenges is a critical component to the state's business climate. The OMA appreciates the leadership of the bill sponsor, Representative Don Jones, in introducing this legislation.

Sincerely,

A handwritten signature in blue ink that reads "Lindsey Short". The signature is written in a cursive, flowing style.

Lindsey Short
Director, Public Policy Services
The Ohio Manufacturers' Association



BREAKING NEWS: FTC's Non-Compete Ban Struck Down For All Employers Nationwide

Insights

8.21.24

A Texas federal court just struck down the FTC's proposed ban on non-competition agreements on a nationwide basis mere weeks before it was set to take effect, meaning employers across the country can breathe a sigh of relief and continue to maintain non-competes as their state laws allow. While there is a slim chance the rule could be resurrected by a federal appeals court in the future, what's for certain after yesterday's ruling is that you will not have to comply with the rule by September 4 as originally scheduled. What do you need to know about this significant development and what should you do now that the landscape has shifted once again?

What Happened?

A Texas employer, the U.S. Chamber of Commerce, and a handful of other business organizations sued the Federal Trade Commission (FTC) in federal court seeking an order blocking the non-competes rule from taking effect on September 4 as scheduled. If you want a reminder about the non-competes ban, here are two resources for you to learn more:

- [Feds Ban Non-Compete Agreements: A 5-Step Plan for Employers](#) (April 24)
- [Frequently Asked Questions About the FTC's Rule Banning Non-Compete Agreements](#) (May 16)

Judge Ada Brown from the Northern District of Texas initially agreed that the rule was an invalid exercise of the agency's power on July 3, but only blocked the rule as it applied to the parties in the case and left open the question of whether the FTC could proceed with the ban. [You can read about that ruling here](#). She later promised to issue a final ruling on the matter by August 30.

Judge Deploys 2 Main Arguments to Kill Non-Compete Ban

The judge took a two-pronged attack to the FTC's non-competes ban. Her first line of attack was ruling that the agency didn't have the power to issue the rule because Congress only authorized it to issue *procedural* rules to address unfair methods of competition, not *substantive* rules. "The role of an administrative agency is to do as told by Congress, not to do what the agency thinks it should do," she said.

Her second rebuke was concluding that the rule itself was “arbitrary and capricious” for the following reasons:

- She found that the rule is arbitrary and capricious because it is **unreasonably overbroad** without a reasonable explanation.
- The rule aimed to impose a **one-size-fits-all** approach with no end date.
- She pointed out that **no state in the country** has enacted a non-compete ban as broad as the FTC’s rule.
- She questioned why the rule didn’t target **specific, harmful non-competes** instead of taking a blanket approach.
- The agency failed to consider the **positive benefits** of non-competes, she said.
- She added that the agency failed to sufficiently address **potential alternatives** rather than a nationwide ban on just about every non-compete.

Rule Blocked for All Employers Across the Country

Most importantly for employers, Judge Brown concluded that her order setting aside the non-compete ban should apply to all employers across the country. As noted above, she originally just blocked the rule from taking effect for those parties that had filed suit in the Texas case. In fact, in a separate decision just a week or so after her July 3 limited ruling, she again declined to extend the preliminary injunction nationwide – leaving employers in a state of uncertainty as the days dwindled down towards the effective date.

Following Judge Brown’s ruling, a Pennsylvania court in a separate lawsuit declined a motion to block the rule, and a Florida court granted a limited injunction similar to the Texas court’s original order, leaving employers in doubt about whether the rule might be vacated prior to its September 4 effective date.

But yesterday’s ruling put an end to all of that concern. She noted that federal law required her to “hold unlawful” and “set aside” the non-compete ban with nationwide effect. All parties in all judicial districts across the country are equally covered by the ruling, she said.

Post-Chevron Shockwaves

The decision is one of the first prominent cases to demonstrate the evolving power of courts to overrule agency actions now the Supreme Court has struck down the *Chevron* doctrine. For those unfamiliar, SCOTUS issued the groundbreaking *Loper Bright* ruling on June 28 tossing out a decades-old standard that had required courts to give substantial deference to agencies like the FTC.

The new standard? Courts should instead exercise their independent judgment when deciding whether an agency's actions are proper exercises of power – essentially enabling courts to strike down agency rules more easily. [You can read about that decision here](#) and check out our [Post-Chevron Employers' Resource Center here](#) and get a sense for how that new standard will impact various aspects of workplace law and various industries.

And this decision is a perfect example of how this new standard will be deployed by courts to significant effect. The first sentence of Judge Brown's analysis section quotes the Supreme Court's *Loper Bright* case, in fact, noting that the Administrative Procedure Act should serve "as a check upon administrators whose zeal might otherwise have carried them to excesses not contemplated in legislation creating their offices."

What's Next?

The FTC could try to breathe new life into the rule by filing an appeal of this decision in the coming weeks. It could also seek an emergency order from the appellate court that would cause the rule to take effect as scheduled.

However, any appeal would be heard by the notoriously business-friendly 5th Circuit Court of Appeals, where the odds of the rule being resurrected are slim. And the next step after that would be a potential visit to the Supreme Court, which has taken direct aim at the regulatory state in recent years and is likely a hostile environment for any attempt by the FTC to wield such power.

What Should You Do?

- Employers can breathe a sigh of relief. We are now **back once again to the status quo**, where state-specific restrictions shape the contours of covenants not to compete, and you can continue to have non-compete restrictions as a tool in your arsenal to protect key relationships and confidential information.
- In order to **keep track of the nuances of each state's restrictive covenant law**, check out one of FP's latest resources – [Blue Pencil Box](#), an especially helpful tool for employers with multi-state operations. This comprehensive resource not only provides detailed daily summaries of cases and bills involving non-competes and other restrictive covenants, but also maintains a comprehensive database and customizable checklists to help you comply.
- Now is an especially critical time for you to ensure your existing non-competes are **precisely tailored to meet the state laws** in which you operate and that you are limiting their use to critical employees – as the FTC has already indicated it will try to flex its muscles through targeted investigations if it can't wield the power of a national rule. "Today's decision does not prevent the FTC from addressing non-competes through case-by-case enforcement actions," an agency spokesperson said soon after the court decision.
- You might also want to compile an **inventory of all existing restrictive covenant agreements**, including those that bind former workers. There is a slim chance that an appeals court could

bring the non-compete ban back to life, and in such a circumstance it would be beneficial to have a full and complete list of your effective agreements. Even if the rule never sees the light of day, however, having such an inventory could be a helpful resource for compliance and tracking purposes.

Conclusion

We will be monitoring the situation and providing updates as the court battles continue. Make sure you are subscribed to [Fisher Phillips' Insight System](#) to gather the most up-to-date information directly to your inbox. Check out [Blue Pencil Box](#) for our daily updates on restrictive covenant law. If you have questions, please contact the authors of this Insight, your Fisher Phillips attorney, or any attorney in our [Employee Defection and Trade Secrets Practice Group](#).

Related People



Risa B. Boerner, CIPP/US, CIPM
Partner
610.230.2132
Email



TO: OMA Government Affairs Committee
FROM: James Lee
RE: Safety & Workers' Compensation Public Policy Report
DATE: September 11, 2024

Overview

Ohio has seen significant policy developments in the Safety and Workers' Compensation Space. Ohioans voted to pass Issue 2 in the November 2023 election, which legalized recreational marijuana in the state, expanding access to employees and jeopardizing workplace safety. The issue has taken full effect as many medical dispensaries have been granted licenses for the retail sale of adult use marijuana which hit the legal market in August. Despite the OMA's concerns for employee safety, there is a silver lining for employers, as the new law provides businesses with the right to maintain their current drug-free workplace policies.

OSHA has also moved to propose the first-ever national heat safety rule, which if implemented, would provide a slew of new safety regulations on manufacturers.

Ohio's business community also received a major win in a recent state supreme court case that will provide significant premiums savings to businesses by cutting down on over payments for temporary disability claims.

Recreational Marijuana Legalization:

On August 6, the Ohio Department of Commerce officially granted the legal right for Ohio's medical dispensaries to sell cannabis for recreational use in the state. With many cannabis shops opting into the new form of sales, Ohio has already seen a noteworthy outcome within a month of launch. From Aug. 6 to Aug. 10, the Department of Cannabis Control said the state's dispensaries racked up \$11,530,708. The latest data from the week of Aug. 17 showed customers shed little steam in their interest in adult-use cannabis, coming close to doubling the dollar total for recreational sales.

Thankfully for employers, the OMA's supported employer protections for medical marijuana apply to recreational marijuana, allowing employers to maintain their drug free workplace policies. This statute provides employers with the strongest protections in the country (See Bricker Memo in today's meeting materials for more Details).

Potential Legislative Reforms to Issue 2 Marijuana Statute

Despite initial signals from policy makers in November demonstrating a desire to pass legislative reforms to the issue 2 statute passed by voters, political squabbling between House and Senate has stifled any attempt to make changes to the law.

In December, the Senate passed a reform bill (HB 68) to amend the issue 2 statute. The bill included significant law changes to home-grow rules, THC level limits, public use restrictions, and tax provisions outlined in the issue 2 statute. Unfortunately for members of the Senate, their attempts were stifled by members of the House, who refused to act on the bill.

Negotiations between the House and the Senate have broken down due to ongoing political rivalries – however, Governor DeWine has not let the issue die down. The governor directly called on the entire Ohio General Assembly to move on reforms in his recent State of the State Address in April.

The question of future legislative movement remains completely unpredictable – as recent reports quoting House Speaker Jason Stephens are stating the Speaker is not hopeful

that the two Chambers can come together on an agreement. However, in contrast, President Huffman was quoted stating his optimism that a reform bill is coming together and could move quickly in the coming months. Any movement, if any, likely won't be seen until after the general election and potentially in next year's operating budget process.

Safety & Workers' Compensation Legislation and Rules

Legislation to Regulate Delta 8 – Synthetic Marijuana

Governor DeWine and members of the Senate have voiced their intent to place restrictions on Delta-8 THC, a milder form of the psychoactive compound in cannabis. The substance is facing a potential ban in Ohio as Governor Mike DeWine raises concerns about its under-regulation and accessibility to minors. New legislation proposed by Senator Steve Huffman will be particularly impactful to manufacturers as proposed regulations will likely restrict access for workers under the age of 21 and outlaw packaging that will allow employees to secretly use the product on the job.

The product also opens employers to ambiguity in drug free workplace policies as the drug may or may not show-up or be reported on drug tests.

OSHA Introduces National Heat Safety Rule

OSHA recently unveiled its first-ever national heat safety rule aimed at reducing heat-related illnesses by requiring employers to implement comprehensive safety measures. This rule will impact manufacturers and employers by necessitating changes to workplace safety protocols, including regular heat risk assessments, hydration, and rest breaks. The rule also introduces new responsibilities such as training, acclimatization programs, and emergency planning, which could increase operational costs and necessitate updates to existing safety procedures.

OSHA Finalizes New Expanded Electronic Reporting Rule

The U.S. Department of Labor has finalized and implemented its rule requiring establishments with 100 or more employees in certain industries (including manufacturing) to electronically submit information once a year to OSHA from their Form 300-Log of Work-Related Injuries and Illnesses and Form 301-Injury and Illness Incident Report. OSHA believes reporting this information will help to reduce occupational injuries and illnesses by allowing employers, employees, potential employees, and the general public to make informed decisions about workplace safety at given establishments.

OSHA's expansion of its requirements for annual injury tracking was covered in detail during this January's OMA safety webinar, titled "300, 301 and 300A, Oh My! OSHA Recordkeeping Requirements." You can find that webinar on the OMA's website

Dillon Supreme Court Case to Save Employers on TTD Overpayment

The Dillon decision by the Ohio Supreme Court fundamentally alters the termination date for Temporary Total Disability (TTD) benefits, impacting employers significantly. Previously, TTD benefits could be terminated at the date of the Industrial Commission hearing officer's decision, causing potential overpayments. However, with Dillon, benefits can now be terminated on the date of Maximum Medical Improvement (MMI) as determined by any physician, including those hired by the employer, leading to an earlier termination of benefits. This change is anticipated to result in a surge of overpayments declared in Ohio, affecting employers' bottom lines.

The decision's longevity is uncertain, as it may face potential changes in the legislature. To mitigate overpayments, the Industrial Commission could expedite motions for benefit termination, potentially reducing costs for employers. Overall, Dillon promises to reduce claim costs and alleviate financial burdens on employers in Ohio. The OMA submitted a

joint letter defending a recent ruling to the Industrial Commission, which can be found in today's materials.

Workers' Compensation Legislation
Prepared by: The Ohio Manufacturers' Association
Report created on March 4, 2024

- HB31 WORKERS' COMPENSATION BUDGET (EDWARDS J) To make appropriations for the Bureau of Workers' Compensation for the biennium beginning July 1, 2023, and ending June 30, 2025, to provide authorization and conditions for the operation of the Bureau's programs, to make changes to the Workers' Compensation Law, and to enact a three-day interim budget.
Current Status: 6/30/2023 - SIGNED BY GOVERNOR; eff. immediately
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-HB-31>
- HB32 INDUSTRIAL COMMISSION BUDGET (EDWARDS J) To make appropriations for the Industrial Commission for the biennium beginning July 1, 2023, and ending June 30, 2025, and to provide authorization and conditions for the operation of Commission programs.
Current Status: 6/30/2023 - SIGNED BY GOVERNOR; eff. immediately
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-HB-32>
- SB9 LAW CHANGES-MEDICAL MARIJUANA (HUFFMAN S, SCHURING K) To amend the law related to medical marijuana.
Current Status: 5/16/2023 - Senate General Government, (Seventh Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-SB-9>
- SB106 WORKERS' COMPENSATION-CHEMICALS, FLUID EXPOSURE (SCHAFFER T) Regarding workers' compensation coverage for testing when certain medical professionals are exposed to chemical substances or bodily fluids in the course of employment and regarding medical release forms for workers' compensation claims.
Current Status: 2/28/2024 - Consideration of House Amendments; Senate Does Concur, Vote 32-0
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-SB-106>



OHIO RECREATIONAL MARIJUANA LEGALIZATION

Ohio Revised Code § 3780

November 24, 2023

On November 8, 2023, Ohio voters passed Issue 2, making Ohio the 24th state to legalize some form of recreational marijuana use. The new Chapter 3780 of the Ohio Revised Code comes on the heels of legal medical marijuana use enacted in 2016. While Ohio and other states are trending towards legalization, marijuana remains a controlled substance, and illegal at the federal level.

R.C. § 3780 is set to go into effect on December 7, 2023. However, because Issue 2 was a citizen-initiated law, the Ohio legislature can revise the language, and may do so, prior to its effective date.

Thanks to important lobbying and engagement efforts during the enactment of statutes governing medical marijuana use from groups like the Ohio Manufacturers' Association, the recreational marijuana use statute reiterates that **employers in Ohio are not required to permit marijuana use, possession, or distribution on the job**. The proposed statute specifically provides employers with the ability to maintain a drug-free workplace and echoes much of the language for workplace considerations codified in the medical marijuana use statute.

Intent of the statute

Chapter 3780 permits and regulates the recreational sale and use of cannabis in Ohio to adults. The statute states this controlled and regulated approach achieves a number of goals, including: (1) reducing illegal sales of marijuana, to promote safer use; (2) limiting out-of-state cannabis being brought into the state; (3) providing funding through taxation to support social equity, job creation, research, and proper regulation of the cannabis industry; and (4) addressing past and present effects of discrimination and economic disadvantage of individuals within Ohio.

Ultimately, the statute expands the rights of Ohio adults to use marijuana recreationally.

Summary of the statute

The statute legalizes the “cultivation, processing, sale, purchase, possession, home grow, and use of cannabis by adults at least twenty-one years of age.” The “Division of Cannabis Control,” a state agency tasked with regulating such activities and enforcing regulations implemented because of such activities, will be established. Additionally, R.C. § 3780 establishes an additional 10%

sales tax on all cannabis dispensaries, collected to be used to support the “cannabis social equity and jobs fund,” the “host community cannabis facilities fund,” and the substance abuse and addiction fund.

What are the parameters for recreational use and possession?

While Ohio adults—twenty-one and older without a disqualifying offense—are permitted to possess and use marijuana, use is not without limitation. A person is only permitted to possess, transfer, or purchase 2.5 ounces of cannabis in any form, and 15 grams of cannabis extract (a separated or concentrated cannabis product). Any possession, transfer, or sale in excess of that threshold is still illegal under Ohio law.

The statute also permits adults to grow marijuana at home, so long as they do not have more than six plants (twelve if two or more eligible adults live at the same residence), and the plants are secured and hidden from public view.

Employment considerations

Importantly, the statute contains specific rights and exceptions for employers similar to the 2016 medical marijuana law. R.C. § 3780.35 is captioned “Rights of Employer,” and outlines protections for employers. This subsection specifically states, “[n]othing in this chapter . . . [r]equires an employer to permit or accommodate and employee’s use, possession or distribution of . . . cannabis.”

R.C. § 3780.35 confirms that this statute does not prevent an employer from refusing to hire, discharging, disciplining, or taking any other adverse employment action because of the individual’s use, possession, or sale of marijuana. It further expressly confirms the statute does not permit an individual to commence any cause of action against an employer for taking such measures because of that individual’s cannabis use.

As stated in R.C. § 3780.35, the statute similarly does not prohibit “an employer from establishing and enforcing a drug testing policy, drug-free workplace policy, or zero-tolerance drug policy.” The statute further provides that discharge from employment because of the use of cannabis is considered a discharge for cause for unemployment purposes if that individual’s use was in violation of the employer’s drug-free policies.

Even though an employee may be able to use marijuana while not at work, intoxication at any level at work is not permitted because employers can, and should, ensure their workplaces remain safe and drug-free. It is also important to note that, similar to enacting a tobacco free workplace, a drug free or zero-tolerance policy can still address all consumption of marijuana, including when consumed on an employee’s own time or off-duty. Nothing in any Ohio marijuana use laws changes any federal law including any federal employment laws regarding marijuana use whether recreationally or medically.

Conclusion

Thanks to the Ohio Manufacturers' Association's prior advocacy, Ohio law contains strong protections for employers under the state's medical marijuana program. The petitioners that supported recreational marijuana largely copied from the existing law in Ohio's medical marijuana statutes, preserving employer's rights to maintain drug free or zero-tolerance workplace policies, drug testing protocols, and to terminate employees for cause for violations of those policies. Therefore, despite Issue 2 permitting adult use of recreational marijuana, Ohio's employers maintain their rights and marijuana remains illegal under federal law. Manufacturers should update or enact workplace drug policies to account for the change in law and ensure safe workplaces.



**BEFORE THE GENERAL GOVERNMENT COMMITTEE
THE OHIO SENATE
SENATOR MICHAEL A. RULLI, CHAIR**

**HOUSE BILL 86 – THE ADULT USE OF MARIJUANA
TESTIMONY OF BILL CREEDON
THE OHIO MANUFACTURERS' ASSOCIATION**

DECEMBER 5, 2023

Chair Rulli, Vice-Chair Schuring, Ranking Member DeMora, and members of the Senate General Committee, thank you for the opportunity to provide testimony regarding possible changes to the regulatory structure for the adult use of marijuana recently adopted by Ohio voters.

My name is Bill Creedon. I am an attorney with the law firm of Bricker Graydon, representing The Ohio Manufacturers' Association (OMA). Created in 1910 to advocate for Ohio's manufacturers, the OMA today has approximately 1,300 members statewide. Its mission is to protect and grow Ohio manufacturing.

As you may know, manufacturing is the largest of the state's 20 major industry sectors. As of Q3 2022, manufacturing contributed more than \$130 billion annually to Ohio's economy, accounting for nearly one-fifth of Ohio's private industry GDP.

Ohio voters spoke clearly to approve the adult use of marijuana. Respecting that outcome, OMA calls upon the General Assembly to enact modest changes to the language of the initiated statute to alleviate concerns OMA, and others in the business community, voiced during the Issue 2 campaign about workplace safety, employer protections, and private property rights. The General Assembly can both respect the will of the voters and establish a sensible legal framework.

Preserve Employer Protections

Employers have an affirmative duty to maintain a safe and healthy work environment. OMA has championed policies to improve workplace safety and protect the well-being of employees across Ohio. This includes the employer rights provisions in Ohio Revised Code Section 3796.28, enacted in 2016 (S.B. 253) as part of Ohio's medical marijuana program. Those provisions were thoroughly vetted and serve as a model framework, encompassing strong protections for employers, sufficiently providing businesses with the right to enact workplace policies deemed suitable for that employer. Importantly, ORC 3796.28 ensures that Ohio employers are not required to permit an employee's use, possession, or distribution of marijuana. Put another way, an employer can choose the

workplace policy that works best for their business. That includes having no policy, maintaining a drug-free workplace, or even having a zero-tolerance policy, meaning a policy forbidding their employees from using, possessing or distributing marijuana at any time or place.

Issue 2 largely copied ORC 3796.28. Therefore, we urge the General Assembly to maintain the established employer protections in ORC section 3796.28 for all types of marijuana. That includes applying ORC 3796.28(C), which was adopted in the budget during the 134th General Assembly, and specifies that employers do not violate any anti-discrimination laws when they enforce their drug free workplace policies.

The proposed language ensures that the employer protections proposed for the adult use of marijuana are fully aligned with the employer protections established in ORC 3796.28. We are aware of other proposals seeking to add additional language to those provisions. While well intended, we strongly discourage the addition of unnecessary or duplicative language that could lead to unintended and unpredictable legal consequences.

Private Property Rights:

The Issue 2 statute lacks clarity on private property owners' authority to regulate the adult use of marijuana beyond existing smoking bans, raising concerns about its implications for property rights. Ambiguities surrounding public spaces and accommodation of the adult use of marijuana within the statute need clarification to grant private property owners' discretion. We would respectfully ask that whatever legislation is adopted, the rights of property owners with respect to the adult use of marijuana on their property are completely clear.

Tax Distribution:

The allocation of tax revenue authorized by Issue 2 is limited and fails to encompass critical areas such as law enforcement and broader community services. It is the legislature's prerogative to make appropriations prioritizing these critical government functions.

In conclusion, Ohio is enjoying a surge of new development thanks to the state's favorable business climate, and we urge the Ohio General Assembly to prioritize preserving these essential employer protections to maintain Ohio's economic momentum while addressing Issue 2's electoral outcome. The retention of these safeguards is imperative to uphold workplace safety standards, protect employee well-being, and enable employers to maintain productive and secure work environments.



December 12, 2023

The Honorable Mike DeWine
Governor, State of Ohio
77 N. High Street - 30th Floor
Columbus, Ohio 43215

The Honorable Matt Huffman
President, Ohio Senate
Ohio Statehouse
1 Capitol Square - 2nd Floor
Columbus, Ohio 43215

The Honorable Jason Stephens
Speaker, Ohio House of Representatives
77 S. High Street – 14th Floor
Columbus, Ohio 43215

Re: Ohio Business Community Urges Passage of Legislative Guardrails for Marijuana

Dear Governor DeWine, President Huffman, and Speaker Stephens,

On behalf of the undersigned statewide business organizations and our collective memberships, we write to you following the passage of State Issue 2 on November 7th. Ohio voters have voiced their support for the legalization of recreational marijuana, and it is now up to you to thoughtfully deliberate and enact the proper guidelines for this new legalized substance. While we acknowledge and respect this outcome, it does not alleviate our apprehensions related to workplace safety and employer protections, private property rights, and legislative appropriation authority of general revenue funds. Additionally, this decision further complicates the ongoing workforce challenges linked to filling existing and future job openings, potentially aggravating Ohio's economic difficulties and societal issues. We also continue to have concerns related to worker absenteeism and increased insurance costs. We sincerely appreciate your leadership as we navigate these issues following this important vote.

Preserve Employer Protections

Our organizations have championed policies to improve workplace safety and the well-being of employees across Ohio. The existing provisions within the initiated statute, particularly those aligning with the Ohio medical marijuana law to safeguard employer rights, play an integral role in maintaining safe working environments. These provisions were previously vetted through the legislative process during deliberations on the 2016 medical marijuana bill (SB 523). The bill was drafted in collaboration with our associations, the business community at large, and Ohio policy makers to ensure that employers in Ohio are not required to permit marijuana use, possession, or distribution on the job.

We would respectfully ask the legislature to adopt a provision currently found in Ohio's medical marijuana employer protection law that was not included in State Issue 2. This provision – ORC 3796.28(C), which was adopted in the budget during the 134th General Assembly – specifies employers do not violate any anti-discrimination laws when enforcing drug free workplace policies. As such, we propose adding this provision from Ohio's medical marijuana statutes to Ohio's new recreational marijuana laws.

Private Property Rights

The Issue 2 statute lacks clarity on private property owners' authority to regulate marijuana use and possession on their premises beyond existing smoking bans, raising concerns about its implications for property rights. Ambiguities surrounding public spaces and accommodation of cannabis use within the statute need clarification to grant private property owners' discretion. We would respectfully ask that whatever decision is made, it is completely clear to property owners what rights they have with respect to the use and possession of marijuana on their property.

Uniformity of Regulations

Providing businesses and communities with certainty as to how recreational marijuana and marijuana products and dispensaries will be regulated is crucial. Proponents of Issue 2 stressed that recreational marijuana should be regulated like alcohol. The State exclusively regulates alcohol through a uniform, comprehensive regulatory system. Similarly, the Issue 2 enabling legislation should expressly preempt political subdivisions' home rule as to the regulation, taxes, quality control, licensing, and enforcement concerning recreational marijuana and marijuana products. Ohio cannot afford a patchwork set of localized ordinances that go beyond, conflict, or attempt circumvent State law and marijuana regulatory system the State is creating.

Tax Distribution

The directed allocation of tax revenue in Issue 2 is limited and fails to encompass critical areas such as law enforcement and broader community services. It should be the legislature's prerogative to make appropriations they deem necessary to address public safety concerns and ensure the most extensive public benefit from these new income streams. The General Assembly as a body should have the sole discretion over its appropriation authority to allocate tax revenues to support essential services like law enforcement, community well-being, and public safety initiatives.

Ohio's business climate has seen a surge of new development, and we urge the Ohio General Assembly to prioritize preserving these essential employer protections to maintain Ohio's economic momentum while addressing this electoral outcome. The retention of these safeguards is imperative to uphold workplace safety standards, protect employee well-being, and enable employers to maintain productive and secure work environments.

Passage of Issue 2 represents a complex change to our existing laws related to drug policy and it will take all parties' participation to ensure the best statewide regulatory framework is established. Please know that our organizations and our members stand ready to assist your efforts to honor the vote of the people while administering this new program in the most socially and economically responsible manner that best protects our workplaces and communities.

Respectfully,

Ohio Business Roundtable

Ohio Farm Bureau

The Ohio Council of Retail Merchants

Ohio Chamber of Commerce

The Ohio Manufacturers' Association

Dear Industrial Commission Rules Advisory Task Force Members,

On behalf of the employer community and its partners, the undersigned organizations express their strong support for the outcome in *Dillon* and encourage the Industrial Commission to implement an updated rule completely aligned with the Ohio Supreme Court's decision. This issue is of great importance to employers, and we strongly believe the Industrial Commission should formulate guidance for its hearing officers and institute rules based upon the law. *Dillon* unequivocally requires TTD compensation to be terminated as of the date MMI has been reached, which necessitates the need to revise Adjudications Memo D2 to reflect this requirement. While some are encouraging the Industrial Commission to limit, amend, or even disregard *Dillon* based upon erroneous objections, we contend any outcome other than complete adoption of *Dillon*'s central holding into the Industrial Commission's rules is contrary to law.

The employer community supports *Dillon*, first and foremost, because it was correctly decided. The Court's decision in *Dillon* is entirely consistent with the relevant statutory language and should serve as the basis of the Industrial Commission's revised rule¹. Ohio Revised Code 4123.56(A) plainly states TTD compensation "payments shall continue pending the determination of the matter, however payment **shall not be made** for the period when any employee... has reached maximum medical improvement." (emphasis added). The unambiguous language of ORC 4123.56(A) precludes eligibility for TTD compensation once MMI has been reached. As defined by Ohio Administrative Code 4121-3-32(A)(1), MMI is a treatment plateau at which no additional fundamental functional change of the injury is to be expected. OAC 4121-3-32 does not contemplate the date of administrative hearing as a factor in determining when MMI has been reached, and neither should the Industrial Commission.

Moreover, OAC 4121-3-32 authorizes hearing officers to declare an overpayment of TTD compensation when he or she "determines that the injured worker was not justified in receiving temporary total disability compensation prior to the date of hearing." Concern has been expressed that *Dillon* creates a new rule allowing retroactive termination of TTD compensation, but this is already permitted under OAC 4121-3-32. It was the now overruled *Russell* decision, not the statute or rules, which required TTD compensation to continue until the date of hearing. Again, the *Dillon* decision aligns the case law with the statutory and regulatory framework and any policy that seeks to deviate from that framework requires a legislative enactment.

The central holdings of *Dillon* – affirming an injured worker is precluded from receipt of TTD compensation once the evidence demonstrates MMI has been achieved and the overruling of *Russell* – are fair, reasonable, and easy to implement. When a hearing officer makes a finding that MMI has been reached, he or she must cite to the evidence supporting this conclusion. The evidence relied upon opines MMI was reached as of the date of the medical examination, not the date of hearing. It is fair and reasonable that the date of the medical evidence relied upon is the proper date for MMI, after which the injured worker is not entitled to TTD compensation. Failing

¹ Curiously, Adjudications Memo D2 as presently instituted does not cite ORC 4123.56 at all, but rather only cites *Russell*.

to provide clear guidance, and thereby allowing hearing officers to ignore *Dillon* and find MMI as of the date of hearing, is untenable. Further, attempts to craft new policy with rebuttable presumptions, or any other modification to the statutory language, is contrary to the law and requires a legislative solution.

Two primary objections relating to *Dillon* have been raised to the members of the Rules Advisory Task Force in an attempt to limit the obvious and necessary revisions required to Adjudications Memo D2. First, it is claimed that finding MMI prior to the date of hearing will create complicated issues surrounding overpayments. Second, retroactive termination of TTD compensation is a violation of due process. Therefore, it is argued, the Industrial Commission should continue the *Russell* policy despite *Russell* being overruled.

While it is correct that a finding of MMI prior to the hearing date will create an overpayment, this issue does not need to be addressed in Memo D2. In fact, the current version of Memo D2 does not speak to overpayments. The potential for disputes over the applicability of ORC 4123.511(K) cannot stand in the way of updating Memo D2.

As to the argument that adoption of *Dillon* violates an injured worker's due process rights, in actuality, what *Dillon* does is restore the due process rights of employers that have been circumvented for the past 25 years. Until *Dillon*, employers had paid unknown amounts of TTD compensation to injured workers between the date of an IME that found the injured worker to be at MMI and the date the Industrial Commission set a hearing on a motion to terminate TTD compensation. This compensation was paid without any opportunity for the employers to dispute the injured worker's entitlement to receive it, despite having evidence to the contrary. All *Dillon* changes is that it now provides both parties – injured workers and employers – the opportunity to exercise their due process rights regarding the injured worker's eligibility for TTD compensation between the date of the IME and the date of hearing.

Enclosed with this letter is a jointly submitted proposed update to Adjudications Memo D2. The employer community strongly feels it is necessary to have a clear policy, grounded in the law, which provides clarity to all parties regarding this issue. To this end, the undersigned organizations have agreed upon the following revision to Adjudications Memo D2:

When terminating ongoing temporary total disability compensation due to a finding of maximum medical improvement, temporary total disability compensation shall be paid through the date of the hearing. Where the hearing officer finds that maximum medical improvement has been reached, temporary total disability compensation shall be terminated as of the date of the medical evidence upon which the determination is made.

NOTE: ORC 4123.56; State ex rel. Dillon v. Industrial Comm., Slip Op., 2024-Ohio-744, *overruling* State ex rel. Russell v. Industrial Comm., 82 Ohio St. 3d 516, 696 N.E.2d 1069 (1998).

Thank you for the opportunity to provide suggestions and feedback while the Industrial Commission considers this important rule revision.

Respectfully submitted,



Ohio Self-Insurers Association



Ohio Council of Retail Merchants



National Federation of Independent Businesses



The Ohio Manufacturers' Association



Ohio Business Roundtable



Ohio Farm Bureau

TO: OMA Government Affairs Committee
FROM: Lindsey Short
SUBJECT: Tax & Finance Public Policy Report
DATE: September 11, 2024

Overview

Last year, significant tax policy changes were incorporated into the operating budget to drastically reduce the Commercial Activity Tax (CAT) base. A pair of companion bills in the House and Senate have since been proposed that would take even further steps to shrink Ohio's tax revenue base, including phasing out Ohio's income tax and repealing the remainder of the Commercial Activity Tax.

Property tax continues to be an item of discussion for the legislature through their Joint Committee on Property Tax Review and Reform. This committee was created under a provision included in the operating budget last year. It has been directed to review the history of Ohio's property tax system, including levies, exemptions, and local subdivision budgeting. The committee is required to submit a report to the General Assembly by Dec. 31, 2024 making recommendations on property tax law. The committee co-chairs agreed that any legislation introduced as a result of the committee's work would represent incremental changes to provide short-term relief rather than a comprehensive overhaul.

Prior to the legislature's summer recess, policymakers passed a \$6.2 billion spending package, making it the largest Capital Budget in state history. The package contained \$3.5 billion in new capital appropriations, \$700 million in one-time funding for a variety of local initiatives, \$150 million for community projects, and more than \$2 billion in reappropriations to continue previously authorized project spending. Among the OMA supported projects that received funding was the Butler County Advanced Manufacturing Hub, a collaboration between Miami University, Butler Tech, the Butler County Board of Commissioners, and the City of Hamilton.

State Revenues

As the governor's administration prepares to put together their next operating budget next year, missed Fiscal Year 24 revenue projections are expected to be factored into their allocations. Although state officials say the state is in a "solid" financial position despite state tax revenues coming in \$485 million less than expected in FY24, lawmakers and budget officials report that the next state budget will be "a little tighter."

Budget Director Kim Murnieks told the newspaper that she expects a return to a "normal budget" after the spending and revenue impacts of the COVID-19 pandemic have "run their course."

Tax & Finance Legislation

Flat Income Tax Rate

Under House Bill 1, Ohioans would pay nothing on the first \$26,050 they earn and 2.75% on everything above that amount. House Bill 1 would result in a significant cut in the amount of taxes the state takes in. To accommodate this reduction, the bill proposes eliminating approximately \$1.2 billion per year in payments to schools and local governments. This bill has not seen any movement since last spring.

Affordable Housing Tax Credit

Last General Assembly, the OMA testified in support of a bill that would leverage an existing federal housing tax credit, the Low Income Housing Tax Credit (LIHTC) program, and draw federal resources to help meet affordable housing needs. A similar bill has been introduced this General Assembly, House Bill 3, in another effort by the bill sponsors to enact the tax credit into law.

The OMA provided testimony in support of HB 3 to the House Economic and Workforce Development Committee earlier this General Assembly, although the bill has stalled since last year.

Other affordable housing initiatives have moved forward as the budget bill included \$100 million for affordable rental housing units and \$50 million for single-family homes.

Tax Credits for Hiring Veterans

A bipartisan proposal, House Bill 53, has been introduced in the House that would authorize refundable tax credits for hiring veterans, service members, and their spouses.

Limiting Late Fees for Municipal Income Tax Returns

The House passed House Bill 105, which would establish a one-time \$25 penalty for failure to timely file local income tax returns. Current law allows for a penalty of \$25 each month that a taxpayer fails to file a required return for up to \$150 for each return.

This bill has not seen any movement since it passed the House last year.

Bonus Depreciation

House Bill 116 proposes to allow taxpayers to deduct in a single year the full bonus depreciation and enhanced expensing allowances the taxpayer deducts for federal income tax purposes. This bill was included in the House's version of the operating budget, but was ultimately removed before being enacted into law. HB 116 has not moved since last year after being voted out of House Ways and Means Committee.

Simplifying Taxes for Remote Employees

The House unanimously passed House Bill 121, which would allow businesses employing remote workers to elect a streamlined method of apportioning their net-profits tax collected by municipalities, has passed unanimously out of House Ways and Means Committee. OMA testified in support of this legislation as it would reduce employers' administrative burdens and compliance costs. Income tax withholdings would not be affected under this legislation.

The Senate has not yet held any hearings on the bill.

Ohio Homeowners Relief Act

House Bill 187, along with its companion bill (Senate Bill 153), as introduced would have required the tax commissioner to work with local elected officials and weigh the past three years of sales data to determine a property's value as opposed to the most recent year's data.

Prior to the bill's passage in the House, the Ways and Means Committee added language to include CAUV (Current Agricultural Use Value) property to value farmland based on its agricultural use.

The Senate Ways & Means Committee significantly modified the bill in December prior to passing it. The committee revised the bill to remove the three-year averaging mandate and instead

expanded the homestead exemption to reduce property taxes for seniors. The homestead exemption language is a hybrid of several proposals currently pending in both chambers.

The House has not concurred to the Senate's changes. Instead, the legislature continues to evaluate the topic of property taxes through the new Joint Committee on Property Tax.

Prompt Pay

The House passed legislation last year, House Bill 203, that would allow the state to set terms in a private contract. Under this legislation, owners of private construction projects (including manufacturers that are building, improving, or maintaining facilities in Ohio), would be required to pay contractors within 30 days or face an 18% interest rate plus attorneys' fees.

The OMA was joined by the Ohio Hospital Association in testimony to oppose the bill last year. The Senate recently gave the bill a first hearing prior to the summer recess in June.

Diesel Tax Increase Suspension

Senate Bill 48 would suspend the additional diesel tax increase enacted as a part of the transportation budget in 2019. The provision increased the tax on diesel fuel by 19 cents per gallon. The bill sponsor noted his intention with this legislation is to bring this 19 cent increase to 10.5 cents per gallon to make the tax equal to that of gasoline as before the 2019 increase, gasoline and diesel were taxed at the same rate. This bill has only received a first hearing in Senate Transportation Committee so far.

Property Tax Requirement/Prohibitions

A bipartisan pair of senators have introduced a bill, Senate Bill 186, to require payment of property taxes and assessments when a lot is split and to prohibit tax-delinquent property owners from purchasing tax-foreclosed property.

The bill has been supported by county treasurers and was passed by the Senate in June.

Income Tax Phase Out

A pair of companion bills, House Bill 386 and Senate Bill 216, were introduced and referred to each chamber's Ways and Means Committee. These bills would phase out the state income tax on nonbusiness income over six years and repeal the Commercial Activity Tax after 2029. The two bills differ slightly in their approach to the timeline for the proposed tax cut. HB 386 would collapse the income tax into a single bracket of 1.17% in 2028 with a full phase out by 2030, while SB 216 would consolidate Ohio's two brackets into one at 2.7% in 2026 with a full phase-out by 2030.

The income tax, Ohio's second-largest revenue source, currently brings in nearly \$11 billion to the state and the Commercial Activity Tax accounts for over \$2 billion in revenue. HB 386 recently received a hearing in House Ways and Means Committee, where the sponsor fielded many questions about the gap of revenue the bill would create. Rep. Mathews responded that part of the solution to replace the revenue lost would be the right-sizing of government, and that Ohio could look to other states without an income tax and emulate their policies. However, a specific solution has not been clarified or inserted into the pending legislation.

Manufacturing Technologies Assistance Program

The OMA has been working with a pair of bill sponsors on legislation that would create the Ohio Manufacturing Technologies Assistance Program (MTAP), House Bill 435. This program would assist small to medium-sized manufacturers by providing grants of up to \$150,000 for investing

in modern smart technologies, machinery, equipment, and training. It is designed to enhance productivity, efficiency, and competitiveness in Ohio's manufacturing industry.

HB 435 received a hearing for proponent testimony in House Finance Committee in June. Several OMA members testified before the Ohio House Finance Committee to support the bill, including Ethan Karp from MAGNET, John Holeman from TOSOH SMD, and Dale Foerster from Starr Manufacturing

Child Care Tax Credits

Several bills were recently introduced to address tax credits for employers, parents and contributors to child care programs in an attempt to help alleviate the shortage of services and their costs. The employer measure, House Bill 576, would authorize a nonrefundable tax credit for an employer that provides certain child care benefits to its employees. This credit, which is proposed for up to \$500,000 of eligible expenses per year, can be claimed against the commercial activity tax, income tax, motor fuel supplier tax, domestic or foreign insurance company tax, public utility excise taxes, or financial institutions tax.

Senate Select Committee on Housing

The Senate created the Select Committee on Housing to explore what additional steps the state needs to take to encourage home ownership. Topics such as rentals, low-income housing tax credits, workforce housing, affordable housing, and zoning and property taxes are being discussed under the committee.

The Select Committee recently developed a report that includes 23 solutions for growing the supply and lowering the prices of housing. These recommendations includes encouraging the Department of Development to create an Ohio Housing Dashboard and Ohio Housing Toolkit, creating an Ohio Housing Capacity Building Grant Fund to provide incentives to communities to build responsible density and act as a resource to address housing challenges, and to consider expanding the Welcome Home Ohio Program to incorporate more eligible buyers and additional types of homes.

Several bills have been introduced that reflect additional ideas from the committee, including SB 246, which would rename the Department of Development as the Department of Housing & Development and SB 243, to declare the General Assembly's intent to enact legislation addressing local zoning regulations impeding housing development.

President Huffman has commented that the 23 recommendations would not occur in the near term as there are not many sessions remaining in this General Assembly and that some may need to be introduced over the next few years.

Meanwhile, a bipartisan pair of House representatives introduced their plan to eliminate the non-business credit for non-resident property owners and instead use those resources to help local governments grow the housing supply. House Bill 499 would create a new housing fund providing grants to local governments that choose to implement at least three of 12 pro-housing policies.

First All Ohio Future Fund Site Selected

Last month, Governor Mike DeWine announced the first location for future economic development with support from the new All Ohio Future Fund.

The 1,000 acre site in Defiance County will be the location that receives more than \$14.6 million to install critical infrastructure at the Baltimore Avenue Industrial Corridor in Defiance, with the goal of attracting major corporations that are looking for project-ready property.

The All Ohio Future Fund, which was a key priority for the OMA in the state budget, was first announced at DeWine's 2023 State of the State Address and is designed to ensure that every region of the state prospers from Ohio's current economic revival.

Tax & Finance News

[Click here for Tax & Finance Community articles from previous Leadership Briefings](#)

Taxation Legislation

Prepared by: The Ohio Manufacturers' Association
Report created on September 9, 2024

- HB1 PROPERTY, INCOME TAX CHANGES (MATHEWS A) To modify the law regarding property taxation and income tax rates.
Current Status: 4/25/2023 - House Ways and Means, (Seventh Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-HB-1>
- HB2 STATE FUNDING-CAPITAL APPROPRIATIONS (CUTRONA A, UPCHURCH T) To provide authorization and conditions for the operation of certain state programs, to make capital appropriations and reappropriations for the biennium ending June 30, 2026, to make other appropriations, and to declare an emergency.
Current Status: 6/28/2024 - SIGNED BY GOVERNOR; eff. immediately
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-HB-2>
- HB3 AFFORDABLE HOUSING TAX CREDIT (PAVLIGA G, MCNALLY L) To authorize a nonrefundable tax credit for the construction or rehabilitation of certain federally subsidized rental housing and to authorize a uniform method for the tax valuation of most such housing.
Current Status: 6/13/2023 - SUBSTITUTE BILL ACCEPTED, House Economic and Workforce Development, (Fifth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-HB-3>
- HB23 TRANSPORTATION BUDGET (EDWARDS J) To make appropriations for programs related to transportation for the biennium beginning July 1, 2023, and ending June 30, 2025, and to provide authorization and conditions for the operation of those programs.
Current Status: 3/31/2023 - SIGNED BY GOVERNOR; eff. 3/31/23
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-HB-23>
- HB33 FY24-25 OPERATING BUDGET (EDWARDS J) To make operating appropriations for the biennium beginning July 1, 2023, and ending June 30, 2025, to levy taxes, and to provide authorization and conditions for the operation of state programs.
Current Status: 1/24/2024 - Consideration of Governor's Veto; Senate Overrides Veto, Vote 24-8
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-HB-33>
- HB53 VETERAN HIRING TAX CREDITS (SCHMIDT J, MILLER A) To authorize refundable tax credits for hiring certain veterans, service members, and their spouses.
Current Status: 6/13/2023 - House Ways and Means, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-HB-53>
- HB105 MUNICIPAL INCOME TAX RETURNS EXTENSIONS (THOMAS J) To modify the law regarding extensions for filing municipal income tax returns and to limit penalties for late filings.
Current Status: 5/31/2023 - Referred to Committee Senate Ways and Means

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-HB-105>

- HB116 TAXPAYER DEDUCTIONS (PETERSON B, CLAGGETT T) To allow taxpayers to deduct in a single year the full bonus depreciation and enhanced expensing allowances the taxpayer deducts for federal income tax purposes.
Current Status: 5/2/2023 - REPORTED OUT, House Ways and Means, (Fourth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-HB-116>
- HB121 REMOTE WORKERS - MODIFIED MUNICIPAL INCOME TAX (ROBB BLASDEL M, MATHEWS A) To allow businesses with remote workers to use a modified municipal income tax apportionment formula.
Current Status: 6/21/2023 - Referred to Committee Senate Ways and Means
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-HB-121>
- HB125 TAX DEDUCTIONS - 529 PLANS (MATHEWS A, SANTUCCI N) To modify the income tax deductions for contributions to 529 plans and ABLE accounts.
Current Status: 6/6/2023 - REPORTED OUT, House Ways and Means, (Fourth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-HB-125>
- HB187 PROCEDURES FOR PROPERTY TAX VALUES (HALL T, BIRD A) To make changes to the law governing real property valuation and tax complaints, to temporarily modify the computation of the homestead exemption, to abate property taxes on certain municipal and community improvement corporation property, to make an appropriation, and to declare an emergency.
Current Status: 12/6/2023 - PASSED BY SENATE; Vote 31-0, Emergency Clause 29-2
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-HB-187>
- HB189 SALES TAX EXEMPTION - FIREARMS (CUTRONA A) To exempt from the sales and use tax the sale of certain firearms and ammunition and to authorize refundable tax credits for small arms and ammunition manufacturing projects.
Current Status: 10/3/2023 - House Ways and Means, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-HB-189>
- HB200 PASS-THROUGH ENTITY TAXES (CALLENDER J, YOUNG T) To modify the income tax treatment of income subject to other states' pass-through entity taxes.
Current Status: 6/27/2023 - House Ways and Means, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-HB-200>
- HB203 TIMELY PAY OF CONTRACTORS (ROEMER B, SWEENEY B) To require owners of private construction projects to timely pay contractors.
Current Status: 6/26/2024 - Senate Workforce and Higher Education, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-HB-203>

- HB324 TAX CREDIT FOR HIGH-ETHANOL BLEND MOTOR FUEL (MCCLAIN R, KLOPFENSTEIN R) To temporarily authorize a nonrefundable tax credit for the retail sale of high-ethanol blend motor fuel.
Current Status: 6/25/2024 - Senate Ways and Means, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-HB-324>
- HB344 PROPERTY TAX LEVIES, COMPLAINTS (MATHEWS A, HALL T) To eliminate the authority to levy replacement property tax levies and to modify the law governing certain property tax complaints.
Current Status: 4/30/2024 - SUBSTITUTE BILL ACCEPTED & REPORTED OUT, House Ways and Means, (Sixth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-HB-344>
- HB386 PHASE OUT STATE INCOME TAX (MATHEWS A, LAMPTON B) To phase-out the state income tax on nonbusiness income over six years and to repeal the commercial activity tax after 2029.
Current Status: 5/14/2024 - House Ways and Means, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-HB-386>
- HB402 PROPERTY TAX REDUCTION (SCHMIDT J) To authorize a property tax reduction in 2023 for properties with increased tax liability relative to 2022.
Current Status: 4/2/2024 - Referred to Committee House Ways and Means
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-HB-402>
- HB406 BLOCKCHAIN BASICS ACT (DEMETRIOU S) To prohibit certain state and local government actions respecting digital asset mining, to exempt certain digital currency transactions from state and local income taxes, to prohibit local charges on digital assets, to require the state retirement systems to evaluate certain digital asset investments, and to name this act the Ohio Blockchain Basics Act.
Current Status: 5/21/2024 - House Financial Institutions, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-HB-406>
- HB435 MANUFACTURING TECHNOLOGIES GRANTS (SANTUCCI N, DEMETRIOU S) To create the manufacturing technologies assistance grant program and make an appropriation.
Current Status: 6/18/2024 - SUBSTITUTE BILL ACCEPTED, House Finance, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-HB-435>
- HB447 EXPAND PROPERTY TAX HOMESTEAD EXEMPTIONS (LOYCHIK M) To modify and expand property tax homestead exemptions, to gradually reduce school districts' 20-mill floor, and to modify the formula for determining farmland's current agricultural use value.
Current Status: 4/2/2024 - Referred to Committee House Ways and Means
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-HB-447>

- HB496 PROPERTY TAXES, COUNTY AUDITORS (HOOPS J) To revise the law governing property taxes and county auditors.
Current Status: 6/26/2024 - PASSED BY HOUSE; Vote 95-0
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-HB-496>
- HB499 HOUSING GRANTS; REVISE PROPERTY LAW (ISAACSOHN D, MATHEWS A) To create grant programs for housing developments near megaprojects and for townships and municipalities that adopt pro-housing policies, to modify the community reinvestment area law relating to residential property, and to limit the 10% nonbusiness property tax credit.
Current Status: 6/11/2024 - House Government Oversight, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-HB-499>
- HB543 TAX DELINQUENCY SALE REQUIREMENTS (BLACKSHEAR W, WILLIS B) To require payment of property taxes and assessments when a lot is split or transferred and to generally prohibit tax-delinquent property owners from purchasing tax-foreclosed property.
Current Status: 5/21/2024 - Referred to Committee House Ways and Means
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-HB-543>
- HB576 TAX CREDITS FOR EMPLOYER-PROVIDED CHILD CARE EXPENDITURES (WHITE A, ABRAMS C) To authorize nonrefundable tax credits for certain employer-provided child care expenditures.
Current Status: 6/11/2024 - House Ways and Means, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-HB-576>
- HB577 TAX CREDIT FOR CHILD CARE EXPENSES (WHITE A) To authorize a refundable income tax credit for certain child care expenses.
Current Status: 6/11/2024 - House Ways and Means, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-HB-577>
- HB578 TAX CREDIT FOR CONTRIBUTIONS TO CHILD CARE PROGRAMS (WHITE A) To authorize a nonrefundable income tax credit for contributions to certain child care programs.
Current Status: 6/11/2024 - House Ways and Means, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-HB-578>
- HB645 PROPERTY TAX REBATE (ISAACSOHN D, HALL T) To authorize a refundable income tax credit or rebate for homeowners and renters whose property taxes or a portion of their rent exceed five per cent of their income.
Current Status: 7/29/2024 - Introduced
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-HB-645>
- SB3 COMMUNITY REVITALIZATION PROGRAM (SCHURING K) To create the Ohio Community Revitalization Program, authorizing nonrefundable income tax credits for undertaking community projects.

Current Status: 1/17/2023 - Referred to Committee Senate Ways and Means

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-SB-3>

- SB4 FILM, THEATER TAX CREDITS (SCHURING K) To modify the film and theater tax credit and to authorize a tax credit for capital improvement projects relating to the film and theater industries.
Current Status: 5/24/2023 - Senate Ways and Means, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-SB-4>
- SB10 INTERNAL REVENUE CODE CHANGES (BLESSING III L) To amend section 5701.11 of the Revised Code and to amend Sections 225.12, 265.10, 265.20, and 701.10 of H.B. 45 of the 134th General Assembly to expressly incorporate changes in the Internal Revenue Code since February 17, 2022, into Ohio law, to make changes to the Emergency Rental Assistance program, to revise an existing earmark, to modify the requirements for a temporary arts economic relief grant program, and to declare an emergency.
Current Status: 3/15/2023 - SIGNED BY GOVERNOR; eff. immediately
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-SB-10>
- SB48 TAX REDUCTION-MOTOR FUEL (HUFFMAN S) To reduce the tax rate on certain motor fuel.
Current Status: 2/28/2023 - Senate Transportation, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-SB-48>
- SB74 ELECTRONIC TAX PAYMENTS, STATE TREASURER (GAVARONE T) Regarding the Treasurer of State and the electronic payment of taxes.
Current Status: 6/7/2023 - Referred to Committee House State and Local Government
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-SB-74>
- SB75 JEDD FORMATION REQUIREMENTS (BLESSING III L) To allow two or more municipalities to create a joint economic development district without involving a township.
Current Status: 4/16/2024 - House Economic and Workforce Development, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-SB-75>
- SB82 TAX-EXEMPT RETAILERS-EMPLOYMENT (REYNOLDS M, INGRAM C) To allow certain tax-exempt retailers to retain a portion of state sales taxes to fund employment services.
Current Status: 3/29/2023 - Senate Ways and Means, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-SB-82>
- SB124 TAX CHANGES-FIREARMS, AMMUNITION (SCHAFFER T) To exempt from the sales and use tax the sale of certain firearms and ammunition and to authorize nonrefundable tax credits for small arms and ammunition manufacturers.
Current Status: 10/3/2023 - Senate Ways and Means, (First Hearing)

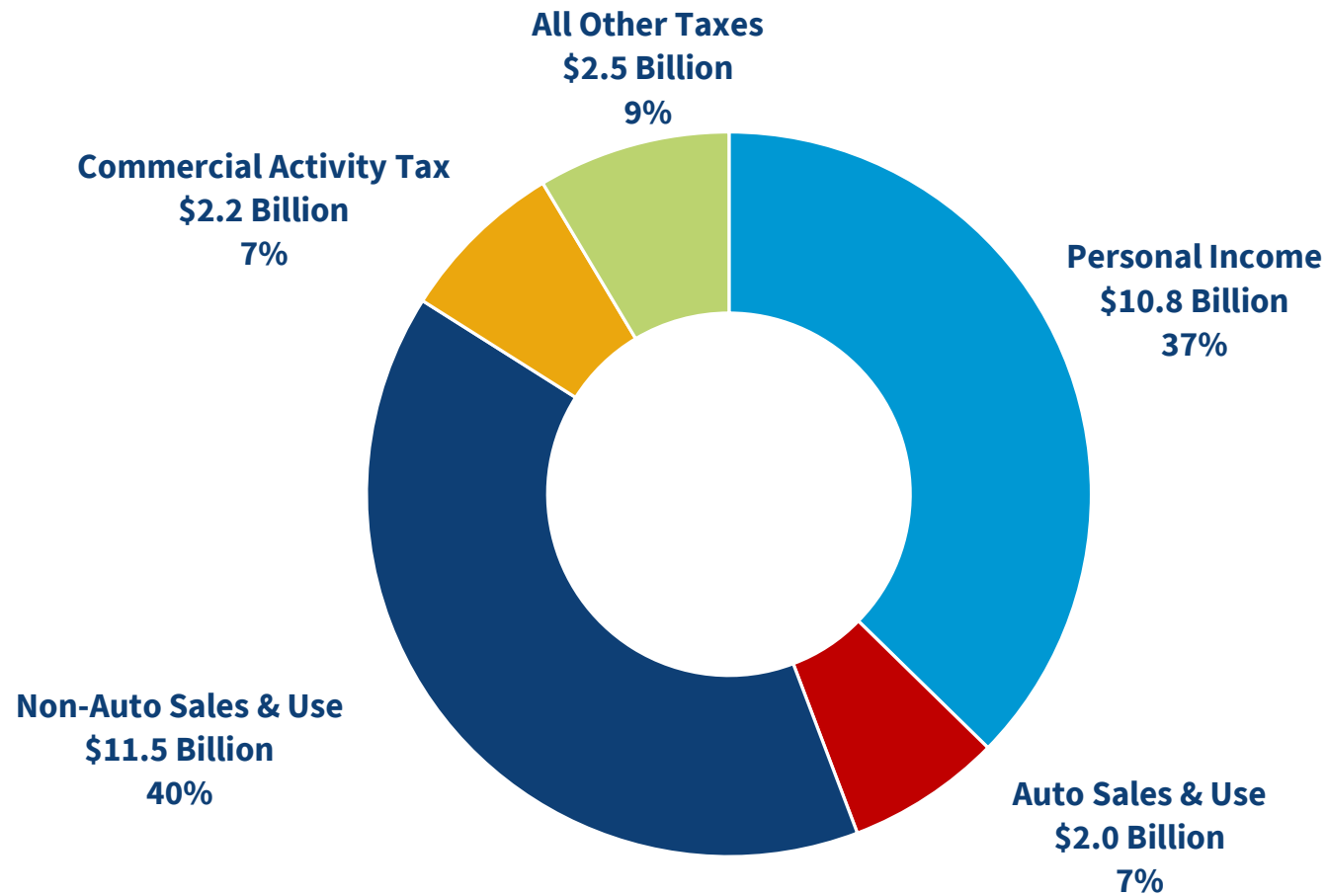
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-SB-124>

- SB153 TEMPORARY TAX VALUATION CHANGES (LANG G, JOHNSON T) To temporarily modify the method for valuing farmland and other real property for tax purposes.
Current Status: 10/11/2023 - Senate Ways and Means, (Fourth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-SB-153>
- SB186 PROPERTY TAX REQUIREMENTS, PROHIBITIONS (BLESSING III L, INGRAM C) To require payment of property taxes and assessments when a lot is split or transferred and to generally prohibit tax-delinquent property owners from purchasing tax-foreclosed property.
Current Status: 6/18/2024 - Referred to Committee House Ways and Means
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-SB-186>
- SB216 STATE INCOME TAX-PHASE OUT (LANG G, HUFFMAN S) To phase-out the state income tax on nonbusiness income over six years and to repeal the commercial activity tax after 2029.
Current Status: 1/24/2024 - Referred to Committee Senate Ways and Means
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-SB-216>
- SB246 RENAME DEPARTMENT TO HOUSING AND DEVELOPMENT (REYNOLDS M, CRAIG H) To rename the Department of Development the Department of Housing and Development and to otherwise modify the law related to housing, and to amend the versions of sections 3742.32 and 5104.30 of the Revised Code that are scheduled to take effect January 1, 2025, to continue the changes after that date.
Current Status: 4/24/2024 - Referred to Committee Senate General Government
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-SB-246>
- SB256 MINIMUM WAGE-EITC (BLESSING III L) To modify the state's earned income tax credit, to increase the basic state minimum hourly wage, and to declare an emergency.
Current Status: 5/22/2024 - Senate Ways and Means, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-SB-256>
- SB271 AUTHORIZE TAX CREDIT-HOUSING BASED ON INCOME (BLESSING III L, CRAIG H) To authorize a refundable income tax credit or rebate for homeowners and renters whose property taxes or a portion of their rent exceed five per cent of their income.
Current Status: 6/25/2024 - Senate Ways and Means, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-SB-271>
- SB273 ESTABLISH CHILD CARE CRED PROGRAM (REYNOLDS M) To establish the Child Care Cred Program and to make an appropriation.
Current Status: 6/12/2024 - Senate Workforce and Higher Education, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-SB-273>

- SB276 MODIFY TAX CREDITS-RURAL BUSINESS GROWTH PROGRAM (CIRINO J, CHAVEZ B) To modify the availability of and eligibility for tax credits awarded under the rural business growth program.
Current Status: 6/25/2024 - Senate Ways and Means, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-SB-276>
- SB283 MODIFY FILM PRODUCTION TAX CREDIT (SCHURING K) To modify the film and theater production tax credit and to repeal the film and theater capital improvement tax credit.
Current Status: 6/11/2024 - Referred to Committee Senate Ways and Means
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-SB-283>
- SB291 LOGISTICS BUSINESS TAX EXEMPTIONS (WILKIN S, LANG G) To exempt from sales and use tax items purchased by a logistics business to transport manufactured products, general merchandise, and grocery products.
Current Status: 6/12/2024 - Referred to Committee Senate Ways and Means
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-SB-291>
- SCR10 CONDEMN CORPORATE TRANSPARENCY ACT (LANG G) To condemn the Corporate Transparency Act and to ask that Congress repeal the Act on the grounds that it places burdensome and unreasonable requirements upon small businesses.
Current Status: 12/13/2023 - Referred to Committee Senate Small Business and Economic Opportunity
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA135-SCR-10>

Fiscal year 2023 Tax Revenues

\$28.9 Billion = \$994 million (3.6%) above estimates





March 19, 2024

Director Lydia Mihalik
Ohio Department of Development
77 S. High St., 29th Floor
Columbus, Ohio 43215

Dear Director Mihalik,

Representing approximately 1,300 manufacturers across Ohio, The Ohio Manufacturers' Association (OMA) has been dedicated to protecting and growing manufacturing for more than 100 years. Ohio's manufacturing industry is responsible for over \$133 billion of the state's Gross Domestic Product – greater than the contribution of any other Ohio private industry sector. Ohio's manufacturing competitiveness determines the state's economic growth, job creation, and business investment.

A robust economy requires a diverse population of workers with technical skills who can think critically and work collaboratively. Sustained growth in manufacturing productivity will require a new generation of tech-savvy, flexible workers. As the Ohio Innovation Hubs Program seeks to increase talent and build upon the state's existing legacy industries, the OMA writes in support of Butler County Advanced Manufacturing Hub's application for the Innovation Hub designation.

Butler Tech and Miami University are leading a unique effort to establish the Butler County Advanced Manufacturing Hub (the Hub). A collaboration among Miami University, Butler Tech, the Butler County Board of Commissioners, and the City of Hamilton, the Hub will support the county's leading industry and bolster the region's strong manufacturing base. The Hub will also serve the needs of the students, the manufacturers, and Ohio through education, workforce training, and industry research.

The Hub will connect faculty and students from both institutions with Ohio's manufacturing companies to solve real-world problems. Industry employers working with nationally recognized education institutions will provide students with hands-on training on modern and cutting-edge technologies that are driving Ohio's manufacturing industry. Students will be prepared to enter the workforce with the immediate opportunity for career growth while being exposed to the region's leading manufacturers. To date, over 20 manufacturing employers have agreed to have a presence at the facility. Through this applied and integrated process, the Hub will strengthen the manufacturing pipeline in Southwest Ohio.

The OMA supports the Hub's application to the Ohio Innovation Hubs Program to help train, educate, and build the workforce of tomorrow for Ohio's number one industry.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ryan Augsburger".

Ryan Augsburger
President
The Ohio Manufacturers' Association



Ohio's Economic
Development Corporation

Ohio Tops Nation for Infrastructure and Economic Development Investment

State ranks #1 in Site Selection Magazine's Global Groundwork Index for second straight year

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Columbus, OH, Sept. 03, 2024 (GLOBE NEWSWIRE) -- Governor Mike DeWine, Lt. Governor Jon Husted, the Ohio Department of Development, and JobsOhio are proud to announce that for the second straight year, Ohio has been ranked Number One in the Global Groundwork Index by [Site Selection](#) magazine, based on a comprehensive analysis of job creation, capital expenditures, and strategic infrastructure development from 2020 through July 2024.

"Ohio continues to lead the nation in the Global Groundwork Index because our public sector infrastructure investments lay the groundwork for economic growth," said Ohio Governor Mike DeWine. "We're preparing large-scale sites for industrial development, expanding our skilled workforce, and fortifying our energy, telecom, transportation, and water infrastructure so that Ohio is always at the top of the list for businesses looking to start up or expand."

Ohio's top ranking, determined by the convergence of public infrastructure development and private-sector business expansion, underscores why Ohio has risen five slots to be a Top 7 state for Business in CNBC's 2024 rankings. When companies choose Ohio, they benefit from visionary public investments,

“In Ohio, we are proud of the fact that we produce the essential goods that people need to live and thrive, and we are committed to proving that ‘Made in Ohio’ is an important part of ‘Made in America,’” said Ohio Lt. Governor Jon Husted. “Team Ohio has deployed an aggressive strategy to improve infrastructure, including roads and bridges, broadband and 5G, water and sewer, brownfield and demolition funding, and other targeted investments to make sure that we are ready to support the growth of new and existing businesses.”

Site Selection's Global Groundwork Index (GGI) methodology is in its seventh year. GGI cumulative and per-capita calculations for corporate end-user facility investment projects were based on Conway Projects Database projects, project-affiliated job creation, and project-affiliated capital expenditure, Jan. 2020 through July 1, 2024. Cumulative and per-capita calculations for public infrastructure were based on project and funding data from the Bipartisan Infrastructure Law (BIL) Maps Dashboard. (Retrieved from <https://d2d.gsa.gov/report/bipartisan-infrastructure-law-bil-maps-dashboard>)

Working as a public/private economic development team, Ohio generated more than 94,310 new job commitments and \$65.2 billion in capital investments based on JobsOhio data from 2020 through 2024. Major metropolitan areas also showed stellar performance in Site Selection's top metropolitan ranking, with Columbus (No. 3) and Cincinnati (No. 4) securing Top 5 positions nationally.

"Ohio makes things, moves things and maintains the core necessities for any company looking to locate – suitable sites, superb talent, sustainable infrastructure, safe communities and a superior quality of life," said J.P. Nauseef, JobsOhio president and CEO. "Ohio has that balance, and it has tipped the scales in favor of high-profile investments from Abbott, Amgen, Ford, GM, the Honda-LG Energy Solution joint venture, Intel, Medpace, Sierra-Nevada, and many others.

Ohio's No. 1 Global Groundwork Index ranking," Mr. Nauseet added. "Yet, smaller companies are thriving here, too, as JobsOhio's private investments in innovation districts, data centers, broadband networks, airline service, small businesses and vibrant communities enhance Ohio's business climate and quality of life.

"We really do have it all in the heart of it all," Mr. Nauseef concluded.

For additional insights into Ohio's rise to the top and why businesses gravitate toward the Buckeye State, [visit the JobsOhio website](#).

About JobsOhio

JobsOhio, Ohio's private nonprofit economic development corporation, enhances company growth and personnel development through business attraction, retention, and expansion across ten competitive industry sectors. With a team of seasoned professionals, JobsOhio utilizes a comprehensive network to foster talent production in targeted industries and attract talent through [Find Your Ohio](#). Collaborating with seven regional partners, including [Dayton Development Coalition](#), [Lake to River Economic Development](#), [Ohio Southeast Economic Development](#), [One Columbus](#), [REDI Cincinnati](#), [Regional Growth Partnership](#), and [Team NEO](#), JobsOhio delivers world-class customer service to provide companies with a competitive advantage. Learn more at www.jobsohio.com. Follow us on [LinkedIn](#), [Twitter](#) and [Facebook](#).

For more information, contact:

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