

# Government Affairs Committee

February 26, 2014

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**2014 Government Affairs  
Committee Calendar**  
*Meetings will begin at 9:30 a.m.*

**Wednesday, Feb. 26, 2014**  
**Wednesday, May 28, 2014**  
**Wednesday, Aug. 20, 2014**  
**Wednesday, Dec. 3, 2014**

**OMA Government Affairs Committee Meeting Sponsor:**



**OMA Government Affairs Committee**  
February 26, 2014



**AGENDA**

- |  |  |
|--|--|
| <b>Welcome &amp; Self-Introductions</b>  | <b>Jeff Fritz of DuPont, OMA Committee Chair</b>   |
| <b>Federal Minute<br/>Brief Report on National Issues<br/>by National Partners</b> | <b>Amber Best of NewPage Corp., Regional Vice Chair NAM Ohio<br/>Region</b>                                    |
| <b>OMA Counsel's Report</b>  | <b>Kurtis Tunnell, Managing Partner, Bricker &amp; Eckler, LLP</b>   |
| <b>Staff Reports</b>   | <b>Ryan Augsburger, OMA Staff<br/>Rob Brundrett, OMA Staff<br/>Committee Members</b>                           |
| <b>Special Guest</b>   | <b>Merle Madrid, Office of Governor John Kasich<br/>Michael Miller, Director, Ohio Public Works Commission</b> |
| <b>Discussion / Action Agenda</b>  | <b>Member Discussion Encouraged Throughout Meeting</b>   |

Government Affairs Committee Meetings in 2014 begin at 9:30 a.m. and conclude by 1:00 p.m. Lunch will be served. Please RSVP to attend meetings by contacting Denise: [dlocke@ohiomfg.com](mailto:dlocke@ohiomfg.com) or (614) 224-5111 or toll free at (800) 662-4463. Indicate if you will be participating in-person or by phone.

**Thanks to Today's Meeting Sponsor:**



## **Public Policy “Hot Topics” February 26, 2014**

### **Overview**

Lawmakers returned to Columbus in mid-January. 2014 is a gubernatorial election year and lawmakers will try to complete business before the summer as issues become more politically charged in approach to the election.

Governor Kasich delivered his fourth State of the State address. See attached highlights. Top state issues include renewal / expansion of public works fund (SCR 6), behind the scenes work on a capital spending budget, and behind the scenes work on the mid-biennium review (MBR), which could be a vehicle for many different reforms.

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

Mid-term budget bills were ushered in by Governor Kasich in 2012. The upcoming MBR will include tax reform and workforce development reforms. Potentially significant changes to the commercial activity tax (CAT) are rumored as a means to fund personal income tax reductions. A working group of the OMA tax committee and government affairs committee will steer association stances on tax reforms. The MBR also can be a vehicle for unrelated, sometimes unfavorable law changes.

### **SB 58 / HB 302 Energy Efficiency Standards**

In late September, Senator Bill Seitz unveiled a substitute version of his bill to revise existing Ohio alternative energy standards. The standards apply to utility companies and require they achieve a specified amount of electricity from: 1) renewable sources; 2) customer energy efficiency, and 3) advanced energy. Following review and analysis of the bill for impact on the manufacturing sector, the OMA has been communicating strong opposition to the bill. The bill benefits utilities and denies customers of short-term and long-term term benefits. See energy section.

### **Workers' Comp & Industrial Commission**

The BWC is moving to prospective premium billing. The first 6 months of the new billing period will be paid by the BWC using surplus funds. The Bureau has been working to finish the timeline for the change. They are also preparing new legislation that would create a new type of coverage for companies who have workers temporarily working in other states.

### **Tax Policy**

The House introduced a new severance tax proposal in December. The bill has been the focus of a number of hearings in the House. A substitute version of the bill was accepted two weeks ago and a hearing this week is scheduled to include possible amendments. While a change to the severance tax is likely, most insiders feel it will be included in the MBR. The House version currently contains a CAT exclusion for pass through entities in the oil and gas industry.

House Bill 5, the municipal income tax uniformity bill was voted out of the House in November. The bill has been supported by the business community. The Senate has yet to hold a hearing on the bill. There is some discussion whether this might be folded into the MBR.

A slew of CAT attack bills have been introduced since the beginning of the year. These include CAT credits and deductions for a variety of things including food donations, hiring new employees, purchasing alternative vehicles and contributing to an economic development project. While some of these ideas may have good intentions driving them, the concern is that

any deduction or credit puts strain on the low rate. Increased pressure on the rate may entice legislators to raise that rate.

The MBR is expected to include the latest version of tax reform. The current speculation surrounds raising the CAT rate from .26% to .30% and increasing both the severance tax and some sin taxes in order to cut the personal income tax rate. The OMA will continue to monitor closely as the MBR is readied for introduction.

### **Civil Justice**

HB 238 (Rep. Jim Butler, R-Dayton) was introduced this summer to require public disclosure of most large contingency-fee contracts between government and personal injury attorneys. Known as the Transparency in Private Attorney Contracting (TiPAC) legislation is intended to address concerns about the propriety of contingency-fee arrangements for the prosecution of public claims. The OMA strongly supports the concept and will be advocating passage.

### **Elections**

The 2013 general election was clear of ballot issues but the 2014 election may be crowded and extra politically charged due to the statewide executive elections. Governor Kasich will face a challenge by Ed Fitzgerald, Cuyahoga County Executive. Other incumbent Republican statewide officeholders will face challengers. 2014 also marks term limits for House Speaker William G. Batchelder. See included table of candidates.

OMA election services will compile and election guide and track campaigns in 2014. A series of manufacturers' evenings are also scheduled throughout the year. Additionally OMA will update policy priority documents, statistical profile of Ohio manufacturing and publish the OMA election guide.

### **Environment**

The House Bill 592 solid waste rewrite appears to have stalled in phase two. Ohio EPA was hoping to have introduced legislation by now, but the agency has moved back its timetable on legislative introduction.

Ohio EPA's push for a comprehensive beneficial use program has also gone quiet. The agency promised draft permits by August or September and interested parties are still waiting to see what those permits might look like. The Director initially wanted to see rules ready by the end of the year but that timeframe no longer seems feasible.

The OMA joined the Partnership for a Better Energy Future, which is a national coalition, who's mission is to ensure the continued availability of reliable and affordable energy. The group was formed in response to the Obama administration's greenhouse gas regulatory agenda.

## Leadership

### Participate in Manufacturing Benchmarking Survey

Because the manufacturing story cannot be told often enough, the OMA has again agreed to support the McGladrey Manufacturing & Distribution Monitor survey.

[McGladrey](#) extensively communicates the results to the nation's media and government policymakers, amplifying our industry's successes and challenges to a very broad audience. 2013 media exposure included CNBC, Bloomberg News, MarketWatch, IndustryWeek, and more.

In 2013, the survey had more than 1,000 participants, resulting in a comprehensive, statistically robust, and valuable snapshot of industry.

The 2014 Monitor is expanded to include companies based outside the U.S., including in Mexico and Brazil.

The survey takes 15-20 minutes; participants receive their own benchmark report comparing responses to that of peers across the country, the global aggregate, and groupings of similar companies.

[Please click here to take the survey.](#) 2/17/2014

### Building the Future: Manufacturing's Software Revolution

This week Siemens' Motor Manufacturing Facility in Norwood hosted *The Atlantic* magazine's "Building the Future: Manufacturing's Software Revolution" summit.

Governor Kasich gave a keynote address at the event, and gave a preview of one item that'll be in his State of the State speech next week: "I don't want to step on my State of the State on Monday, but we are lowering the availability of vocational education to the 7th grade," Kasich said during his address. He also said that starting in April the state will publish a "virtual, online menu list" of "the most in-demand jobs" for students.

A recent \$30 million investment in automation and software at the Siemens Norwood plant resulted in a 50% increase in capacity, a 42% increase in productivity, and a 40% reduction in energy usage, providing a payback of less than 2 years.

At the event, Siemens announced a \$66.8 million in-kind, product lifecycle management (PLM) software

grant to Cincinnati State Technical and Community College. In May Siemens announced a similar in-kind grant to Youngstown State University (YSU). The value of the company's product lifecycle management system being used at YSU is \$440 million.

You can watch the summit [here](#).

### New Poll: Ohio for Clinton?

"Former Secretary of State Hillary Clinton sweeps the 2016 presidential field in Ohio as New Jersey Gov. Christopher Christie is stuck in traffic with other leading Republican contenders," according to a Quinnipiac University [poll](#) released today.

"Ohio voters say 55 - 39 percent that Clinton would make a good president. No Republican listed gets a positive score on this question," Quinnipiac finds.

"Of Republicans tested, Wisconsin's Paul Ryan runs best in Ohio against the former Secretary of State and Gov. John Kasich runs relatively well. But Mrs. Clinton remains far and away the leader at this point in Ohio," said Peter Brown, assistant director of the Quinnipiac University Polling Institute. 2/20/2014

### Ohio Steel Council Applauds U.S. Commerce Action on Chinese Pipe Dumping

The Ohio Steel Council this week [applauded](#) the U.S. Department of Commerce's decision to block Chinese Oil Country Tubular Goods (OCTG) producers from unfairly dumping their pipe products in the U.S. and in Ohio. With the new Department of Commerce's ruling, OCTG made in China and finished in other countries now will face existing trade enforcement penalties. OCTG products are used in the exploration and transportation of oil and natural gas and are produced in Ohio by at least three steel companies.

"We also want to thank Governor John Kasich, U.S. Sen. Sherrod Brown, D-Ohio and U.S. Sen. Rob Portman, R-Ohio for their tireless efforts in urging the Department of Commerce to rule in favor of domestic steel manufacturers on a petition regarding product coverage for duties ordered on OCTG from China," said Nucor's Brenda Schulz, president of the council. 2/13/2014

### Thinking about Merging or Acquiring?

From OMA Connections Partner, GBQ Partners: "Manufacturing is on the move — with sales, hiring and profits on the rise. Indeed, the challenge for many executives isn't how to improve

performance, but how to keep up with growing demand. Many firms are looking at mergers and acquisitions to bolster capabilities and to leverage new opportunities...

Unlike executives at larger organizations who occasionally encounter offers or meet with sellers, leaders of midmarket organizations have less experience in deciding how — or even if — they should proceed with an acquisition.”

GBQ provides a [framework](#) for thinking about M & A in your organization. 2/13/2014

### **Primaries Set After Filing Deadline**

The filing deadline was this week for candidates running for elected offices in Ohio.

Currently the General Assembly is held by a Republican majority in both chambers, 60-39 in the House and 23-10 in the Senate.

While the incumbents will receive strong campaign support from their respective parties, that has not stopped challengers from mounting primary contests.

Here's a complete [list](#) of the primary matchups for the House and Senate as well as the Supreme Court, statewide offices, and congressional seats. *Thank you to Hannah News for the content.* 2/6/2014

### **Central Ohio Manufacturing Resource Forum Meets February 24**

Recent studies show that many of central Ohio's 4,600 manufacturers are not fully leveraging the technical resources available to them that would increase the development, transfer and commercialization of advanced manufacturing technologies.

The Central Ohio Manufacturing Resource Forum will meet on Monday, February 24 at 4:00 p.m. in Columbus to inform manufacturers about readily available technical support resources. Here's more [information](#). 2/3/2014

### **MAGNET Releases 2013 Manufacturing Brief**

Anyone interested in what is happening economically in Northeast Ohio (NEO) will want to read the “[2013 Manufacturing Brief](#)” released by MAGNET. Researchers found: “In the post-recession years of 2010 to 2012, the manufacturing sector experienced a rebound, contributing the most to NEO's regional growth.”

Manufacturing drives NEO's economy: “In 2012, manufacturing in NEO accounted for 18.8% of gross regional product (GRP), significantly higher than the remainder of Ohio (16.1%) and nationally (12.0%). Manufacturing was the largest regional contributor to GRP with \$35.5 billion, more than \$14.2 billion higher than the second largest contributor, Real Estate and Rental and Leasing.”

And looking forward: “Two factors suggest sustained growth of the manufacturing sector in Northeast Ohio: continued national growth in exports and the development of the Utica Shale. In addition, several manufacturing industry groups were identified as industries that drive NEO's regional competitiveness.”

The research was conducted by the Center for Economic Development at Cleveland State University's Maxine Goodman Levin College of Urban Affairs. 2/3/2014

### **NAM to D.C.: Make Us a Can-Do Nation Again**

Anticipating this week's State of the Union address, Doug Oberhelman, chairman and CEO of Caterpillar, Inc. and current chairman of the National Association of Manufacturers' (NAM) board of directors, and Jay Timmons, president and CEO of the NAM, authored this [op-ed](#), outlining a five point agenda for strengthening American manufacturing. 1/27/2014

### **OMA's Annual Food Manufacturers & Suppliers Meeting is Feb. 25**

OMA members that manufacture food or supply food manufacturers are invited to the OMA's annual industry meeting [Wednesday, February 26](#) from 1:30 – 5:00 p.m., at the [OMA office](#), with dinner to follow.

The meeting will be chaired by Lee Anderson, Director, State & Local Government Relations, General Mills, Inc.

The agenda includes: The GMO labeling initiative that has been launched in Ohio; priorities of the Ohio Department of Agriculture, the state regulator of food and food processing; a report from Ohio EPA on the state's food scrap/organic recycling and food package recycling activity, and more.

A reception and dinner with Ohio Agriculture Department Director, David Daniels, and Senator Cliff Hite, Chair, Senate Agriculture Committee (invited), will follow the business meeting.

Contact OMA's [Dan Noreen](#) to learn more. RSVP to OMA's [Denise Locke](#) at (614) 629-6813. Please mention if you'll be able to stay for dinner. 1/28/2014

## Ohio 34<sup>th</sup> “Strongest” State

So says Politico Magazine in yet another ranking of the states. Politico says it “rounded up 14 different state [rankings](#) from reputable sources like the Census Bureau, the Centers for Disease Control and Prevention, and the FBI, and on important factors such as high school graduation rates, per capita income, life expectancy and crime rate. Then we averaged out each state’s 14 rankings to come up with a master list.”

New Hampshire ranked first, and Mississippi last. Michigan, by the way, ranked 36<sup>th</sup>. 1/28/2014

## Radically Reshaping Manufacturing

In a [video interview](#), a McKinsey director explains “next-shoring” and why dramatic changes in demand and technology, as well as in energy and labor costs, are forcing manufacturers to rethink production and distribution strategies.

From the interview: “It is both an exciting and confusing time for manufacturers. Radical changes in demand in emerging and developed markets coupled with advances in technology and a growing appetite for variety and flexibility are not only allowing but compelling companies to rethink where they manufacture. It’s not simply a matter of bringing back manufacturing from low-cost locations: companies must instead take a *next-shoring approach—deciding which products should be manufactured close to demand and which should be produced near an innovative supply base.*” 1/28/2014

## House Passes Infrastructure Spending Resolution

This week the Ohio House [passed](#) a resolution authorizing nearly \$2 billion in funding over 10 years for infrastructure improvement projects across the state.

Now having passed both chambers, [Senate Joint Resolution 6](#) goes to Ohio voters to determine if funding for the Ohio Public Works Commission will be renewed. The Commission provides financing for local government infrastructure improvements, including roads, bridges, solid waste and storm water treatment.

The issue will appear on the May 2014 ballot. 1/24/2014

## FitzGerald has New Running Mate

Last week democratic gubernatorial candidate Ed FitzGerald announced [Sharen Neuhardt](#) as his new running mate.

She replaces State Senator Eric Kearney who stepped down amid controversy.

Neuhardt, a lawyer from the Dayton area, is no stranger to campaigns; she has twice run unsuccessfully for Congress in southwest Ohio and is politically active in the region. 1/23/2014

## Governor's Economic Dashboard

Here's a new [one-page dashboard](#) from Governor Kasich's office that quantifies, among other measures, growth in jobs, wages, housing, and new businesses. 1/23/2014

## Portman to Address Feb. 7 NW Ohio Manufacturing Forum

The Northwest Ohio Manufacturing Forum, Friday, Feb. 7, 2014 from 8:30 a.m. to 1:30 p.m. at the Holiday Inn French Quarter, Perrysburg, Ohio, is designed to provide information and resources to companies for continued growth.

U.S. Senator Rob Portman will speak during the luncheon. Also on the agenda: Dr. Jim West, project manager for the 787 program at the Boeing Commercial Airplane Group in Seattle. Here's more [information](#) including a registration link. 1/23/2014

## Call to Action on Trade Promotion Authority Legislation

The National Association of Manufacturers (NAM) has issued an [action alert](#) for Trade Promotion Authority (TPA) legislation. TPA was last renewed in 2002 and expired in 2007.

The “Bipartisan Congressional Trade Priorities Act” has finally been introduced in both the House and the Senate. Now is the time to contact your members of Congress and Senators to urge passage of the measure. 1/16/2014

## Pew Predicts Ohio Rank of 33rd in 2014 Job Growth

Stateline has published an [interactive graphic](#) of projected job growth by state in 2014. All states are projected to see modest growth, ranging from last-place Illinois (+0.98%) to top-ranked North Dakota(+3.57%). Ohio ranks 33rd, with a projected growth rate of 1.47%, and about 76,000 jobs added.

Stateline predicts the year's best job-growth states will be North Dakota, Arizona, Texas, Colorado, Florida, Georgia, South Carolina, Oregon, Idaho, and Utah. The worst job growth states are predicted to be Illinois, Maine, Vermont, New York, Alaska, Massachusetts, Tennessee, New Hampshire, New Mexico, and Pennsylvania.

Stateline is a news service of the Pew Charitable Trusts. The map relies on data provided by Moody's Analytics. 1/16/2014

### **UPS® Program for OMA Members**

Members, even those who already have a UPS account, might save more through the OMA UPS Savings Program. Shipping discounts and services include:

- Up to 36% on UPS Air letters including UPS Next Day Air®\*
  - Up to 32% on UPS Air packages (1 lb.+)\*
  - Up to 34% on UPS International imports and exports
  - Up to 24% on UPS Ground shipments
  - Savings begin at 70% on UPS Freight LTL shipments over 150 lbs.
- \*Discounts exclude UPS Express Critical® and UPS Next Day Air® Early A.M®

Enroll and start saving [here](#) or call 1-800-MEMBERS (1-800-636-2377), M-F, 8 a.m. – 6 p.m. 1/13/2014

### **Public Works Expansion Aiming for May Ballot**

Both the Ohio House and Senate heard proponent testimony on a Kasich administration-backed proposal to extend and expand the State Capital Improvement Program (SCIP) which funds public works projects throughout the state, including roads, bridges, culverts, water supply and distribution systems, wastewater collection and treatment systems, waste disposal facilities and storm water systems.

Voter approval is required on bond financed public work expenditures. In order to be placed on the May ballot, legislative approval is needed by early February. House and Senate votes are expected by the end of January.

The resolutions would extend the SCIP for another 10-year period and increase borrowing authority to \$175 million in the first five years and \$200 million thereafter according to an [LSC fiscal note](#).

This week local governments and contractor groups expressed support for the measure. Governor Kasich's budget director, Tim Keen, also made the

case for the renewed and expanded bond fund in [testimony](#). 1/9/2014

### **Elected Leaders Outline 2014 Priorities**

Last month Ohio's elected leaders, Governor Kasich, Speaker Batchelder, and Senate President Faber, [met](#) with business leaders and reporters to recap 2013 and outline priorities for 2014.

The governor focused on improving Ohio's infrastructure, containing health care costs, reducing the income tax, and establishing new anti-drug abuse and poverty programs. Several of the initiatives have already been acted upon with the unveiling of an infrastructure bond proposal and the [announcement](#) this week of the youth drug abuse prevention initiative, "Start Talking." 1/9/2014

### **2014 Governor's Race Update**

Unexpectedly, tea party activist Ted Stevenot dropped his plans to challenge incumbent Governor John Kasich just three days after announcing his intent to do so. Thus, Kasich likely escapes a primary challenge from a tea party base.

Meanwhile Democrat Hamilton County Commissioner Todd Portune announced plans to challenge fellow Democrat Ed FitzGerald in the gubernatorial primary. According to [Politico](#), "Portune faces long odds against FitzGerald, who already has locked up the support of the Democratic establishment, including the state Democratic Party." 1/9/2014

### **Action Needed on Trade Promotion Authority**

A call to action from the National Association of Manufacturers (NAM):

Your action is needed to ensure swift approval of bipartisan Trade Promotion Authority (TPA) legislation, which will likely be introduced next month.

TPA is an essential partnership between Congress and the President that facilitates negotiation and approval of trade agreements.

Trade agreements negotiated under TPA are delivering for manufacturers across the country, opening new overseas markets, leveling the playing field, and providing better access to the 95 percent of the world's consumers who live outside our borders.

Go to NAM's [Advocacy Center](#) to send a quick email to legislators in support of TPA.

Visit the NAM's TPA Toolkit to research Ohio specific information [here](#). 12/19/2013

### **MAPI Released Q3 Report: An Accelerated Economy**

Manufacturers Alliance for Productivity and Innovation (MAPI) released its [Q3 report](#) that finds:

"Fortunately, the economy accelerated in the third quarter and our major export market overseas improved, so manufacturing production put together three months of continuous growth in August, September, and October..."

The manufacturing outlook for 2014 and 2015 calls for a percentage point acceleration in the growth rate each year. Consumer-driven manufacturing growth, however, will be relatively stable and supported by surprisingly robust employment growth. Households have low debt burdens and their wealth is rising because of higher stock prices and home prices. Importantly, no major tax increases are foreseen for the near term.

Business investment-driven manufacturing is responsible for the acceleration in production growth. Businesses are well positioned for making new investments in structures and equipment. Firms have low debt, are profitable, and have relatively high utilization rates. What has been lacking is more certainty about the future." 12/19/2013

### **Governor Intends to Expand Infrastructure Investments**

Governor John Kasich joined Senate President Keith Faber (R-Celina) and House Speaker Bill Batchelder (R-Medina) this week to announce a \$1.9 billion reauthorization of the "State Capital Improvement Program" for local public works.

The Republican leaders will move to reauthorize the capital improvement program through [Senate Joint Resolution 6](#), which will provide \$175 million in bonds annually for local public works projects over the first five years and \$200 million annually over the last five years.

The plan is for the legislature and governor to complete work on the resolution in January. 12/19/2013

### **Governor Looks Back at 2013 Accomplishments**

Governor John R. Kasich and Lieutenant Governor Mary Taylor this week [looked back](#) at the administration's accomplishments in 2013.

The governor "continued to make job creation Ohio's number one priority and build upon Ohio's improving economic revitalization and growing national reputation for its jobs-friendly business climate. Today, there are more Ohioans with a private sector job than at any time since 2008. And while much progress has been made since 2011 – including the creation of 174,800 private-sector jobs, higher incomes and a record number of new business filings – there is more work to be done."

The governor reviewed progress in the state budget, jobs, infrastructure, education, workforce development, public safety and protecting Ohio's most vulnerable citizens. 12/19/2013

### **Ohio House & Senate to Return Mid-January**

The House and Senate are both scheduled to return to full session in mid-January, according to a long-term schedule released by legislative leaders on Wednesday.

[The calendar](#) calls for the Senate to return to Columbus Jan. 14, and for the House to return to session Jan. 15.

Both chambers are set to adjourn for the summer by the end of May. 12/19/2013

### **Effort to Mandate Labeling of GMOs Comes to Ohio**

A group called "[Label the Truth Ohio](#)" held a meeting in late November in Toledo to organize volunteers around a possible ballot issue to mandate labeling of products containing genetically modified organisms (GMOs).

The group is organizing a petition drive to collect the needed 600,000 signatures to pursue an amendment to the Ohio constitution.

"Assuming they can collect the threshold of signatures, the issue could be on the general election ballot in 2014," said OMA's Ryan Augsburg. "The OMA will work with its food manufacturing, and other concerned, members to organize to defend against labeling mandates."

Email [Ryan Augsburger](#) to engage with the OMA on the issue. OMA will host a meeting of its food manufacturers on February 25 on this and other issues. 12/12/2013

### Remembering Jim McGregor



James B. McGregor, February 21, 1948 - December 20, 2011, was a longtime OMA director and chairman of the OMA board of directors from 2008-2010. This week, his wife Nancy, son Jamie, and daughter Jenni Cox and her husband Brock Cox, visited with the OMA board of directors to officially dedicate the McGregor conference room in the OMA offices. 12/11/2013

Other guests included Congressman Dave Hobson (Ret. R-OH), a longtime friend of the McGregor family, and Rep. Ross McGregor (R-Springfield), Jim's nephew.

OMA staff named the McGregor conference room in honor of Jim on behalf of all who volunteer their gifts for the love of manufacturing. Members and guests at the OMA can read about Jim and the history of the OMA on the special permanent signage in the OMA offices. 12/11/2013

*Pictured: Nancy McGregor and Jamie McGregor*

### General Assembly Wraps It Up for the Year

Following the Ohio Senate last week, the Ohio House of Representatives this week headed home for the holidays. House and Senate legislative schedules for 2014 have not yet been published, but both chambers are expected to be in session frequently until the May primary election. 12/12/2013

### JobsOhio: \$708M Capital Investment in Q3

Releasing its [Q3 update](#) this week, JobsOhio reported 61 projects for the quarter that resulted in 3,835 new jobs, \$174 million in new payroll, 6,161 retained jobs, \$309 million in retained payroll, and \$708 million in capital investment in the state.

The agency noted: "Foreign direct investment in Ohio has steadily increased over the last several years with the most significant investments occurring in the automotive, polymers, and advanced manufacturing industries. International companies support 190,000 Ohio jobs that offer average to above average wages. The top two countries investing and creating these jobs in Ohio are Japan and Germany." 12/11/2013

### Senate Dems Select New Leadership

This week the Ohio Senate Democratic Caucus [elected](#) a new leadership team. Sen. [Joe Schiavoni](#) (D-Boardman) was selected by his peers to assume the role of Minority Leader.

Senators [Eric Kearney](#) (D-Cincinnati) and [Nina Turner](#) (D-Cleveland) have stepped down from their leadership posts to run their races for for Lt. Governor and Secretary of State.

Sen. Schiavoni will be joined on the leadership team by Sen. [Charleta Tavares](#) (D-Columbus) as Assistant Minority Leader, Sen. [Edna Brown](#) (D-Toledo) as Minority Whip and Sen. [Lou Gentile](#) (D-Steubenville) as Assistant Minority Whip. 12/5/2013

### Fallout over Kearney Selection

The news isn't good for Democratic governor candidate Ed FitzGerald regarding his newly minted running mate, Senator Eric Kearney (D-Cincinnati).

Just days after Sen. Kearney was selected, news of unpaid personal and business taxes and penalties and financial troubles came to light. Kearney held a conference call on Wednesday with members of the media to address the many questions surrounding his tax troubles and the campaign's vetting process. Sen. Kearney said he intends to stay in the race. 12/5/2013

### Supreme Court: JobsOhio Exempt from Public Records Law

This week the Ohio Supreme Court [dismissed](#) a public records lawsuit brought against JobsOhio. In a 6-0 decision, the court issued a two-paragraph ruling dismissing the case. Justice O'Donnell did not participate in the decision.

The court concluded that JobsOhio is specifically exempted from the requirements of Ohio's public records law.

There has been much litigation surrounding JobsOhio. This latest decision does not affect the pending case which challenges the constitutionality of JobsOhio. That case is on hold while the Ohio Supreme Court determines whether plaintiffs have standing in their lawsuit. 12/5/2013

### **Supplier to Firefighting Industry? Read on ...**

State Fire Marshal Larry Flowers is interested in promoting Ohio-manufactured firefighting equipment and products.

Flowers recently hosted a delegation from Angola, Africa that travelled to Ohio to learn about firefighting training techniques and modern firefighting equipment.

The event inspired Flowers to assemble a [working group](#) to compile a catalog of Ohio-manufactured equipment. To participate in this working group, contact OMA's [Dan Noreen](#) (614) 629-6816. 12/5/2013

### **FitzGerald Selects Senate Minority Leader Kearney as Running Mate**

This week Ed FitzGerald, Cuyahoga County Executive and Dem hopeful for the governor's office, selected Senator [Eric Kearney](#) (D-Cincinnati) as his running mate.

By selecting Kearney, FitzGerald covers two of Ohio's largest metropolitan areas on his ticket. Kearney's Senate district - the 9<sup>th</sup> - went 28.90% for John Kasich and 65.87% for Ted Strickland in the 2010 governor's race.

Senator Kearney is currently Minority Leader of the Ohio Senate, a position he was elected to in 2012. Prior to joining the Senate, he founded Sesh Communications, one of the largest African-American publishing companies. He also practiced law. Kearney was appointed to the Ohio Senate in 2005 to replace Mark Mallory who was elected mayor of Cincinnati. 11/21/2013

### **OMA Government Affairs Committee Invites Members, Sets 2014 Calendar**



The OMA Government Affairs Committee, open to all OMA members at no extra cost, is comprised of manufacturers who have a need or interest in closely following Ohio public policy across the spectrum of issues.

The committee is chaired by volunteer leader, [Jeff Fritz](#), Manager, Government Affairs, DuPont, and staffed by [Ryan Augsburger](#), OMA Managing Director, Public Policy Services.

The committee has set its 2014 calendar for these Wednesdays: [February 26](#), [May 28](#), [August 20](#), and [December 3](#). Meetings are scheduled from 9:30 a.m. through 1:00 p.m.; lunch is included. Phone-in participation is available.

To make sure you see all committee communication, visit [My OMA](#) and click on My Communities. 11/14/2013

*Pictured: Jill Jansen of P&G, Rep. Matt Huffman, and Caroline Ramsey of Honda at Nov. 13 OMA Government Affairs Committee meeting*

### **Brown and Portman Team Up for Manufacturing Innovation**

Ohio Senators Sherrod Brown and Rob Portman urged the U.S. Department of Defense to support a proposal for an Advanced Lightweight Materials Manufacturing Innovation Institute (ALMMI) that would accelerate development of new and innovated technology essential to Ohio manufacturing. The ALMMI proposal would establish a Lightweight and Modern Materials Innovation Institute led by the Edison Welding Institute in collaboration with The Ohio State University and the University of Michigan.

In a [letter](#) to Defense Secretary Chuck Hagel, the Ohio senators noted that the center would benefit multiple industries including defense, aerospace, automotive and energy. 11/5/2013

## **Ohio Ranked Fourth in Business Climate**

Site Selection magazine [named](#) Georgia as the state with the Top Business Climate for 2013, replacing North Carolina, which held the top slot last year. North Carolina placed second this year, followed by Texas, Ohio and Tennessee.

The magazine describes its methodology as: “The annual business climate rankings are determined 50 percent by an index of tax burden criteria according to the Tax Foundation and KPMG’s Location Matters analysis and the states’ performance in Conway Data’s New Plant Database, which tracks new and expanded business facility activity; and 50 percent by a survey of corporate site selectors.”

Ohio ranked second last year, and ninth the year before. 11/5/2013

## Miscellaneous Legislation of Interest to Manufactures

Prepared by: The Ohio Manufacturers' Association

Report created on February 25, 2014

- HB4 LOCAL GOVERNMENT PERFORMANCE MEASUREMENT GRANT PROGRAM** (STAUTBERG P, BLESSING III L) To establish the Local Government Performance Measurement Grant Program.  
*Current Status:* 12/3/2013 - **SUBSTITUTE BILL ACCEPTED**, House State and Local Government, (Third Hearing)  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_4](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_4)
- HB9 RECEIVER'S POWERS** (STAUTBERG P) To add to and clarify the powers of a receiver and to provide a procedure for a receiver's sale of real property.  
*Current Status:* 12/11/2013 - Consideration of Senate Amendments; Did Not Concur Vote 0-94  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_9](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_9)
- HB13 PROVISIONAL BALLOTS** (REECE A) To require a provisional ballot to be remade and counted for the offices, questions, and issues for which the provisional voter was eligible to vote, if the election official assisting that provisional voter failed to direct the provisional voter to the correct precinct, and to revise the portion of the provisional ballot affirmation required to be completed by the election official.  
*Current Status:* 1/30/2013 - Referred to Committee House Policy and Legislative Oversight  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_13](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_13)
- HB17 LOCAL GOVERNMENT FUND** (CERA J, GERBERRY R) To require that, for fiscal year 2014 and each fiscal year thereafter, the Local Government Fund must receive the same proportion of state tax revenue that the Fund received in fiscal year 2005.  
*Current Status:* 1/30/2013 - Referred to Committee House Finance and Appropriations  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_17](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_17)
- HB20 FINANCIAL RESPONSIBILITY PROOF** (STINZIANO M) To permit a person to present proof of financial responsibility to the Registrar of Motor Vehicles, a peace officer, a traffic violations bureau, or a court through use of an electronic wireless communications device.  
*Current Status:* 6/25/2013 - House Transportation, Public Safety and Homeland Security, (Second Hearing)  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_20](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_20)
- HB21 VOTING PROCESS-HEALTH CARE ISOLATION ELECTOR** (STEBELTON G) To establish a process to permit an elector who is confined to a health care facility under isolation to vote with the assistance of bipartisan board of elections employees, and to permit the elector's facsimile signature, provided by the hospital, to be used for signature verification purposes.  
*Current Status:* 2/26/2013 - House Policy and Legislative Oversight, (First Hearing)  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_21](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_21)
- HB35 TRANSPORTATION BUDGET** (MCGREGOR R) To make appropriations for programs related to transportation and public safety for the biennium beginning July 1, 2013, and ending June 30, 2015, and to provide authorization and conditions for the operation of those programs.

**Current Status:** 3/12/2013 - Senate Transportation, (Seventh Hearing)  
**State Bill Page:** [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_35](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_35)

**HB38 OHIO TURNPIKE COMMISSION TRANSPORTATION BUDGET (MCGREGOR R)** To authorize the Ohio Turnpike Commission to issue revenue bonds for infrastructure projects, to rename the Ohio Turnpike Commission as the Ohio Turnpike and Infrastructure Commission, to repeal authority allowing the Director of Budget and Management and the Director of Transportation to execute a contract with a private entity for the purpose of outsourcing turnpike-related highway services, to make other changes in the law governing the Ohio Turnpike Commission, and to make an appropriation.

**Current Status:** 2/6/2013 - Referred to Committee House Finance and Appropriations

**State Bill Page:** [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_38](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_38)

**HB48 POLITICAL CONTRIBUTIONS (MILKOVICH Z)** To change the age at which an individual may make a political contribution, to reduce the amount of political contributions that may be made by a contributor, and to similarly reduce the amount of contributions that political entities may accept.

**Current Status:** 6/18/2013 - House Policy and Legislative Oversight, (First Hearing)

**State Bill Page:** [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_48](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_48)

**HB51 TRANSPORTATION BUDGET (MCGREGOR R, PATMON B)** To make appropriations for programs related to transportation and public safety for the biennium beginning July 1, 2013, and ending June 30, 2015, and to provide authorization and conditions for the operation of those programs.

**Current Status:** 4/1/2013 - **SIGNED BY GOVERNOR**; Eff. 7/1/2013 or at later date if specified in bill; Other Sections Eff. 4/1/2013 (Exempt from Referendum)

**State Bill Page:** [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_51](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_51)

**HB59 BIENNIAL BUDGET (AMSTUTZ R)** To make operating appropriations for the biennium beginning July 1, 2013, and ending June 30, 2015; to provide authorization and conditions for the operation of state programs.

**Current Status:** 6/30/2013 - **SIGNED BY GOVERNOR**; Eff. 6/30/2013; Some Eff. 9/29/2013; Others Various Dates

**State Bill Page:** [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_59](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_59)

**HB76 INSPECTOR GENERAL'S OFFICE (PILLICH C)** To change the appointing process for the Inspector General, to clarify the offices over which the Inspector General has authority, and to prohibit partisan political activity by the Inspector General and employees in the office of the Inspector General.

**Current Status:** 2/27/2013 - Referred to Committee House Policy and Legislative Oversight

**State Bill Page:** [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_76](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_76)

**HB77 MANUFACTURING MONTH (DOVILLA M, CELEBREZZE N)** To designate October as "Manufacturing Month."

**Current Status:** 6/27/2013 - **SIGNED BY GOVERNOR**; Eff. 9/27/2013

**State Bill Page:** [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_77](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_77)

**HB78 ONLINE VOTER REGISTRATION SYSTEM (STINZIANO M)** To require the Secretary of

State to create an online voter registration system and to permit data sharing in order to maintain the statewide voter registration database.

**Current Status:** 11/6/2013 - House Policy and Legislative Oversight, (Second Hearing)

**State Bill Page:** [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_78](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_78)

**HB82 OHIO'S CIVIL RIGHTS LAW EXEMPTION (HAYES B, BLAIR T)** To exempt religious corporations, associations, educational institutions, or societies from the definition of "employer" for the purpose of Ohio's Civil Rights law.

**Current Status:** 3/6/2013 - House Judiciary, (First Hearing)

**State Bill Page:** [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_82](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_82)

**HB100 JOBSOHIO-NONPROFIT ECONOMIC DEVELOPMENT CORPORATIONS (CARNEY J)** To allow the Auditor of State to conduct full audits of JobsOhio and to require all nonprofit economic development corporations that receive public funds to make annual disclosures related to both their public and private funds.

**Current Status:** 6/25/2013 - **SUBSTITUTE BILL ACCEPTED**, House State and Local Government, (First Hearing)

**State Bill Page:** [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_100](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_100)

**HB157 TOWNSHIP OFFICER RECALL (STAUTBERG P)** To establish a procedure to recall an elective township officer.

**Current Status:** 5/14/2013 - House State and Local Government, (First Hearing)

**State Bill Page:** [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_157](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_157)

**HB174 BEER MANUFACTURERS (BUCHY J, GERBERRY R)** To prohibit a beer manufacturer from taking certain actions regarding the awarding or acquiring of beer distribution franchises or beer distribution territories prior to July 30, 2013, and to declare an emergency.

**Current Status:** 5/29/2013 - House Commerce, Labor and Technology, (First Hearing)

**State Bill Page:** [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_174](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_174)

**HB194 AUTO INDUSTRY MONTH (LUNDY M, ADAMS J)** To designate the month of November as "Auto Industry Month."

**Current Status:** 6/25/2013 - House Transportation, Public Safety and Homeland Security, (First Hearing)

**State Bill Page:** [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_194](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_194)

**HB218 ENTREPRENEUR IN RESIDENCE PILOT PROGRAM (ROSENBERGER C, DOVILLA M)** To require the Small Business Advisory Council to establish an entrepreneur in residence pilot program.

**Current Status:** 2/11/2014 - Senate Workforce and Economic Development, (Second Hearing)

**State Bill Page:** [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_218](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_218)

**HB261 OHIO COURT OF CLAIMS MODERNIZATION (BUTLER, JR. J, STINZIANO M)** To abolish the office of the Court of Claims commissioner, to transfer the powers of a judge of the Court of Claims to the court; to specify certain powers of a Court of Claims magistrate, to modify the Attorney General's annual report on the crime victims compensation program, to conform existing law to the existing filing period for filing a claim for reparations by an adult, to eliminate the procedure for filing an affidavit of disqualification for a judge of a municipal

or county court and instead include the disqualification of a judge of a municipal or county court and a judge of the court of claims within the procedure for filing an affidavit of disqualification for a probate judge, a judge of a court of appeals, and a judge of the court of common pleas, and to change the basis of the per diem compensation of a retired judge who serves on the Court of Claims from the annual compensation of a judge of a court of appeals to the annual compensation of a judge of a court of common pleas.

**Current Status:** 2/19/2014 - Senate Civil Justice, (First Hearing)

**State Bill Page:** [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_261](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_261)

**HB278**      **FREEWAY TRAVEL-VEHICLE GROSS WEIGHT (SLABY M)** To require that a vehicle with a gross vehicle weight rating or an actual gross vehicle weight of more than 10,000 pounds be driven only in either of the two right-hand lanes of a freeway with three lanes of travel in the same direction, except in limited circumstances.

**Current Status:** 11/12/2013 - House Transportation, Public Safety and Homeland Security, (Third Hearing)

**State Bill Page:** [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_278](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_278)

**HB292**      **AEROSPACE AND TECHNOLOGY STUDY COMMITTEE (PERALES R)** To create the Aerospace and Technology Study Committee.

**Current Status:** 1/29/2014 - Senate State Government Oversight and Reform, (Second Hearing)

**State Bill Page:** [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_292](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_292)

**HB295**      **LEGISLATIVE AGENT (HAGAN R)** To require a legislative agent to report to the Joint Legislative Ethics Committee compensation paid to the agent by the agent's employer.

**Current Status:** 10/10/2013 - Referred to Committee House State and Local Government

**State Bill Page:** [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_295](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_295)

**HB321**      **DATAOHIO BOARD (DUFFEY M, HAGAN C)** To create the DataOhio Board, and to specify requirements for posting public records online.

**Current Status:** 2/25/2014 - House Shared Services and Government Efficiency Subcommittee, (Fourth Hearing)

**State Bill Page:** [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_321](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_321)

**HB322**      **UNIFORM ACCOUNTING SYSTEM (DUFFEY M, HAGAN C)** To require the Auditor of State to adopt rules regarding a uniform accounting system for public offices.

**Current Status:** 2/25/2014 - House Shared Services and Government Efficiency Subcommittee, (Fourth Hearing)

**State Bill Page:** [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_322](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_322)

**HB323**      **ONLINE PUBLIC DATA CATALOG (DUFFEY M, HAGAN C)** To establish an online catalog of public data at data.Ohio.gov.

**Current Status:** 2/25/2014 - House Shared Services and Government Efficiency Subcommittee, (Fourth Hearing)

**State Bill Page:** [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_323](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_323)

**HB324**      **LOCAL GOVERNMENT INFORMATION EXCHANGE GRANT PROGRAM (DUFFEY M, HAGAN C)** To establish the Local Government Information Exchange Grant Program and to make an appropriation.

**Current Status:** 2/25/2014 - House Shared Services and Government Efficiency Subcommittee, (Fourth Hearing)

*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_324](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_324)

- HB338**      **WORKERS' COMPENSATION-UNEMPLOYMENT COMPENSATION COVERAGE** (MCGREGOR R, HOTTINGER J) To establish a test to determine whether an individual providing services for or on behalf of certain motor transportation companies is considered an employee under Ohio's Overtime, Workers' Compensation, and Unemployment Compensation Laws.  
*Current Status:* 2/26/2014 - House Commerce, Labor and Technology, (Fourth Hearing)  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_338](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_338)
- HB391**      **BEER MANUFACTURING-SALE** (RAMOS D) To allow beer manufacturers to manufacture beer containing not more than 21% of alcohol by volume beginning on the effective date of this act, and, beginning one year after the effective date of this act, to allow the sale and distribution of beer containing not more than 21% of alcohol by volume in this state by increasing the legally permitted alcohol content of beer from 12% to 21% and to generally prohibit the inclusion of caffeine or other stimulants in beer containing more than 12% of alcohol by volume.  
*Current Status:* 1/14/2014 - Referred to Committee House Policy and Legislative Oversight  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_391](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_391)
- HCR11**      **INDEPENDENT BUSINESS MONTH** (STEBELTON G) To designate July 2013 as Ohio Independent Business Month.  
*Current Status:* 10/29/2013 - **REPORTED OUT**, Senate Workforce and Economic Development, (Second Hearing)  
*State Bill Page:* [http://www.legislature.state.oh.us/res.cfm?ID=130\\_HCR\\_11](http://www.legislature.state.oh.us/res.cfm?ID=130_HCR_11)
- HCR45**      **UNMANNED AIRCRAFT SYSTEMS RESEARCH AND TEST SITES** (PERALES R) To strongly urge the Federal Aviation Administration to consider immediately adding additional qualified unmanned aircraft systems research and test sites to the six chosen research and test sites.  
*Current Status:* 2/18/2014 - **REPORTED OUT**, House Transportation, Public Safety and Homeland Security, (Second Hearing)  
*State Bill Page:* [http://www.legislature.state.oh.us/res.cfm?ID=130\\_HCR\\_45](http://www.legislature.state.oh.us/res.cfm?ID=130_HCR_45)
- HCR46**      **CONSTITUTIONAL AMENDMENTS** (BATCHELDER W) To delegate to the President of the Senate and the Speaker of the House of Representatives authority to designate groups of members to prepare arguments for and against amendments to the Ohio Constitution proposed by the General Assembly, a person or persons to prepare an argument for any law, section, or item submitted to the electors by referendum petition, and a person or persons to prepare an argument against any constitutional amendment proposed by initiative petition.  
*Current Status:* 2/4/2014 - **ADOPTED BY SENATE**; Vote 30-0  
*State Bill Page:* [http://www.legislature.state.oh.us/res.cfm?ID=130\\_HCR\\_46](http://www.legislature.state.oh.us/res.cfm?ID=130_HCR_46)
- HJR2**      **OHIO CONSTITUTION RIGHT TO VOTE** (STINZIANO M) To set forth in the Constitution of the State of Ohio a specific right to vote and requirements attendant thereto.  
*Current Status:* 1/30/2013 - Referred to Committee House Policy and Legislative Oversight  
*State Bill Page:* [http://www.legislature.state.oh.us/res.cfm?ID=130\\_HJR\\_2](http://www.legislature.state.oh.us/res.cfm?ID=130_HJR_2)

- HJR4**      **U.S. CONSTITUTION-AMENDMENTS CONVENTION** (RAMOS D) Applying for an amendments convention under Article V of the United States Constitution.  
*Current Status:* 6/18/2013 - House State and Local Government, (First Hearing)  
*State Bill Page:* [http://www.legislature.state.oh.us/res.cfm?ID=130\\_HJR\\_4](http://www.legislature.state.oh.us/res.cfm?ID=130_HJR_4)
- HJR7**      **ARTICLE V AMENDMENTS CONVENTION** (HUFFMAN M) Applying for an Article V amendments convention.  
*Current Status:* 10/29/2013 - House Policy and Legislative Oversight, (Third Hearing)  
*State Bill Page:* [http://www.legislature.state.oh.us/res.cfm?ID=130\\_HJR\\_7](http://www.legislature.state.oh.us/res.cfm?ID=130_HJR_7)
- HJR8**      **OHIO CONSTITUTION-TERM LIMITS** (BECKER J) Proposing to amend Sections 2 and 7 of Article II, Section 6 of Article IV, Section 9 of Article V, Sections 3 and 4 of Article VI, and Section 1 of Article XIV; to enact new Section 8 of Article V; to enact Section 5 of Article X and Section 15 of Article XVIII; and to repeal Section 8 of Article V of the Constitution of the State of Ohio to institute term limits for certain elected and appointed officials and to increase the term limits for members of the General Assembly.  
*Current Status:* 10/30/2013 - Referred to Committee House Policy and Legislative Oversight  
*State Bill Page:* [http://www.legislature.state.oh.us/res.cfm?ID=130\\_HJR\\_8](http://www.legislature.state.oh.us/res.cfm?ID=130_HJR_8)
- SB3**      **RULE-MAKING REFORM** (LAROSE F) To reform rule-making and rule-review procedures and regulatory processes.  
*Current Status:* 12/10/2013 - House State and Local Government, (First Hearing)  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_SB\\_3](http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_3)
- SB6**      **TOWNSHIP FISCAL OFFICERS EDUCATION PROGRAMS** (SCHAFFER T) To establish education programs and continuing education requirements for the fiscal officers of townships and municipal corporations, to establish procedures for removing those fiscal officers, county treasurers, and county auditors from office, and to create fiscal accountability requirements for public schools, counties, municipal corporations, and townships.  
*Current Status:* 2/19/2014 - **SUBSTITUTE BILL ACCEPTED**, Senate Public Safety, Local Government and Veterans Affairs, (Second Hearing)  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_SB\\_6](http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_6)
- SB10**      **POLLING PLACES-VOTING MACHINES LAW** (COLEY W, SMITH S) To revise the law regarding polling places and voting machines.  
*Current Status:* 3/26/2013 - **SIGNED BY GOVERNOR**; Eff. 6/26/2013  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_SB\\_10](http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_10)
- SB20**      **ELECTION LAW** (TURNER N) To revise the Election Law.  
*Current Status:* 2/13/2013 - Referred to Committee Senate State Government Oversight and Reform  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_SB\\_20](http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_20)
- SB32**      **PURE FOOD AND DRUG LAW** (SCHAFFER T) To exclude manufacturers and distributors of wine and distributors of beer from regulation as food processing establishments under the Pure Food and Drug Law.  
*Current Status:* 3/12/2013 - Senate Agriculture, (First Hearing)  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_SB\\_32](http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_32)

- SB35**      **SPECIAL ELECTIONS** (JORDAN K) To eliminate the ability to conduct special elections in February and August.  
*Current Status:* 2/13/2013 - Referred to Committee Senate State Government Oversight and Reform  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_SB\\_35](http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_35)
- SB47**      **ELECTION LAW REVISION** (SEITZ B) To revise the Election Law.  
*Current Status:* 3/22/2013 - **SIGNED BY GOVERNOR**; Eff. 6/21/2013  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_SB\\_47](http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_47)
- SB70**      **OHIO CIVIL RIGHTS LAW** (TAVARES C) To specify that discrimination by an employer against any person because of the person's credit history is an unlawful discriminatory practice under the Ohio Civil Rights Law.  
*Current Status:* 10/16/2013 - Senate Commerce and Labor, (First Hearing)  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_SB\\_70](http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_70)
- SB91**      **DRUG MARKETING DISCLOSURES** (SKINDELL M) Regarding prescription drug marketing disclosures.  
*Current Status:* 3/20/2013 - Referred to Committee Senate Medicaid, Health and Human Services  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_SB\\_91](http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_91)
- SB109**     **ELECTION LAW** (OBHOF L) To revise the law regarding election administration, ballots, and candidates.  
*Current Status:* 11/26/2013 - **SIGNED BY GOVERNOR**; Eff. 2/25/2014  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_SB\\_109](http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_109)
- SB110**     **VOTING PREREGISTRATION** (TURNER N) To permit sixteen and seventeen year olds to preregister to vote and to revise the law concerning compensated voter registration workers and petition circulators.  
*Current Status:* 4/17/2013 - Referred to Committee Senate State Government Oversight and Reform  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_SB\\_110](http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_110)
- SB112**     **ENTERPRISE ZONE AGREEMENTS** (BEAGLE B) To extend the authority of municipal corporations and counties to enter into enterprise zone agreements with businesses until October 15, 2014.  
*Current Status:* 7/11/2013 - **SIGNED BY GOVERNOR**; Eff. 10/11/2013  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_SB\\_112](http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_112)
- SB153**     **STATE AGENCY APPROPRIATIONS** (JORDAN K) To require aggregate General Revenue Fund appropriations for state agencies to be reduced by specified amounts for the biennium.  
*Current Status:* 6/26/2013 - Referred to Committee Senate Finance  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_SB\\_153](http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_153)
- SB182**     **OHIO WORKS FIRST DRUG TESTING PROGRAM** (SCHAFFER T) To require the Director of Job and Family Services to operate an Ohio Works First drug testing pilot program and to make an appropriation.  
*Current Status:* 1/22/2014 - Senate Medicaid, Health and Human Services, (First

Hearing)

**State Bill Page:** [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_SB\\_182](http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_182)

- SB202 CONTROL SHARE ACQUISITION ACT** (OBHOF L, KEARNEY E) To provide exceptions to the applicability of the Control Share Acquisition Act, to require board approval for Act opt-out amendments of a corporation's regulations or articles of incorporation, and to apply a three-year look-back period to ownership of shares for purposes of determining applicability of certain shareholder transaction laws.  
**Current Status:** 2/26/2014 - House Judiciary, (Fourth Hearing)  
**State Bill Page:** [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_SB\\_202](http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_202)
- SB216 PROVISIONAL BALLOTS** (SEITZ B) To revise the law concerning provisional ballots and to specify permitted procedures for a voting location that serves more than one precinct.  
**Current Status:** 2/26/2014 - Bills for Third Consideration  
**State Bill Page:** [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_SB\\_216](http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_216)
- SB235 COMMERCIAL MOTOR VEHICLE OPERATION** (CAFARO C) To increase the penalties related to operating a commercial motor vehicle on the wrong side of an interstate freeway.  
**Current Status:** 1/28/2014 - Senate Criminal Justice, (First Hearing)  
**State Bill Page:** [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_SB\\_235](http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_235)
- SCR2 RESHORING MONTH** (BEAGLE B) Declaring March 2013 as Reshoring Month in Ohio.  
**Current Status:** 3/20/2013 - **ADOPTED BY HOUSE**; Vote 92-0  
**State Bill Page:** [http://www.legislature.state.oh.us/res.cfm?ID=130\\_SCR\\_2](http://www.legislature.state.oh.us/res.cfm?ID=130_SCR_2)
- SJR1 REDISTRICTING PROCESS** (SAWYER T, LAROSE F) To revise the redistricting process for General Assembly and Congressional districts.  
**Current Status:** 6/25/2013 - **REPORTED OUT AS AMENDED**, Senate State Government Oversight and Reform, (Third Hearing)  
**State Bill Page:** [http://www.legislature.state.oh.us/res.cfm?ID=130\\_SJR\\_1](http://www.legislature.state.oh.us/res.cfm?ID=130_SJR_1)
- SJR4 OHIO CONSTITUTION-ARTICLE II** (LAROSE F) Proposing to enact Section 1h of Article II of the Constitution of the State of Ohio to authorize the General Assembly to invalidate rules proposed or adopted under a statute, and to create and empower one or more joint committees of the Senate and House of Representatives to review rules that have been proposed or adopted under a statute and to make recommendations to the General Assembly regarding those rules.  
**Current Status:** 11/19/2013 - Senate State Government Oversight and Reform, (Second Hearing)  
**State Bill Page:** [http://www.legislature.state.oh.us/res.cfm?ID=130\\_SJR\\_4](http://www.legislature.state.oh.us/res.cfm?ID=130_SJR_4)
- SJR5 FEDERAL BALANCED BUDGET AMENDMENT** (FABER K) Urging the Congress of the United States to propose a balanced budget amendment to the United States Constitution and applying to the Congress, pursuant to Article V of the United States Constitution, to call a convention for proposing amendments.  
**Current Status:** 11/20/2013 - Consideration of House Amendments; Vote 28-4  
**State Bill Page:** [http://www.legislature.state.oh.us/res.cfm?ID=130\\_SJR\\_5](http://www.legislature.state.oh.us/res.cfm?ID=130_SJR_5)
- SJR6 GENERAL OBLIGATION BONDS ISSUANCE** (BACON K, MANNING G) Proposing to enact Section 2s of Article VIII of the Constitution of the State of Ohio to permit the issuance of additional general obligation bonds to fund public infrastructure capital improvements.

**Current Status:** 1/23/2014 - Filed with Secretary of State

**State Bill Page:** [http://www.legislature.state.oh.us/res.cfm?ID=130\\_SJR\\_6](http://www.legislature.state.oh.us/res.cfm?ID=130_SJR_6)



**Bricker & Eckler**  
ATTORNEYS AT LAW

COLUMBUS | CLEVELAND  
CINCINNATI-DAYTON  
MARIETTA

**BRICKER & ECKLER LLP**  
100 South Third Street  
Columbus, OH 43215-4291  
MAIN: 614.227.2300  
FAX: 614.227.2390

www.bricker.com  
info@bricker.com

## MEMORANDUM

TO: Ohio Manufacturers' Association Government Affairs  
Committee

FROM: Bricker & Eckler LLP

DATE: February 24, 2014

RE: 2014 Legislative Updates

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### I. 2014 Legislative Updates - Overview.

The 130th General Assembly continues its legislative efforts in 2014 in earnest. Below are some highlights of various legislative items we are watching on behalf of the OMA and in which its members have interest. Of note, we await the likely introduction of another of Governor John Kasich's Midbiennial Budget Review (MBR) sometime in the early spring of 2014. Ohio handles normal operating budgets on a two-year basis completing work on the FY2014-2015 budget last year, in 2013. However, the Kasich Administration to date also prefers to handle off-cycle budget corrections and reappropriations measures in what it calls an MBR. The MBR in 2012 was a significant policy proposal crossing myriad industry sectors – so much so that the initial MBR was broken up into four separate bills dealing with taxation, energy, education, and general government operations.

We expect the 2014 version of the MBR to continue many policy proposals, including tax reform (the Governor has publicly discuss another round of statewide income tax cuts to coincide with a severance tax increase), education reform, among other items. We will monitor the information and pending introduction and be prepared to discuss at future Government Affairs Committee meetings.

### II. Legislative Update.

H.B. 238 – Transparency in Private Attorney Contracts Act (“TiPAC”): Introduced by Representative Jim Butler (R-Dayton), H.B. 238 (“TiPAC”) is currently pending in the House Judiciary Committee. The bill includes provisions to prohibit the state from entering into a contract with a private attorney for any legal matter where the budget for legal fees is estimated to be in excess of \$100,000, unless the Attorney General makes a written determination that he engagement of the private attorney would be in the public interest. The bill sets caps on contingency fees that a private attorney may receive and generally prohibits contingency fees from exceeding \$50 million except in certain circumstances. A provision creating a

preference for Ohio attorneys is included as is a requirement for the Attorney General to submit an annual report to the Senate President and Speaker of the House, describing the use of private attorneys during the preceding fiscal year. The goal of the legislation is to provide accountability and increased transparency in the Attorney General's office so that the public can better understand when, why, and how public dollars are being used to contract with private sector attorneys.

The bill has received three hearings and is still under consideration by the House Judiciary Committee – no additional hearings have been set thus far in 2014.

TiPAC is an initiative supported by various tort reform groups, including the Ohio Alliance for Civil Justice (OACJ – of which the OMA is a member), the American Tort Reform Association (ATRA), the US Chamber of Commerce, the Institute for Legal Reform, and other business-backed interests dedicated to civil justice reform.

H.B. 317 – False Claims Act: Representative Barbara Sears (R-Sylvania) introduced HB 317 as an effort to reform certain aspects of Ohio's Medicaid system. The bill is currently pending in the House Health & Aging Committee and has received on hearing.

Included in H.B. 317 is language providing for an Ohio version of the federal False Claims Act. The OMA and other business groups have battled the False Claims Act over several General Assemblies in that it provides, generally, a private cause of action in "whistleblower" cases for recovery of public dollars allegedly inappropriately used. Provisions relating to false claims include a prohibition against making a false or fraudulent claim for payment or approval, using a false record or statement to make a claim, improperly avoiding or decreasing an obligation to pay or transmit money or property to the state, among other things. In addition to setting out the prohibitions, the legislation also prescribes civil penalties for violations and requires the Attorney General to investigate suspected violations and allows the Attorney General to bring civil enforcement actions on behalf of the state. If, however, the Attorney General declines to prosecute a claim, a private action may be commenced giving rise to additional litigation costs, demands, and possible recovery against any private sector entity engaging in business with the State of Ohio.

H.B. 225 – Offers of Settlement: House Bill 225 was introduced by Representative Jim Butler and creates a procedure for settling civil actions between parties and provides for an award of reasonable attorney's fees and litigation expenses in certain situations in which a judgement is entered against a party that has rejected a settlement offer. The legislation also encourages the Ohio Supreme Court to amend Civil Rule 68 to make it consistent with the bill.

In committee, concerns were raised by the Ohio Association for Justice in their opponent testimony that this legislation would cut off access to courts for small businesses who cannot afford to take a claim to court against a major corporation. A small business or non-profit corporation, they argued, do not have the financial resources to gamble on the outcome of litigation and risk having to pay a large corporation's legal fees. H.B. 225 has received 3

hearings in the House Judiciary Committee.

H.B. 333 – Accessibility Law Violations: Representative Michael Stinziano introduced H.B. 333 to set notice requirements of an alleged accessibility law violation prior to filing a civil action. Upon notification of an alleged violation, the business owner or other responsible party has thirty days to respond in one of three ways: stating that improvements will be made to bring the property into compliance; challenge the validity of the alleged violation; or state that the violations have already been corrected and provide supporting evidence. The intent of the legislation is to provide notice prior to a lawsuit being filed and allow a responsible party to bring the property into compliance before facing litigation. Opponents have criticized H.B. 333 as being overly burdensome on the disability community and as being a barrier to the courts. Proponents support the legislation as being a fair compromise between citizens and businesses. H.B. 333 has received three hearings in the House Judiciary Committee.



**Bricker & Eckler**  
ATTORNEYS AT LAW

COLUMBUS | CLEVELAND  
CINCINNATI-DAYTON  
MARIETTA

**BRICKER & ECKLER LLP**  
100 South Third Street  
Columbus, OH 43215-4291  
MAIN: 614.227.2300  
FAX: 614.227.2390

www.bricker.com  
info@bricker.com

## MEMORANDUM

TO: Ohio Manufacturers' Association Government Affairs  
Committee

FROM: Bricker & Eckler LLP

DATE: February 24, 2014

RE: 2014 Statewide Ballot Initiatives

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### I. 2014 Statewide Ballot Initiatives – Overview.

In Ohio, Constitutional amendments may be initiated by legislative action or by citizen initiative. Over the past several years citizen initiated Constitutional amendments have become more popular and a fixture on November General Election ballots. The Ohio Constitution and Ohio Revised Code outline the process for a citizen initiated Constitutional amendment.

Citizens who desire to amend the Ohio Constitution must first create a Petitioners' Committee and are commonly called "the Petitioners" throughout the process. The committee consists of three to five Ohioans. The petitioners file an "Initial Petition" with the Ohio Attorney General. That Initial Petition must be signed by at least 1,000 qualified Ohio electors. The Attorney General reviews the summary of the initiative contained in the petitions and determines if the summary is a "fair and truthful" statement as defined in Ohio Revised Code section 3519.01. If the Attorney General determines the summary is fair and truthful, the petition is certified and forwarded to the Ohio Ballot Board for review.

The Ohio Ballot Board, consisting of the Ohio Secretary of State and four appointed members, two from each major political party, then reviews the petition to determine if it contains only one Constitutional amendment. If the Ballot Board confirms that the petition presents only one Constitutional issue, the Ballot Board files a verified copy of the proposed amendment with the Secretary of State.

After Ballot Board verification, Petitioners can begin collecting the signatures needed to place the amendment on the ballot. For a Constitutional Amendment, Petitioners are required to gather signatures equaling ten percent of the total vote cast for the Office of Governor in the last gubernatorial election. Signatures must be distributed from at least 44 of Ohio's 88 counties, and must equal at least five percent of the total vote cast for the Governor in each of those counties.

If this minimum threshold of signatures is met, Petitioners must file the proposed amendment with the Secretary of State no later than 125 days prior to the next General Election. Petitioners have an opportunity to gather more signatures if they do not meet the required number of valid signatures after the first filing with the Secretary of State. Deficiencies can occur due to duplicate signatures, unregistered voters, or voter fraud.

Once the Secretary of State verifies that the signatures are valid, he or she passes the amendment back to the Ballot Board who determines the official language that will go on the ballot. The Secretary of State then places the official Constitutional language, along with an explanation and/or arguments for and against the amendment, on the ballot.

## II. 2014 Statewide Ballot Initiatives – Certified & Pending.

Issue 1: Infrastructure Capital Improvements (Certified for May 2014 Primary Election): On February 19, 2014, the Ballot Board certified Issue 1 for the 2014 May Primary Election. This issue would allow the state to issue bonds to finance public infrastructure capital improvements for local government and other governmental entities. If passed, this will extend and expand the current State Capital Improvement Program, which is set to expire in July 2015.

Strong Ohio Communities is the campaign supporting Issue 1. Honorary chairs of the campaign include Ohio AFL-CIO President Tim Burga, Ohio Chamber of Commerce President Andrew Doehrel, Hamilton County Commissioner Greg Hartmann, and Columbus Mayor Michael Coleman.

The Office of Budget Management projects that the ballot issue's proposed issuance of 20-year bonds will result in total debt service of \$3.01 billion that averages \$100-150 million a year.

Prayer in Schools (Not Certified): On April 22, 2013, the Coalition to Return Prayer to Our Public Schools submitted a proposed Constitutional Amendment to the Attorney General for review. The amendment proposes to allow public school children to voluntarily pray in their schools and requires that all schools post the Bill of Rights.

Attorney General DeWine concluded the submission did not comply with state law because the petitions filed were not properly labeled nor did they contain the correct text or summary of the proposed amendment. In addition, he found the petitions did not comply with the state's requirements for circulator statement and signature. He concluded that the petitions did not contain a fair and truthful statement of the amendment because of the reasons stated above. The Committee now must resubmit a new petition, with an additional 1,000 signatures and summary in proper form, thereby starting the Constitutional Amendment process over, to be considered for future ballots. The entire process, from Attorney General review, Secretary of State, Ballot Board, and eventual signature collection, must run its course for the Prayer in Schools Amendment to reach the ballot.

Because the deadline to gather signatures for inclusion on the 2013 ballot was July 3, 2013, this proposal is delayed at least until November 2014.

Medical Marijuana (Certified): The Petitioner Committee “Ohio Rights Group” submitted petition language to the Attorney General to place a Constitutional Amendment on the ballot to legalize medicinal marijuana in Ohio. The Petitioners submitted “The Ohio Cannabis Rights Act” to Attorney General DeWine on May 7, 2013. On May 17, the Attorney General concluded that the summary was fair and truthful and sent the petition to Ohio Secretary of State Jon Husted for certification by the Ohio Ballot Board. The Ballot Board, in turn, certified the Ohio Cannabis Rights Act as one Constitutional Amendment on May 23, 2013 and the Committee now is free to create and circulate their petition to Ohio Electors. The Committee is still working to collect signatures in anticipation of inclusion on the November 2014 ballot.

Legalization of Marijuana (Not Certified): “The End Ohio Cannabis Prohibition Act of 2012” was submitted to the Attorney General on August 2, 2013 by Petitioner Committee “Responsible Ohioans for Cannabis.” The proposed Constitutional Amendment would permit any person, 18 years of age or older, to “produce, cultivate, possess, transport, distribute, consume, or otherwise engage in the use of cannabis products for personal use and cannabis paraphernalia.”

The Attorney General rejected the summary of the proposed amendment for failing to meet the requirements of a “fair and truthful representation of the proposed amendment.” Portions of the summary cited by the Attorney General as problematic include failure to support claims of Ohio’s repudiation of federal law related to cannabis, claims that medical uses of cannabis products will be taught in classrooms, failure to address changes to the law dealing with persons under the influence of cannabis products, and failure to address rule-making duties and responsibilities of the Ohio Department of Agriculture and Ohio Department of Commerce.

The Petitioner Committee may resubmit a new petition, with these flaws corrected, for reconsideration in advance of the November 2014 election.

Same-Sex Marriage (Certified): On March 26, 2012 Freedom Ohio, the Petitioner Committee, submitted a proposed Constitutional Amendment to the Attorney General which would allow the marriage of two consenting adults, regardless of gender. This was a resubmission of an initiative petition that had been rejected on March 9, 2012 for being longer than the actual amendment text and for failing to meet the “spirit and purpose of the statute.” The proposal also includes language to allow religious institutions to choose whether or not to marry same-sex couples.

On April 3, 2012 the Attorney General certified the submitted summary as fair and truthful and on April 5, 2012 the Ohio Ballot Board certified the petition as a single issue. Since that time, the Petitioner Committee has engaged in strategic discussions with other interested groups around the state and is now considering putting this issue before voters on the November 2014 ballot. For the initiative to be included on the November 2014 ballot, Freedom Ohio will

need to collect signature in advance of the July 2, 2014 deadline to submit initiative petitions to the Secretary of State's office.

“Right to Work” (Certified & Collecting Signatures): In October 2013, the Columbus Dispatch reported that a group – the Ohioans for Workplace Freedom – had collected more than 100,000 signatures in its effort to place a “Right to Work” Constitutional Amendment on the 2014 statewide ballot. The effort would permit employees to choose whether to join or continue as a member of a labor organization as a condition of employment. The group filed its initial paperwork with the Attorney General, on January 12, 2012, and was certified to begin collecting signatures on February 1, 2012. The group must submit at least 387,000 valid signatures to qualify for the 2014 ballot – thus far, no signatures have been filed with the Ohio Secretary of State.

“Right to Work” has been a national issue and ballot initiative in several states. Ohio rejected a “Right to Work” initiative in 1958. The measure – supported by the TEA Party-backed 1851 Center for Constitutional Law – would not ban unions, but would prohibit mandatory union membership and mandatory assessment of union dues from nonunion members. It is unknown whether the group will be able to collect sufficient valid signatures to qualify for next year's ballot.

Politically, reaction has been mixed from Governor Kasich and legislative leaders as to whether a “Right to Work” initiative – especially following the aftermath of the SB 5 referendum – would lead to additional conservative turnout or provide increasing intensity for labor interests in what Republican strategists would arguably expect to be a good year for Republican candidates.

Clean Energy (Certified & Collecting Signatures): Yes for Ohio's Energy Future submitted their petition for a constitutional amendment in November, 2013. The proposed amendment would direct the Ohio General Assembly to provide for the issuance of general obligation bonds – in an aggregate principal amount of one billion three hundred million dollars – each year for ten consecutive fiscal years following the adoption of the amendment. The funds would be used for energy infrastructure capital improvement, research and development related to clean energy, and development of sites and facilities within the state to support industry, commerce, distribution, and research related to clean energy.

On November 18, the Attorney General concluded that the summary provided by Yes for Ohio's Energy Future was a fair and truthful statement of the proposed constitutional amendment and on November 19, the Ballot Board certified that the proposal is one constitutional amendment. The group will now work to gather signatures before the November 2014 election.



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MARIETTA

**BRICKER & ECKLER LLP**  
100 South Third Street  
Columbus, OH 43215-4291  
MAIN: 614.227.2300  
FAX: 614.227.2390

www.bricker.com  
info@bricker.com

## MEMORANDUM

To: Ohio Manufacturers' Association Government Affairs Committee  
From: Bricker & Eckler LLP  
Re: OMA Amicus Activities  
Date: February 24, 2014

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This memorandum provides an update of the cases pending in the Ohio Supreme Court in which the OMA has appeared as amicus curiae. The report below reflects the current status of the cases still pending that were included in the November 2013 report.

**I. *Burton v. UniFirst Corporation* - Ohio Supreme Court Case No. 2013-1275**

**Status:** The OMA and others filed a Joint Memorandum in Support of Jurisdiction, asking the Ohio Supreme Court to accept UniFirst's appeal. The jurisdictional issue has been fully briefed since September 6, 2013. ***On November 20, 2013, the Court declined to accept the discretionary appeal.***

**Case Summary:** After an age discrimination trial in an employment case, the jury returned a defense verdict in favor of UniFirst Corporation. Shortly thereafter, the Plaintiff, Burton, moved for a new trial on the basis that one of the jurors did not give a truthful statement during the jury selection process (known as *voir dire*). The juror was a doctor who stated during *voir dire* that he had never been sued for malpractice in his more than 30 years of practice. The Plaintiff presented evidence to show that, in fact, in the past 19 years, the doctor had been named multiple times as a defendant in three medical malpractice cases. Each of these cases had multiple defendants (11, 20, and more than 50 named defendants, of which the doctor was one). The doctor was not the primary defendant in any of the 3 three cases and none resulted in a verdict or judgment against the doctor.

The trial court found, based on the evidence and arguments presented, and its observation of the juror during *voir dire* and the entire trial, that the juror's misstatement was not prejudicial to the Plaintiff and, thus, denied the motion for a new trial.

The Eighth District Court of Appeals (Cleveland, Ohio) reversed and ordered a new trial, a decision that is contrary to well-established Ohio law which requires the trial court to determine that a juror's misstatement during *voir dire* was both material and prejudicial to the losing party before ordering a

new trial. In the UniFirst case, the trial court found no prejudice from the doctor’s statements in voir dire, but the Court of Appeals disagreed stating that the trial court should have held a hearing on that question. Instead of remanding the decision to the trial court to hold only a hearing on the question of prejudice from the doctor’s statements, the Court of Appeals ordered an entire new trial.

This decision is also inconsistent with established Ohio law regarding the finality of jury verdicts and the fairness of verdict challenges and provides a new basis for litigants to seek new trials, thereby extending litigation and the costs associated with it.

**Principle/Interest/Impact:** Jurors should not be dismissed merely because they have previously been involved in litigation. This decision impacts any business that faces a jury trial. Litigation is costly and should not be needlessly extended.

## **II. *Burkart v. H.J. Heinz Co.* - Ohio Supreme Court Case No. 2013-0580**

**Status:** The OMA filed an amicus merit brief in support of H.J. Heinz Co. The case has been fully briefed since September 27, 2013. *Justice Lanzinger was recused from the case on December 20, 2013, and was replaced by Judge Melody Jean Stewart on January 8, 2014. Oral argument is scheduled for February 25, 2014.*

**Case Summary:** In a workers’ compensation case, the Sixth District Court of Appeals (Toledo, Ohio) permitted testimony from a previous asbestos case to be used against an employer, who was not a party in the previous asbestos case and in the workers’ compensation matter where neither the parties nor motivations were sufficiently similar to permit this testimony under Ohio Evidence Rule 804(B). Ohio Rule of Evidence 804(B) allows testimony to be used in this manner only if (1) the party against whom the testimony is offered is a predecessor in interest to the party in the previous action, and (2) had an opportunity and similar motive to develop the testimony. By merging these two requirements, as the Court of Appeals did in H.J. Heinz, the court gave no meaning to the “predecessor in interest” requirement and misapplied the “similar motive” requirement.

The OMA filed its amicus brief in support of H.J. Heinz Co. because manufacturers are regularly forced to defend against testimony developed in a prior proceeding when neither they, nor their predecessors in interest, were parties in that proceeding. Even when a predecessor in interest is involved in the prior proceeding, the earlier testimony must be excluded in the subsequent action unless the predecessor had a similar motive in developing the testimony. In determining whether the similar motive requirement is met, the court must do more than make the observation, which the court did here in H.J. Heinz, that both defendants would benefit if the plaintiff’s claims are disproved. This litigation outcome is unfair and precisely the kind of hearsay evidence that is precluded by the Ohio Rules of Evidence.

**Principle/Interest/Impact:** Companies that are sued should be able to defend themselves based on the facts of the particular case and should not be saddled with testimony from another case in which they did not participate. This decision impacts any business that is sued.

**III. *The Lincoln Electric Company v. Travelers Casualty and Surety Company* - Ohio Supreme Court Case No. 2013-1088**

**Status:** The OMA joined with others to file an amicus brief with the Ohio Supreme Court in support of Lincoln Electric and its insurance coverage rights. The OMA amicus brief asked the Court to certify questions of state law from the federal district court handling the underlying case. On September 25, 2013, the Court accepted the certified state law question. *Briefing has been completed.*

**Case Summary:** Lincoln Electric incurred more than \$179 million in defense costs and \$12 million in indemnity costs (payments for settlements and adverse judgments) in connection with claims related to injury from alleged exposure to harmful substances (e.g. asbestos and magnesium) in its welding products. Approximately \$87 million of these defense costs and \$4.5 million of these indemnity costs have not been reimbursed by the insurance carriers.

After Lincoln Electric settled with some of its primary insurers, it sought reimbursement from some of its umbrella policies to cover a portion of the unreimbursed defense and indemnity costs. Ultimately, Lincoln Electric filed suit seeking a declaratory judgment and damages: *The Lincoln Electric Company v. Travelers Casualty and Surety Company, N.D.*

OMA members, especially those whose products or processes give rise to exposure claims, are policyholders whose insurance coverage rights will be implicated by the Ohio Supreme Court's action (if it decides to accept the case).

The OMA and its members have an interest in ensuring that Ohio laws governing insurance coverage remain balanced and predictable so that manufacturers doing business in Ohio can protect against risks inherent in their businesses.

**Principle/Interest/Impact:** Established law governing insurance coverage must remain balanced and predictable so that companies can protect against risks inherent in their businesses. This decision especially impacts companies that are subject tort claims based on exposure or that accrue over an extended period of time.

**IV. *Board of Commissioners of Fairfield County v. Nally* (Ohio Supreme Court, Case No. 2013-1085).**

**Status:** On January 16, 2014, the Court agreed to hear all three issues. Briefs were filed on February 5, 2014. Environmental Counsel Frank Merrill filed the amicus effort on behalf of the OMA.

**Case Summary:** This case involves Ohio EPA’s use of “total maximum daily load” (TMDL) limits as a basis for a limit in a wastewater discharge permit (commonly referred to as “NPDES permits”). The TMDLs are established by Ohio EPA for stream segments and watersheds and then sent to U.S. EPA for approval under the federal Clean Water Act. There is no public comment period or public input process for the establishment of a TMDL.

Fairfield County was issued an NPDES permit with a limit for total phosphorus, among other parameters. Ohio EPA claimed that the total phosphorus limit was reasonable and lawful because it was based on a TMDL for the area. Both the Environmental Review Appeals Commission (ERAC) and the court of appeals agreed. Fairfield County appealed the issue to the Ohio Supreme Court, which originally agreed to hear one of three issues appealed by Fairfield County. The OMA’s and its member companies have an interest in the EPA’s decisions to issue limited NPDES permits with limits on discharge amounts.

On November 6, 2013, the Supreme Court agreed to review whether Ohio EPA must use the rulemaking process in determining TMDLs for discharges into streams before imposing such limits in discharge permits. However, the court refused to hear two other issues. The first being that the mere presence of a proposed discharge limit in a TMDL does not create a valid factual foundation for a limit in a NPDES permit. The second being that the Environmental Review Appeals Commission’s refusal to consider evidence against a NPDES limit based on a TMDL unconstitutionally denies a permittee due process of law because the permittee has no ability to challenge the TMDL, upon which the discharge limit is based. Fairfield County filed a motion for reconsideration asking the Court to hear the other two issues. On November 18, 2013, the OMA filed a memoranda of amicus curiae asking the Ohio Supreme Court to review the remaining two issues.

**Principal/Interest/Impact:** The OMA has a significant interest in ensuring that the OEPA follows an appropriate and transparent rulemaking process before making determinations to limit discharge amounts via NPEDS permits.



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MARIETTA

**BRICKER & ECKLER LLP**  
100 South Third Street  
Columbus, OH 43215-4291  
MAIN: 614.227.2300  
FAX: 614.227.2390

www.bricker.com  
info@bricker.com

## MEMORANDUM

TO: Ohio Manufacturers' Association Government Affairs  
Committee

FROM: Bricker & Eckler LLP

DATE: February 21, 2014

RE: November 2014 Judicial Races

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On Wednesday, February 5, incumbents and challengers wishing to place their names on the 2014 ballot for seats on Ohio's courts filed candidacy petitions with Boards of Elections across the state. Below, you will find a compilation of the petitions that were filed and the matchups for the 2014 judicial races. We have also provided some background information as well as commentary about races of particular significance. We hope this information will be useful to you as November approaches.

### Overview

The November 2014 ballot will include races for seats on the Supreme Court of Ohio, Courts of Appeals and Courts of Common Pleas. The Ohio Constitution provides that judges serve for a term of six years. The number of terms they may serve are unlimited; however, no person may be elected or appointed to a judicial office once they reach age 70.<sup>1</sup>

### Supreme Court of Ohio

Incumbent: Sharon L. Kennedy (R)  
Challenger: Tom Letson (D)

Incumbent: Judith L. French (R)  
Challenger: John P. O'Donnell (D)

Two incumbent justices are up for re-election in 2014. Justice Judith L. French was appointed to her seat by Gov. John Kasich following the retirement of former Justice Evelyn Lundberg Stratton, who retired January 1, 2013. Justice Sharon L. Kennedy was elected to her seat to complete an unexpired term ending December 31, 2014.

Filing as challengers for these two seats are State Representative Tom Letson (D-Warren) against Justice Kennedy and Cuyahoga County Court of Common Pleas Judge John P. O'Donnell against Justice French. Judge

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<sup>1</sup> Ohio Constitution, Article IV, section 6(C).

O'Donnell has served on the Court of Common Pleas since 2002 and is of no relation to sitting Justice Terrence O'Donnell. Representative Letson is in his fourth term as a state legislator and is not eligible to run for another term due to term limits.

### Courts of Appeals

Ohio's courts of appeals are comprised of between four and 12 judges, depending on the size of the district and the caseload of the court. Of the 69 judges currently on the bench, 23 seats will be up for election in November.

The 10<sup>th</sup> District Court of Appeals in Columbus will be particularly interesting to watch as incumbents face off against high-profile challengers. Former Secretary of State Jennifer Brunner has filed to run for an unexpired term ending in 2016, challenging the incumbent Judge Amy C. O'Grady who was appointed to the seat.

A former employee at the Ohio Secretary of State's office, Judge Betsy Luper Schuster was appointed to the 10<sup>th</sup> District Court of Appeals by Gov. John Kasich January 21, 2014. She has filed to retain that seat in the November election and is facing a challenge from former Congresswoman Mary Jo Kilroy.

Other races in the 10<sup>th</sup> District include Jeffrey D. Mackey, a local attorney practicing estate planning, probate and real estate law at Fusck, Mackey, Mathews & Gill, challenging incumbent Judge Lisa L. Sadler. Franklin County Court of Common Pleas Judge Timothy S. Horton and Patrick W. Beatty are vying to fill the seat vacated by departing Judge John A. Connor.

In the 8<sup>th</sup> District in Cuyahoga County, Judge Sean Gallagher will run unopposed, as will Judges Larry Jones and Patricia Blackmon. The seat being vacated by retiring Judge Kenneth Rocco, who has been a judge for 32 years, will see a Democratic primary between Cleveland Municipal Court Judge Anita Laster Mays and Common Pleas Judge Brian J. Corrigan. Judge Corrigan has been on the Court of Common Pleas since 1993 and Judge Mays currently presides over the Greater Cleveland Drug Court.

In Hamilton County, 1<sup>st</sup> District Judge Lee Hildebrandt is stepping down from the bench and Fanon Rucker and Russell Mock will run for his seat.

Match ups in all of the court of appeals races are as follows:

### Court of Appeals

#### *1<sup>st</sup> District (Cincinnati)*

Incumbent: none

Challengers: Fanon Rucker (D)  
Russell Mock (R)

*2<sup>nd</sup> District (Dayton)*

Incumbent: Jeffrey E. Froelich (D)

Challenger: Robert Vaughn (R)

*3<sup>rd</sup> District (Lima)*

Incumbent: Vern Preston (R)

Challenger: none

*4<sup>th</sup> District (Portsmouth)*

Incumbent: Peter B. Abele (R)

Challenger: none

*5<sup>th</sup> District (Canton)*

Incumbent: William B. Hoffman (D)

Challenger: none

Incumbent: Craig R. Baldwin (R)

Challengers: Natalie Haupt (D)

Earle Wise, Jr. (D)

*6<sup>th</sup> District (Toledo)*

Incumbent: Arlene Singer (D)

Challenger: none

Incumbent: Thomas J. Osowik (D)

Challenger: none

*\*Due to inclement weather, petitions have not been finalized for the 6<sup>th</sup> District*

*7<sup>th</sup> District (Youngstown)*

Incumbent: none

Challengers: David L. Engler (D)

Anthony Donofrio (D)

Carol Ann Robb (R)

Incumbent: Cheryl L. Waite (D)

Challengers: Mark A. Hanni (D)

Maureen A. Walsh (D)

*8<sup>th</sup> District (Cleveland)*

Incumbent: Sean Gallagher (D)

Challenger: none

Incumbent: Larry Jones (D)

Challenger: none

Incumbent: Patricia Blackmon (D)

Challenger: none

Incumbent: none

Challengers: Brian Corrigan (D)

Anita Laster Mays (D)

*9<sup>th</sup> District (Akron)*

Incumbent: Eve V. Belfance (D)

Challenger: Julie Schafer (R)

*10<sup>th</sup> District (Columbus)*

Incumbent: Betsy Luper Shuster (R)

Challenger: Mary Jo Kilroy (D)

Incumbent: Amy C. O'Grady (R)

Challenger: Jennifer Brunner (D)

Incumbent: Lisa L. Sadler (R)

Challenger: Jeffrey Mackey (D)

Incumbent: none

Challengers: Timothy Horton (D)

Patrick Beatty (R)

*11<sup>th</sup> District (Warren)*

Incumbent: Timothy P. Cannon (D)

Challengers: Patricia Lynn Winfield (D)

Ron Tamburrino (R)

Incumbent: Cynthia Westcott Rice (D)

Challenger: Geoffrey W. Weaver (R)

*12<sup>th</sup> District (Middletown)*

Incumbent: Robert Ringland (R)

Challenger: none

Incumbent: Robert Hendrickson (R)

Challenger: none



# Hannah NEWS SERVICE

"Ohio's Unmatched Leader of Statehouse News, Information & Research Since 1986"

## Legislative Schedule Set for First Half of 2014

Senate President Keith Faber and Speaker of the House Bill Batchelder announced the schedules for the Senate and House for the first half of 2014. Unless otherwise notified, Senate sessions start at 1:30 p.m. on Tuesdays and Wednesdays and 11 a.m. on Thursdays, while the House meets at 11 a.m. on Tuesdays, 1:30 p.m. on Wednesdays and 1 p.m. on Thursdays. Dates are subject to change.

### January

Tuesday, Jan. 7 - Senate Committee Hearings  
Wednesday, Jan. 8 - Senate Committee Hearings

Tuesday, Jan. 14 - Senate Session  
Wednesday, Jan. 15 - Sessions

Monday, Jan. 20 - **Martin Luther King Day** (State Offices closed)

Tuesday, Jan. 21 - Senate Committee Hearings  
Wednesday, Jan. 22 - Sessions

Tuesday, Jan. 28 - Senate Session/House Session (if needed)

Wednesday, Jan. 29 - Sessions

### February

Tuesday, Feb. 4 - Senate Session  
Wednesday, Feb. 5 - Senate Committee Hearings

Tuesday, Feb. 11 - Senate Committee Hearings/  
House Session (if needed)  
Wednesday, Feb. 12 - Sessions

Monday, Feb. 17 - **Presidents' Day** (State Offices closed)

Tuesday, Feb. 18 - Senate Committee Hearings  
Wednesday, Feb. 19 - Sessions

Tuesday, Feb. 25 - Senate Session/House Session (if needed)

Wednesday, Feb. 26 - Sessions

### March

Tuesday, March 11 - Senate Session/House Session (if needed)

Wednesday, March 12 - Sessions

Tuesday, March 18 - Senate Session  
Wednesday, March 19 - Sessions

Tuesday, March 25 - Senate Session/House Session (if needed)

Wednesday, March 26 - Sessions

### April

Tuesday, April 1 - Senate Committee Hearings/House Session (if needed)

Wednesday, April 2 - Sessions

Tuesday, April 8 - Senate Session/House Session (if needed)

Wednesday, April 9 - Senate Committee Hearings/  
House Session

April 14 - April 25 - **Spring Break**

Tuesday, April 29 - Senate Committee Hearings

Wednesday, April 30 - Senate Committee Hearings

### May

Tuesday, May 6 - **Primary Election**/Senate Committee Hearings

Wednesday, May 7 - Sessions

Tuesday, May 13 - Senate Committee Hearings/House Session (if needed)

Wednesday, May 14 - Senate Committee Hearings/  
House Session

Tuesday, May 20 - Senate Committee Hearings/House Session (if needed)

Wednesday, May 21 - Sessions

Thursday, May 22 - Senate Session (if needed)

Monday, May 26 - **Memorial Day** (State Offices closed)

Tuesday, May 27 - House Session (if needed)

Wednesday, May 28 - House Session

12/19/13

## **GOV JOHN KASICH'S 2014 STATE OF THE STATE ADDRESS**

### ***Key Points***

**Gov. Kasich Went on the Road Again With the State of the State Address:** As he's done for the past three years, Gov. Kasich took state government to the people when he delivered his annual State of the State address at the Medina High School in Northeast Ohio. Medina is the hometown of Ohio House Speaker William G. Batchelder and the governor recognized the Speaker's service by renaming the Medina Highway Patrol Post in his honor.

**Ohio is “stronger, more hopeful, more optimistic, more excited and more confident”:** Hard work, tough choices and creativity is getting Ohio back on track. Look where we were and where we are now:

- Three years ago Ohio faced an historic \$8 billion budget shortfall, 350,000 out-of-work Ohioans in the private sector, and just 89 cents in the state savings account;
- So we balanced the budget, cut taxes by \$3 billion, made the largest investment in state support for K-12 in a decade, worked to focus colleges and training on the needs of students and job creators and reached out in significant, commonsense ways to Ohioans living in the shadows;
- Now Ohio has a \$1.5 billion surplus, 170,000 more private sector jobs, the most-improved climate for job creation and ever-improving efforts to help Ohioans with disabilities and mental illness, as well as the addicted and the poor;

**We've Got to Keep Pushing Forward:** Despite all the progress Ohio has made, there's still more work to do to make Ohio the best place in America to live, work and raise a family. In his State of the State Address, Gov. Kasich called for the General Assembly to roll-up its sleeves once again and to keep pushing Ohio forward:

- Income Tax Cuts: More income tax cuts will get Ohio's tax rate below 5 percent so Ohioans can keep more of what they earn;
- Dropout Prevention: The 24,000 kids who drop out every year need better intervention strategies—earlier in their school careers with more paths to a diploma—to stay in school;
- Mentoring and Community Support for Schools: Communities that come together to support their schools and mentor kids produce motivated, successful citizens rooted in the values that made our country great;
- College and Job Training: Helping more students get excited about careers and the preparation they need for in-demand jobs starts them on a path to lifelong success
- Mental Illness and Addiction: Giving people with mental illness better access to resources in times of crisis and helping our children avoid and resist drug abuse makes Ohio safer, healthier and more successful.

*“I hope you'll stay with me on the path as we go higher. I hope you'll keep up the teamwork, keep taking on the impossible task, keep tossing aside the status quo and keep shaking things up. If we do, we'll create the stronger, better Ohio that we all want.”*

###



## Hannah News Service 2014 Election Preliminary Candidate List

Updated February 18, 2014

The following is information provided by county boards of elections.  
The list is preliminary until boards of elections complete certification of petitions.

Ohio House				
Dist.	Incumbent	Democrat	Republican	Third Party
1	R. Amstutz		Ron Amstutz	
2	M. Romanchuk	Don Bryant III	Mark Romanchuk	
3	T. Brown		Tim Brown	Nathan Eberly (Libertarian)
4	M. Huffman	Bo Huenke	Robert Cupp Kurt Neeper	
5	N. Barborak	Nick Barborak	Craig Newbold	Martin Elsass (Libertarian)
6	M. Anielski	Anthony Fossaceca	Marlene Anielski	
7	M. Dovilla	Matt Patten	Mike Dovilla	
8	A. Budish	Kent Smith Sylvia James	Mikhail Alterman	
9	B. Boyd	Janine Boyd Sean Malone Isaac Powell David J. Biel	Charles T. Hopson	
10	B. Patmon	Bill Patmon Eugene Miller		
11	S. Williams	Michael Houser Michael Dudley Sr. Harry F. Banks Stephanie Howse Gigi Traore Tony Perry	Roz McAllister	
12	J. Barnes	John Barnes Jr. Jill Miller Zimon		
13	N. Antonio	Nickie Antonio	Maria Anderson	
14	M. Foley	Steve Holecko Martin Sweeney Mike Piepsny	Anna E. Melendez	
15	N. Celebrezze	Nicholas Celebrezze	Patty Gascoyne-Telischak	
16	N. Baker	Todd LeVeck	Nan Baker	
17	M. Curtin	Mike Curtin	Michael Newbern	
18	M. Stinziano	Michael Stinziano	Robert W. Sharrah	Zachary Zaerr (Libertarian)
19	A. Gonzales	Michael Johnston	Anne Gonzales Meta R. Hahn	Chad A. Monnin (Libertarian)
20	H. Bishoff	Heather Bishoff	Daniel D. Mefford	
21	M. Duffey	Dawn Valasco	Mike Duffey	Peter W. Johnsen (Green)
22	J. Carney	David Leland Pia Brady	Andrew C. Hall	
23	C. Grossman	Rick Redfern	Cheryl Grossman	
24	S. Kunze	Kathy Hoff David Girves	Stephanie Kunze Patrick W. Manley	Mark M. Noble (Libertarian)
25	K. Boyce	Kevin Boyce	James E. Burgess Seth B. Golding	

26	T. Heard	Howard Heard Hearcel F. Craig Frederick V. LaMarr	Dustin A. Pyles	
27	P. Stautberg	Joe Otis	Peter Stautberg Tom Brinkman Jr.	
28	C. Pillich	Micah Kamrass	Rick Bryan Kimberly Angel Clark Johathan Dever	
29	L. Blessing III	Tammy Simendinger	Louis Blessing III	Nathan Lane (Green)
30	L. Terhar	Mark A. Childers	Lou Terhar	
31	D. Driehaus	Denise Driehaus	Mark Auer Mary E. Yeager	Queen Noble (Libertarian)
32	D. Mallory	Christie Bryant	A. Bryan McIntosh	
33	A. Reece	Alicia Reece	Mary Michele Fitzpatric	
34	V. Sykes	Emilia Sykes Frank Comunale	Cynthia D. Blake	
35	Z. Milkovich	Zack Milkovich Greta Johnson	Linda M. Robinson	
36	A. DeVitis	Paula Prentice	Anthony DeVitis	David Higgins (Libertarian)
37	K. Roegner	David Worhatch	Kristina Daley Roegner	
38	M. Slaby	Tim Crawford	Marilyn Slaby	
39	F. Strahorn	Fred Strahorn	Jeffrey M. Dalton	
40	M. Henne	Dave Richards	Michael Henne	
41	J. Butler	Wayne Small	Jim Butler	
42	T. Blair	Leonard Johnson	Terry Blair	
43	R. Winburn	Roland Winburn	Jeffery Rezabek	
44	M. Ashford	Michael Ashford	John Insco	
45	T. Fedor	Teresa Fedor	James Noak	
46	M. Sheehy	Michael Sheehy	Andrew Blaszik	
47	B. Sears		Barbara Sears Scott Allegrini	
48	K. Schuring	Jill Natkin	Kirk Schuring	
49	S. Slesnick	Stephen Slesnick		
50	C. Hagan	Deborah Cain	Christina Hagan	
51	W. Rethford	Michele Descresce	Wes Retherford Arnold Engel Greg Jolivette	
52	M. Conditt	Cathina Hourani	Margaret Conditt Joseph P. Ebbing	
53	T. Derickson	Suzi Rubin	Tim Derickson	
54	P. Beck	Rick Smith	Peter Beck Mary Jo Kubicki Paul Zeltwanger	
55	M. Lundy	Brendan Mackin	Nathan Manning	
56	D. Ramos	Dan Ramos Carl W. Whitmore		
57	T. Boose	Matt Lark	Terry Boose	Robert Sherwin (Libertarian)
58	R. Hagan	Janet Tarpley Michael E. O'Hara Cynthia McWilson Michele Lepore-Hagan		
59	R. Gerberry	Ron Gerberry	Paul Dominick Mitchell	

60	J. Rogers	John M. Rogers	George Phillips	
61	R. Young	Rick Walker	Ron Young	
62	R. Maag	Charlene Schneider	Ron Maag David Craig Donald Walter Ben Goldman	Scott Pettigrew (Libertarian)
63	S. O'Brien	Sean O' Brien Marianne James		
64	T. Letson	Michael O'Brien Ken McPherson Eugene Mach II		Elaine Mastromatteo (Green)
65	J. Becker	Charlie Carlier	John Becker	
66	D. Green	Ken P. McNeely Jr.	Doug Green	
67	A. Brenner	David Hogan	Andrew O. Brenner	
68	M. Ruhl	Joyce Skocic	Margaret Ann Ruhl Jason Rogers	
69	W. Batchelder	Richard Javorek	Steve Hambley Chris Sawicki	
70	D. Hall	James E. Riley	Dave Hall Tom Lavinder	
71	J. Hottinger	Ann Rader	Scott Ryan James Cannon III	
72	B. Hayes	Janee L. Bowman	Bill Hayes	
73	R. Perales	Dave Ogan	Rick Perales	
74	R. Hackett		Robert Hackett	
75	K. Clyde	Kathleen Clyde	Kenneth Hendrickson Jr. Nick Skeriotis	
76	M. Lynch	Joseph Lanese	Sarah LaTourette	
77	G. Stebelton	Hollie Ann Saunders	Tim Schaffer Ned Naden Basinger Jason L. Dover	
78	R. Hood	Laina Fetherolf-Rogers	Ron Hood	
79	R. McGregor	Darrell Jackson	Kyle Koehler Patrick Chimento Argeri Lagos	
80	R. Adams	Jonathan James Michalski	Steve Huffman Joe LeMaster Mark E. Williams	
81	L. Wachtmann	John Lymanstall	Jason Rockey Robert McColley	
82	T. Burkley		Tony Burkley Brett Eley	
83	R. Sprague		Robert Sprague	
84	J. Buchy		Jim Buchy	
85	J. Adams		Doug Chamberlin Robert Lucke Nino Vitale	Dave Easton (Constitution)
86	D. Pelanda	John A. Babik	Dorothy Pelanda Daniel Fogt	
87	J. McClain	Jeff Lehart	Jeff McClain	
88	R. Damschroder		No Certified Candidate	

89	C. Redfern	Chris Redfern	Stephen Kraus
90	T. Johnson	Thomas Jefferson Davis	Terry Johnson
91	C. Rosenberger	Christopher Thobaben	Cliff Rosenberger Barb Cole
92	G. Scherer		Gary Scherer Kirk Stinson
93	R. Smith	Josh Bailey	Ryan Smith
94	D. Phillips	Debbie Phillips	Yolan Dennis Daniel Lantz
95	A. Thompson	Charlie Daniels	Andy Thompson
96	J. Cera	Jack Cera	Ron Ferguson
97	B. Hill	Al Espenschied Nelson Roe	Brian Hill
98	A. Landis	Jeremiah Johnson	Al Landis
99	J. Patterson	John Patterson	Nancy McArthur

**Ohio Senate**

Dist.	Incumbent	Democrat	Republican	Third Party
1	C. Hite		Cliff Hite Corey Shankleton Milo Schaffner	
3	K. Bacon	Starshemah M. Johnson Marco J. Miller	Kevin Bacon Kevin Solveson	
5	B. Beagle	Tom Matthew Joe Lacey Dee Gillis	Bill Beagle Julie Busby	
7	S. Jones	James Allen Greg L. Meek	Shannon Jones Kelly Kohls	
9	E. Kearney	Dale Mallory Paul Sohi Joe Hye Catherine D. Ingram Cecil Thomas	Jaqueline M. Mikita	
11	E. Brown	Edna Brown	Ernest McCarthy	
13	G. Manning	Eric Kaple Marcus Madison	Gayle Manning	
15	C. Tavares	Charleta B. Tavares	Joseph A. Healy	
17	B. Peterson		Bob Peterson	
19	K. Jordan	Neil Patel	Kris Jordan	
21	S. Smith	Sanrda Williams Gerald Henley Willie Lewis Britt		
23	M. Skindell	Michael Skindell	Tom Haren Harry E. Ristmae	
25	N. Turner	Ed Jerse Kenny Yuko Thaddeus Jackson		
27	F. LaRose	George S. Rusiska	Frank LaRose Caleb T. Davenport	
29	S. Oelslager	Connie Rubin	Scott Oelslager Dennis Harbert	
31	T. Schaffer	John Carlisle	Jay Hottinger	
33	J. Schiavoni		Joe Schiavoni	

<b>Ohio Supreme Court</b>				
<b>Incumbent</b>	<b>Democrat</b>	<b>Republican</b>	<b>Third Party</b>	
J. French	John O'Donnell	Judith French		
S. Kennedy	Tom Letson	Sharon Kennedy		
<b>Ohio Governor/Lt. Governor</b>				
<b>Incumbent</b>	<b>Democrat</b>	<b>Republican</b>	<b>Third Party</b>	
J. Kasich/M. Taylor	Ed FitzGerald/Sharen Neuhardt Larry Ealy/Ken Gray	John Kasich/Mary Taylor	Charlie Earl/Sherry Clark (Lib)	
<b>Ohio Attorney General</b>				
<b>Incumbent</b>	<b>Democrat</b>	<b>Republican</b>	<b>Third Party</b>	
M. DeWine	David Pepper	Mike DeWine	Steven R. Linnabary (Lib)	
<b>Ohio Auditor</b>				
<b>Incumbent</b>	<b>Democrat</b>	<b>Republican</b>	<b>Third Party</b>	
D. Yost	John Patrick Carney	David A. Yost		
<b>Ohio Secretary of State</b>				
<b>Incumbent</b>	<b>Democrat</b>	<b>Republican</b>	<b>Third Party</b>	
J. Husted	Nina Turner	Jon Husted		
<b>Ohio Treasurer</b>				
<b>Incumbent</b>	<b>Democrat</b>	<b>Republican</b>	<b>Third Party</b>	
J. Mandel	Connie Pillich	Josh Mandel		
<b>Congress</b>				
<b>Dist.</b>	<b>Incumbent</b>	<b>Democrat</b>	<b>Republican</b>	<b>Third Party</b>
1	S. Chabot	Jim Prues Fred Kundrata	Steve Chabot	
2	B. Wenstrup	Ronny Richards William R. Smith John Sheil Marek Tyszkiewicz	Brad Wenstrup	
3	J. Beatty	Joyce Beatty Selina R. Miller	John Adams Eric T. Vennon	
4	J. Jordan		Jim Jordan	
5	B. Latta	Robert Fry	Bob Latta	Eric Eberly (Libertarian)
6	B. Johnson	Jennifer Garrison Gregory Howard	Bill Johnson	
7	B. Gibbs	Robert Fisher	Bob Gibbs	
8	J. Boehner	Tom Poetter Matthew Guyette Robert Crow	John Boehner Eric Gurr Matthew Ashworth J.D. Winteregg	James Conditt Jr. (Constitution)
9	M. Kaptur	Marcy Kaptur	Robert Horrocks Jr. Richard May	
10	M. Turner	William Connor Robert P. Klepinger	Mike Turner John D. Anderson	David Harlow (Libertarian)
11	M. Fudge	Marcia Fudge	Mark Zetzer	
12	P. Tiberi	David A. Tibbs	Pat Tiberi	Robert M. Hart (Green)
13	T. Ryan		Tim Ryan John Stephen Luchansky	
14	D. Joyce	Michael Wager	David P. Joyce Matt Lynch	David Macko (Libertarian)

15	S. Stivers	Scott Wharton	Steve Stivers Charles S. Chope
16	J. Renacci	Pete Crossland James Donenwirth	Jim Renacci

## Ohio Gov Can't Break Free Of Unknown Challenger, Quinnipiac University Poll Finds

Ohio Gov. John Kasich has a 51 - 36 percent job approval rating, virtually unchanged in the last 12 months, and a slim 43 - 38 percent lead over Cuyahoga County Executive Ed FitzGerald, his largely unknown possible Democratic challenger, according to a Quinnipiac University poll released today.

This compares to a 44 - 37 percent lead for Gov. Kasich in a November 26 survey by the independent Quinnipiac University.

Today, Kasich leads 82 - 6 percent among Republicans and 43 - 31 percent among independent voters, while Democrats go to FitzGerald 74 - 11 percent. Men back the Republican 49 - 33 percent while women back the Democrat 42 - 37 percent.

Ohio voters say 61 - 31 percent that Kasich is a strong leader and say 52 - 35 percent that he is honest and trustworthy, but are divided on whether he cares about their needs and problems, as 43 percent say he cares and 47 percent say he doesn't care.

The governor gets a 42 - 30 percent favorability rating and voters say 46 - 42 percent he deserves to be reelected.

For FitzGerald, 70 percent don't know enough to form an opinion.

"The race to become Ohio's next governor is a five-point game, little changed from the seven-point spread in Quinnipiac University's last survey in November. Also unchanged, however, is how relatively few Ohioans - less than three in ten - know enough about Democratic favorite Ed Fitzgerald to have an opinion about him," said Peter A. Brown, assistant director of the Quinnipiac University Polling Institute. "That is a double-edged sword for the challenger: It indicates he has not made much headway in the past three months, but it provides him an opportunity to make up ground among the vast number of voters who are unfamiliar with him."

"Voters see Gov. John Kasich in a more favorable light when it comes to his personal characteristics than his handling of issues," said Brown. "They give him high grades on leadership and positive ratings on trustworthiness and good judgment, though not so much on understanding the problems of average folks. He gets basically even scores on handling the budget, taxes and jobs, the latter of which is cited by voters as the top priority."

In an open-ended question, allowing for any answer, a total of 42 percent of Ohio voters list the economy or jobs as the top priority for state government in 2014. Another 14 percent list education or education funding, followed by 5 percent who cite health care.

Ohio voters give Kasich a mixed grade for his handling of the economy and jobs as 44 percent approve and 46 percent disapprove. His approval ratings on other issues are:

44 - 40 percent approve of his handling of taxes;

44 percent approve of his handling of the state budget, while 42 percent disapprove;

42 percent disapprove of his handling of health care, while 36 percent approve; Death Penalty

## Ohio Statewide Candidate Campaign Cash Chart (Jan. 31, 2014)

### **Governor**                      **In the Bank**

John Kasich – R            \$7.9 million

Ed FitzGerald – D        \$1.4 million

### **Attorney General**

Mike DeWine – R        \$1.8 million

David Pepper – D        \$764,016

### **Secretary of State**

Jon Husted – R            \$2.1 million

Nina Turner – D          \$300,000

### **Treasurer**

Josh Mandel – R        \$2 million

Connie Pillich – D      \$800,000

### **Auditor**

Dave Yost – R            \$776,284

Jon Carney – D          \$599,960

## **Ohio Legislative Caucuses**

Senate Republicans      \$3.6 million

Senate Democrats        \$64,000

House Republicans      \$3.9 million

House Democrats        \$173,000

## New EPA Regulations Will Stifle Manufacturing Growth in Ohio

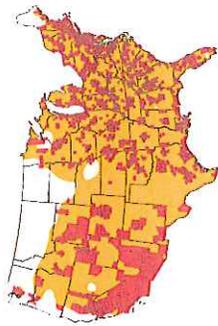
The Environmental Protection Agency (EPA) is developing new ozone regulations that will put manufacturing growth at risk in the red and orange areas in your state.



■ Areas with monitors  
■ Unmonitored but likely to exceed 60 ppb

Projected Nonattainment in Ohio (60 ppb)

Source: URS



Projected Nonattainment in the United States (60 ppb)

### Growth Stifling Regulations Are Coming

- The EPA plans to **tighten** the National Ambient Air Quality Standards (NAAQS) for **ground-level ozone** from the current 75 parts per billion (ppb) to between 60 and 70 ppb, or even lower.
- Ground-level ozone is formed from the combustion of fuel from cars, power plants and other industrial plants, as well as non-manmade sources like plants, forest fires and ozone from the stratosphere migrating to ground level.
- Just this year, a federal court ruled that the **current standard protects human health**.

### The Costs Will Be Astronomical

- When EPA considered tightening the same standard in 2010, the estimated costs in Ohio were **\$5.6 billion per year**.

### It Gets Worse For Counties In The Red and Orange

- **Manufacturers won't be able to expand** without a reduction of emission or **shut down of operations** from other businesses in the area.
- **Plans for new plants and expansion** at existing plants will be **shelved**.
- **Federal highway funds** could **freeze**.
- Existing facilities will have to **change processes** and **pay for new equipment**.
- **Economic growth will halt**.

[www.nam.org](http://www.nam.org)

Source: U.S. Bureau of Economic Data, 2011



## Counties in Your State with Monitored Data<sup>1</sup> and the Jobs at Risk How Low Will EPA Go? 70? 65? 60? Or Even Lower?

County	Measured Ozone Levels (ppb)	Manufacturing Jobs	Natural Resources and Mining Jobs	Construction Jobs
Brown	65	786	ND	ND
Builer	65	19,119	170	5,605
Clermont	65	5,528	77	2,637
Hamilton	65	47,244	283	19,015
Warren	65	10,361	216	2,184
Cuyahoga	83	70,579	470	19,882
Caauga	83	6,794	267	1,741
Lake	83	20,609	705	3,769
Lorain	83	17,537	773	3,878
Medina	83	8,663	184	2,984
Clinton	82	3,153	34	195
Delaware	82	5,937	270	2,559
Fairfield	82	4,406	78	1,667
Franklin	82	35,201	554	19,764
Licking	82	6,272	627	2,243
Madison	82	2,879	153	378
Morrow	82	869	48	161
Pickaway	82	2,534	144	612
Union	82	8,540	431	590
Ashtabula	79	6,573	143	841
Carroll	79	1,293	231	475
Mahoning	79	9,161	360	4,178
Stark	79	25,657	708	6,680
Trumbull	79	13,014	137	2,903
Greene	78	3,197	198	1,439
Miami	78	9,994	215	1,518
Montgomery	78	25,766	221	7,529
Preble	78	2,724	115	258
Clark	76	6,988	347	1,037
Fulton	76	5,975	198	564
Lucas	76	20,371	271	7,847
Ottawa	76	2,189	117	492
Wood	76	12,197	340	2,582
Jefferson	75	1,166	141	852
Knox	75	4,731	173	695
Allen	74	8,128	144	1,759
Belmont	74	846	1,778	1,059
Portage	74	10,178	324	1,860
Summit	74	29,922	156	8,867
Washington	74	3,578	456	1,433
Lawrence	72	548	ND	790

ND=No Reported Data

Source: Bureau of Labor Statistics, 2012 Q4

Source: URS, June 4, 2013. Based on 3-year period, 2010-2012



<sup>1</sup> Only counties with monitor data are included in the table. As demonstrated by the counties in orange in the maps, many other currently unmonitored counties are expected to be out of attainment as well.

<sup>2</sup> Ozone data are based on monitors located in the Core Based Statistical Area in which the county is located.



# Ohio Legislative Service Commission

## Resolution Analysis

Megan Cummiskey

### S.J.R. 6\*

130th General Assembly

(As Reported by H. Finance & Appropriations)

**Sens.** Bacon and Manning, Coley, Oelslager, Hughes, Jones, LaRose, Gardner, Sawyer, Skindell, Smith, Tavares, Peterson, Balderson, Beagle, Brown, Eklund, Faber, Hite, Lehner, Schaffer, Seitz, Turner, Uecker

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## RESOLUTION SUMMARY

- Proposes a constitutional amendment to permit the issuance of an additional \$1.875 billion of general obligation bonds to fund public infrastructure capital improvements of local subdivisions.

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## CONTENT AND OPERATION

### State bond authority for public infrastructure capital improvements

The constitutional amendment proposed by the resolution authorizes the General Assembly to provide by law for the issuance of additional general obligation bonds and other general obligations of the state to finance or assist in the financing of capital improvement projects of municipal corporations, counties, townships, or other governmental entities designated by law. The capital improvement projects are limited to roads and bridges, waste water treatment systems, water supply systems, solid waste disposal facilities, and storm water and sanitary collection, storage, and treatment facilities, including real property, interests in real property, facilities, and equipment related or incidental to them. The cost of acquisition, construction, reconstruction, expansion, improvement, planning, and equipping are specifically included.<sup>1</sup>

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\* This analysis was prepared before the report of the House Finance and Appropriations Committee appeared in the House Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

<sup>1</sup> Proposed Article VIII, Section 2s(A), Ohio Constitution.

The state is authorized to participate in these capital improvement projects by providing grants, loans, or contributions to the local subdivisions.<sup>2</sup>

### **Amount of obligations**

The proposed constitutional amendment limits the bond issuing authority to not more than \$1.875 billion. Not more than \$175 million principal amount of state general obligations may be issued in each of the first five fiscal years of issuance and not more than \$200 million principal amount of those obligations may be issued in each of the next five fiscal years of issuance. If annual limits are not reached, the amount not issued may be issued in a subsequent year and does not count towards that fiscal year's limit.<sup>3</sup>

No obligations may be issued, however, until all of the state infrastructure obligations authorized under Section 2p, Article VIII, of the Ohio Constitution have been issued.<sup>4</sup> Section 2p authorizes a total of \$1.35 billion of general obligation bonds for public infrastructure capital improvements. The 2p bonds are issued by Ohio Public Facilities Commission. The proceeds of the 2p bonds are allocated among the state's district public works integrating committees by the Public Works Commission.<sup>5</sup>

### **Maturity of obligations**

Each issue of general obligations must mature in not more than 30 years from the date of issuance. If the obligations are issued to retire or refund other obligations, the obligations must mature within 30 years from the date the debt being retired or refunded was originally issued.

If general obligations are issued as notes in anticipation of the issuance of bonds, the General Assembly must provide for the establishment and maintenance, during the period in which the notes are outstanding, of one or more special funds into which are to be paid, from sources authorized for payment of the bonds, amounts that would have been sufficient, if bonds maturing within the permitted period of years had been issued without the prior issuance of notes, to pay the principal that would have been payable on the bonds during that period. The special funds may not be used for any

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<sup>2</sup> Proposed Article VIII, Section 2s(E), Ohio Constitution.

<sup>3</sup> Proposed Article VIII, Section 2s(B), Ohio Constitution.

<sup>4</sup> Proposed Article VIII, Section 2s(B), Ohio Constitution.

<sup>5</sup> R.C. 151.01, 151.08, 164.03, and 164.08, not in the resolution.



purpose other than payment of principal of the notes or bonds for which the notes were issued.<sup>6</sup>

### **Debt service**

With respect to the state general obligations authorized by the proposed constitutional amendment, the full faith and credit, revenue, and taxing power of the state are pledged to the timely payment of the principal of, and the premium, interest, and other accreted amounts payable on, the obligations (known as "debt service"). Accordingly, the General Assembly is required to provide by law for the sufficiency and appropriation of excises, taxes, and revenues pledged or committed to debt service and for covenants to continue the levy, collection, and application of sufficient excises, taxes, and revenues to the extent needed for purposes of paying debt service. The General Assembly is also required to establish a bond retirement fund. No further act of appropriation is necessary for these purposes.

Fees and taxes received in connection with the use of public highways by motor vehicles may not be pledged to the payment of debt service on the general obligations authorized under the amendment.<sup>7</sup>

### **Tax exemption**

As stated in the proposed constitutional amendment, the obligations, their transfer, and the interest or other income from the obligations, including any profit made on the sale, exchange, or other disposition of them, are at all times free from taxation within the state.<sup>8</sup>

### **Election and effective date**

The resolution provides that the proposed constitutional amendment will be submitted to the electors at the special election to be held on May 6, 2014. If approved by a majority of the electors voting on the proposal, the constitutional amendment will take effect immediately.

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<sup>6</sup> Proposed Article VIII, Section 2s(C), Ohio Constitution.

<sup>7</sup> Proposed Article VIII, Section 2s(D), Ohio Constitution.

<sup>8</sup> Proposed Article VIII, Section 2s(F), Ohio Constitution.



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## HISTORY

ACTION	DATE
Introduced	12-18-13
Reported, S. Finance	01-14-14
Adopted Senate (31-0)	01-14-14
Reported, H. Finance & Appropriations	-----

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# Ohio Legislative Service Commission

## Bill Analysis

Julie A. Rishel

### H.B. 338

130th General Assembly  
(As Introduced)

**Reps.** McGregor and Hottinger, Beck, R. Adams, Gonzales, Letson

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## BILL SUMMARY

- Exempts an individual who provides services for or on behalf of a motor transportation company transporting property from coverage under Ohio's Workers' Compensation Law, Ohio's Unemployment Compensation Law, and Ohio's Overtime Law if specified conditions apply to the individual.

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## CONTENT AND OPERATION

### Exemption from specified labor laws

The bill exempts an individual to whom all of the following conditions apply from coverage under Ohio's Workers' Compensation Law, Ohio's Unemployment Compensation Law, and the portions of the Minimum Fair Wage Standards Law that govern the payment of overtime:

- The individual provides services for or on behalf of a motor transportation company transporting property (see **COMMENT**).
- The individual is an operator of a car, van, truck, tractor, or tractor that is licensed and registered under Ohio's Licensing of Motor Vehicles Law or a similar law of another state.
- All of the following "essential" factors apply to the individual:
  - The individual owns the vehicle used to provide the service or holds it under a bona fide lease arrangement.
  - The individual is responsible for the maintenance of the vehicle used to provide the service.

- The individual is responsible for supplying the necessary personal services to operate the vehicle used to provide the service.
- At least three of the following "nonessential" factors apply to the individual:
  - The compensation paid to the individual is based on factors related to work performed, including a percentage of any schedule of rates, and not on the basis of the hours or time expended.
  - The individual substantially controls the means and manner of performing the services, in conformance with regulatory requirements and the shipper's specifications.
  - The individual enters into a written contract that describes the relationship between the individual and the company for whom the individual is performing the service to be that of an independent contractor and not that of an employee.
  - The individual is responsible for the operating costs of the vehicle used to provide the service, including fuel, repairs, supplies, vehicle insurance, and personal expenses, except that the individual may be paid the carrier's fuel surcharge and incidental costs, including tolls, permits, and lumper fees (fees for unloading or handling cargo).<sup>1</sup>
  - The individual makes the individual's services available to the general public or to the business community on a continuing basis.
  - The individual may realize a profit or suffer a loss in performing services for the motor transportation company.<sup>2</sup>

### **Prospective application**

Currently, an individual who satisfies the requirements for the bill's exemption may be considered an "employee" under Ohio's Workers' Compensation Law, Ohio's Unemployment Compensation Law, or the portions of the Minimum Fair Wage Standards Law that govern the payment of overtime, depending upon the

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<sup>1</sup> See definition of "lumper," <http://dictionary.reference.com/browse/lumper?s=t> (accessed January 10, 2014).

<sup>2</sup> R.C. 4111.03(D) (with a conforming change in R.C. 119.14(C) and (G)), 4121.01(A) (with a conforming change in R.C. 1349.61(E)), 4123.01(A), and 4141.01(B)(2)(e) and (m).

circumstances involved. The bill's exemption does not apply, however, to any claim or cause of action pending under those laws on the bill's effective date.<sup>3</sup>

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## COMMENT

In what appears to be a drafting error, the bill refers to an individual transporting property for a "motor transportation company" as defined in R.C. 4921.02. That term was repealed by Am. Sub. H.B. 487 of the 129th General Assembly. It appears that the bill is referring to a "for-hire motor carrier," which largely replaced "motor transportation company." Both terms generally refer to a person engaged in the business of transporting persons or property by motor vehicle for hire or compensation. However, the terms differ in the exceptions to their definitions.<sup>4</sup>

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## HISTORY

ACTION	DATE
Introduced	11-06-13

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<sup>3</sup> Section 3.

<sup>4</sup> R.C. 4111.03(D), 4121.01(A), 4123.01(L), and 4141.01(EE), by reference to former R.C. 4921.02 and R.C. 4923.01, not in the bill.





# Ohio Legislative Service Commission

## Bill Analysis

Jennifer A. Parker

### S.B. 260

130th General Assembly  
(As Introduced)

Sens. Patton, Balderson, Hite

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## BILL SUMMARY

- Prohibits the Registrar of Motor Vehicles from issuing a motor vehicle dealer's license or motor vehicle leasing dealer's license to a motor vehicle manufacturer for the retail sale or lease of new or used motor vehicles.

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## CONTENT AND OPERATION

Under the bill, if a manufacturer, or a parent company, subsidiary, or affiliated entity of a manufacturer, applies to the Registrar of Motor Vehicles for a license to sell or lease new or used motor vehicles at retail, the Register must deny the application and refuse to issue the license. The bill is not, however, to serve as the basis for the termination, revocation, or nonrenewal of a license granted *prior* to the bill's effective date.

The bill states that it does not prohibit a manufacturer from disposing of motor vehicles at wholesale at the termination of a consumer lease through a motor vehicle auction.<sup>1</sup>

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## HISTORY

ACTION	DATE
Introduced	12-23-13

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<sup>1</sup> R.C. 4517.12(A)(11).

## **New manufacturing research institute in Canton to bring 10,000 jobs to Midwest**

The \$148-million high-tech manufacturing research institute announced Saturday by the White House is expected to bring 10,000 jobs to the Midwest and is to open this spring in Canton, the University of Michigan announced Sunday.

The American Lightweight Materials Manufacturing Innovation Institute will be led by U-M, Ohio-based manufacturing technology nonprofit EWI and Ohio State University.

More than 50 other companies, universities and nonprofits across the U.S. will be involved in the public-private partnership to be headquartered in Canton, with key support in Columbus, Ohio.

"Through this initiative, our region will build on its core strengths to become the nation's technology hub for lightweight materials and manufacturing," U-M President Mary Sue Coleman said. "Companies from around the country will come here not only because of our technological capabilities, but also because we have the workforce they need in their efforts to revitalize and transform domestic manufacturing."

The White House announced that the Michigan-based consortium won a competition to be one of the first three manufacturing innovation institutes in the nation. The first consortium is based in North Carolina and another is to be based in Chicago. President Barack Obama is expected to unveil the award during an event Tuesday.

Most of the anticipated 10,000 jobs are expected to be concentrated in Michigan and Ohio.

The federal government will invest \$70 million over five years with an additional \$78 million in matching money from consortium partners. Funding includes \$10 million from the Michigan Economic Development Corp. and money from the State of Ohio, according to U-M.

Sara Wurfel, spokeswoman for Gov. Rick Snyder, said the project is great news for Michigan and recognition of the state and region's talent, innovation, higher education institutions and strong leadership in manufacturing.

"Michigan has led the nation in number of manufacturing jobs. Can't think of a more perfect place for this new institute," she said.

The institute is designed to establish an ecosystem to support the production of advanced lightweight metals, U-M said. It will enable research and development projects as well as education and training programs to prepare the workforce.

It is charged with moving cutting-edge lightweight metals out of the research lab and into tomorrow's cars, trucks, airplanes and ships for both the commercial and military sectors, U-M said. The institute's efforts will encompass the entire transportation supply chain, nurturing innovations from conception through design, development and production.

It will contract more than \$100 million in research and development projects with partner organizations. And by establishing science, technology and engineering curricula for programs in grade school to graduate school, the institute will help educate the next generation of manufacturing operators and engineers, according to the university.

Most of the 10,000 jobs will be in the metal stamping, metalworking, machining and casting industries that are dominant in the Midwest. The institute will aim to add 100 more metal-related engineering professionals per year and 1,000 more skilled trade workers.

The institute will be the newest node in the National Network of Manufacturing Innovation, a White House initiative to help U.S. manufacturers become more competitive.

The concept of such a network came out of Obama's Advanced Manufacturing Partnership, launched in 2011. Coleman and engineering professor Jack Hu, now U-M's interim vice president for research, served on the working group that recommended the innovation network.

Canton Supervisor Phil LaJoy said the investment gives the township an opportunity to show the world how it is a business-friendly community.

Wayne County Executive Robert Ficano agreed and said the hub is a natural fit with the skilled workforce for manufacturing and the university system.

Despite hardships for the region, such as the Detroit bankruptcy, "innovation and talent keeps coming here along with the workforce."

"You get much farther ahead with collaboration and cooperation, not only at the regional scale," Ficano said. "When you have labor and academics and the business sector, you can accomplish so much more."



**FOR IMMEDIATE RELEASE**

**THE OHIO STEEL COUNCIL APPLAUDS U.S. DEPARTMENT OF COMMERCE DECISION TO BLOCK CHINESE OCTG PRODUCERS FROM UNFAIR DUMPING**

COLUMBUS, OH, February 12, 2014 – The Ohio Steel Council said today that it applauds the U.S. Department of Commerce’s decision to block Chinese Oil Country Tubular Goods (OCTG) producers from unfairly dumping their pipe products in the U.S. and in Ohio.

OCTG products imported from China will now be subject to anti-dumping and countervailing duties, the U.S. Department of Commerce said. With the new Department of Commerce’s ruling, OCTG made in China and finished in other countries now will face existing trade enforcement penalties. OCTG products are used in the exploration and transportation of oil and natural gas and are produced in Ohio by at least three steel companies.

“We are very pleased with the Department of Commerce’s ruling against unfairly traded OCTG products,” said Brenda Schulz, President of the OSC. “We have numerous Ohio Steel Council members that have continually been impacted by unfair dumping. This ruling helps Ohio and U.S. steelmakers and enforces a level playing field.

“We also want to thank Governor John Kasich, U.S. Sen. Sherrod Brown, D-Ohio and U.S. Sen. Rob Portman, R-Ohio for their tireless efforts in urging the Department of Commerce to rule in favor of domestic steel manufacturers on a petition regarding product coverage for duties ordered on OCTG from China.”

Senator Brown’s [web site](#)

Senator Portman’s [web site](#)

**Ohio Steel Industry Economic Impact**

Based on the most recent data available, the Ohio Steel Council estimates that the Ohio steel industry's total impact on the state’s economy to be an estimated \$7.2 billion. Nearly 100,000 jobs link to the steel industry either through direct employment or ripple effects throughout the economy. For every single job in the steel industry, two more jobs are created and together generate approximately \$4.8 billion in wages.

More than 22,000 Ohio residents work directly for companies that produce or process steel products. Those companies pay more than \$600 million in taxes to Ohio and its local communities, and \$700 million in federal taxes. Revenue from those taxes helps maintain and strengthen local, state and federal programs. In addition, the steel industry in Ohio invests about \$315 million per year on capital expenditures taking advantage of some of the most advanced technologies in the world.

## **About The Ohio Steel Council**

Comprised of steel producers, processors and suppliers, the Ohio Steel Council serves as the voice of the steel industry in Ohio. By promoting the benefits of a healthy steel sector, the Council strives to educate key constituents about the industry's overall importance and significant economic impact. A participant in the legislative process, the Ohio Steel Council provides insight on policy issues, including their potential effects on Ohio's steel industry and the state's economy. Additional information about the Ohio Steel Council is available at [www.ohiosteelcouncil.org](http://www.ohiosteelcouncil.org). Ohio Steel Council members include: AK Steel Corporation, AMG Vanadium, Inc., ArcelorMittal, Charter Steel, Cliffs Natural Resources, Inc., Eramet Marietta, Inc., Nucor Steel Marion, Inc., Stein, Inc., The Timken Company, Tata Steel, Tube City IMS, United States Steel Corporation and Wheeling & Lake Erie Railway.

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**Contact: Lisa Schaaf, 614-629-6806**

## **Overweight Truck Reporting Rules Irk Railroad Industry**

The perpetual tug-of-war between Ohio's railroad and trucking industries could resurface briefly next week as a legislative panel considers new rules on overweight trucks.

Ohio Railroad Association Executive Director Art Arnold expressed concern about the Ohio Department of Transportation's proposal to eliminate requirements for trucking companies to submit information about overweight truck trips made using 90-day and annual permits.

The issue will likely be discussed during a hearing of the Joint Committee on Agency Rule Review on Wednesday.

In a letter to ODOT, Mr. Arnold said the proposed rule change would hinder the state's ability to accurately assess the damage that overweight trucks do to publicly funded roads and bridges.

"Collecting the information provided from the special permit users allows the state to evaluate the impact of the overweight operations on its infrastructure, address any safety concerns, and recover an appropriate fee from the commercial users to eliminate any subsidy for the overweight permitted operations," he said.

"Not collecting this data will leave ODOT without a solid foundation to establish answers to questions ranging from pricing to infrastructure impacts," he said.

ODOT has previously estimated that public funds for roads and bridges effectively subsidizes the commercial trucking industry by roughly \$45 million a year, Mr. Arnold said.

The rail industry, which generally owns its own infrastructure, has frequently challenged legislative and administrative changes that have increasingly eased regulations on heavy trucks in recent years.

ODOT Director Jerry Wray said in response that current reporting requirements for 90-day and 365-day permits are burdensome for both the trucking industry and his staff.

"Also there are concerns about the accuracy and completeness of the data that ODOT receives. Receiving incomplete and inaccurate data was not the original intent of placing these reporting requirements in the Administrative Code," he said.

"Therefore it was decided to remove this optional reporting requirement until a more suitable method can be proposed and discussed with all applicable stakeholders," Director Wray added.

JCARR Executive Director Larry Wolpert said his office hasn't identified any technical issues that could prompt the committee to move toward invalidating the ODOT rules.

**To: OMA Government Affairs Committee**  
**From: Ryan Augsburger / Rob Brundrett**  
**Re: Energy Public Policy Report**  
**Date: February 26, 2014**

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### **Electricity Rates and Regulation**

Utility cases approved in 2012 and 2013 signal a sea change in the way Ohio regulates and prices electricity for all customer classes. The new environment raises questions on the role of government and the role of programs designed to help customers manage electricity consumption. The OMA Energy Committee and OMA Energy Group will be providing even more tools for understanding and engagement for manufacturers in 2014.

### **Capacity Prices Increase**

Capacity prices, a portion of your electricity bill, are set by three-year looking forward auctions at PJM, and will increase in 2015, dramatically so in FirstEnergy service territory where the capacity charge will near three cents per kWh. Ask staff for an overview document of the issue.

To help manufacturers understand what they can do to mitigate the coming capacity rate increases, OMA is hosting a series of seminars later this month in four locations within FirstEnergy service area. We'll provide participants (and those who request) with capacity cost analyses for their facilities, and information about how to reduce the costs. See included flier on the seminars. Please pass it on to appropriate management, especially if you have operations in FirstEnergy territory.

The spike in capacity price for 2015 occurred in the 2012 auction. Since then, the PUCO ordered FirstEnergy to bid 75% of its energy efficiency resources into the PJM auctions to "substantially benefit ratepayers by lowering capacity auction prices and reducing Rider DSE costs." FirstEnergy has called the auctions "unfair." See included Plain Dealer article on FirstEnergy's business and its relation to the PJM auctions, and other issues. Capacity will be discussion topic for the March 6 OMA Energy Committee.

### **Energy Efficiency Legislation (SB 58 / HB 302)**

Senator Bill Seitz (R – Cincinnati) chairs the Senate Public Utilities Committee that has been holding hearings on SB 58 to revise existing Ohio energy policy on renewables, efficiency, and advanced energy. After thoroughly researching the matter, the OMA adopted a position of opposition to the bill. Research shows benefits outweigh costs and that large energy users may need the option to opt-out. See included OMA SB 58 resource center.

In early December SB 58 stalled due to concern in the Senate about the bill's effect of enriching electric utilities by significantly increasing consumer bills. Since then, we've been working with members and senators on several issues that would improve Ohio's energy statutes.

A work group of OMA members has been developing legislative language that would provide a streamlined energy efficiency opt-out option for large industrial electricity users that does not compromise costs for other consumers. See attached draft language. The language has gone through a number of iterations through member input. It has the support of key stakeholders that could be helpful to move the proposal, and is a work in progress.

We are working on several other issues identified in the work group meetings: a cap on energy efficiency costs (for non-opted out ratepayers); standards for “counting” energy efficiency; and smoothing the ramp-up of the energy efficiency standards over the years. See included language. Member engagement in support of this alternative approach will be necessary.

### **Manufactured Gas Plant Remediation Costs**

In Spring of 2013, lawmakers advanced a legislative proposal to revise a standard in utility law that would result in granting cost-recovery to utilities for remediation of obsolete manufactured gas plants. Governor Kasich vetoed the cost expansion legislation contained in the state budget bill, but that has not deterred the General Assembly from trying it again.

In response to member concerns, the OMA formed a work group for manufacturers to study the issue and advocate industry concerns against any such proposal and continues to communicate concerns.

Aside from a possible law change, a request for cost-recovery by Duke has been approved by the PUCO, even though the request seems to violate a state standard. The OMA Energy Group intervened in Duke Energy’s gas distribution case before the PUCO case and is appealing the unfavorable decision.

### **New Gas Rider Could Pay for Line Extensions (HB 319)**

Legislators are considering House Bill 319 (Cheryl Grossman) that would permit a natural gas company to establish a rider to fund gas infrastructure development. See [analysis](#) by OMA energy counsel that highlights concerns with the legislation.

### **“Reasonable Arrangements” Legislation (HB 312)**

HB 312 (Terry Johnson) permits an electric distribution utility to recover the costs of economic and job retention programs, via approved reasonable arrangements, from ALL electric utility customers in the state, rather than only from customers located in the utility’s certified territory or within the same holding company. The bill also prohibits the PUCO from approving applications for economic development and job retention reasonable arrangements and/or modifications or extensions after January 1, 2018. See OMA energy counsel’s [analysis](#) of HB 312.

### **PUCO Chairman**

PUCO Chairman Todd Snitchler decided not to apply for reappointment. The Public Utilities Commission of Ohio Nominating Council submitted the names of four finalists to be considered by Governor John Kasich for applicants for the position of commissioner of the PUCO to fill a five-year term commencing on April 11, 2014.

The Nominating Council recommended the following individuals: Patrick Donlon, Columbus; Thomas W. Johnson, Columbus; Stacey E. Polk, Cleveland; Tom Waniewski, Toledo. Kasich has 30 days to select a nominee or request a new list of names from the Nominating Council.

### **New AEP Rate Plan Filed**

AEP Ohio has filed application with the PUCO seeking approval of an electric security plan (ESP) for the term June 1, 2015 to May 31, 2018. A major focus of the application is a distribution reliability strategic plan, which proposes to continue collecting a number of distribution-related rider charges throughout the ESP period, as well as creating several new distribution riders. As a result, although the application appears to minimize the overall

economic impact of the rate plan, the plan appears to disproportionately impact distribution rates. An analysis by counsel is available to members. The OMA Energy Group has intervened in the case to protect manufacturers' interests and will be discussing the case March 6.

### **PUCO Considers Modifications of “Reasonable Arrangements”**

The OMA energy group will be reviewing modifications to existing reasonable arrangements. Recent high profile cases have included ORMET and Republic Steel.

### **Federal Greenhouse Gas Regulations (GHG)**

Comment is open on proposed USEPA regulations of GHG emissions under the existing Clean Air Act. The OMA is working with the NAM and with other interests in a national coalition. State legislation to empower state regulators is also being considered. See OMA Environment Report.

### **Severance Tax -- Shale Gas**

Governor Kasich's proposals to modernize the state severance tax (collected when oil and gas is extracted from the state) foundered twice in the wake of opposition from legislative Republicans; first in 2012 and again in 2013 in the context of the Governor's budget proposal. An OMA work group comprised of OMA energy committee representatives evaluated these proposals and made recommendations to the OMA Board of Directors. Look for the issue to return in the mid-biennium review (MBR).

### **“On-Bill” Financing of Efficiency Projects**

A proposal by the environmental defense fund and supported by one regional business group calls for using utility bills as a place to make payments on capital loans to finance energy efficiency projects. This item was discussed at the November OMA Energy Committee meeting.

### **Energy Special Improvement District (E-SID)**

An E-SID was created by law in 2009 and enables the building owner to self-finance energy efficiency improvements through a special assessment on their property. A legislative proposal would authorize port authorities to create and govern an E-SID and broadens qualifying projects to include energy efficiency / CHP projects. This topic will be discussed at March 6 OMA Energy Committee meeting.

### **Pipeline Tax Break?**

Ohio has seen billions of dollars in system upgrades stemming from Ohio's proximity to shale gas production and gas markets. Various projects have been spotlighted at prior committee meetings. One company has expressed interest in changes to the state's tax structure to provide financing incentives.

## Energy

### **PUCO Launches “Energy Choice Ohio”**

This week the Public Utilities Commission of Ohio (PUCO) [launched](#) a new website for consumers, “[Energy Choice Ohio](#).” The site was developed to help residential and small business consumers shop for competitive electric and natural gas supplier offerings and contract terms. *2/20/2014*

### **Rethinking Utility Business Models and Regulations**

Regulators need to stop linking utility rates to their electric sales, a move that would help utilities support distributed generation and energy efficiency, the Edison Electric Institute (EEI), a trade group for investor-owned utilities, and the Natural Resources Defense Council (NRDC) said last week in a [letter](#) to the National Association of Regulatory Utility Commissioners.

These two groups “launched a joint campaign in 2008 to accelerate energy efficiency gains.” Now, they make a series of recommendations that “reflect our strong belief in the promise of new technologies for enhancing grid performance while lowering emissions (e.g., communications infrastructure, smart grid technologies, distributed generation, demand response, and upgraded controls). This innovation surge is viewed as having potential for grid improvement (including reliability and cost-effectiveness), and increased value of connectivity.” *2/14/2014*

### **OMA Members Invited to Participate in AEP-Ohio's Motor Rewind Efficiency Pilot**

Did you know that motors lose efficiency with each rewind? For this reason, AEP-Ohio is working with manufacturers and rewind shops throughout its service territory to certify energy-efficient rewind processes.

AEP is currently offering participation in this pilot motor rewind program to OMA members. AEP will certify 3 to 4 rewind shops that handle large motors for this pilot program. If you're interested in participating, please contact OMA energy consultant [John Seryak](#). *2/13/2014*

### **Building A Coalition To Meet America's Energy Needs**

David Farr, chairman and CEO of OMA member Emerson Electric, [writes](#) in Forbes: “So how do we bring about a renaissance in manufacturing to meet these infrastructure needs? With energy representing one of the highest costs in manufacturing, the best first step is building a 21st century pipeline system to deliver the energy that already exists, more cost effectively. The complexity of the situation demands a coalition of stakeholders to evaluate the economics, regulations and processes of energy delivery, and take

action to deploy the most modern pipelines as quickly and safely as possible.”

Farr describes the scale of our pipeline development challenge: “The need for such a response is acute. For example, roughly 220,000 miles of modern high-strength steel pipelines crisscross the nation carrying natural gas to fuel businesses, homes, and commerce. Yet this infrastructure is not keeping pace with America’s energy boom. The U.S. Energy Information Agency reported 367 miles of new natural gas pipeline in 2012, the lowest expansion of mileage since 1997. By comparison, the National Petroleum Council estimates we need another 30,000 miles of pipeline in the next generation just to handle growing natural gas production. Adding to this are hundreds of thousands of miles of pipeline carrying biofuels, home heating oil, propane, crude oil and other sources of energy.”

Nowhere is Farr’s descriptions more true than in newly energy-rich and traditionally energy-hungry Ohio. *2/13/2014*

### **New Legal Analysis of Statewide Rider Bill**

As [reported](#) previously, members of the Ohio House are considering a bill that would allow for the creation of a statewide rider on electricity bills to subsidize large economic development projects.

House Bill 312 permits an electric distribution utility to recover the costs of economic and job retention programs, via approved “reasonable arrangements,” from all electric utility customers in the state. This represents a change from existing economic and job development regulations, which permit an electric utility to recover costs for such reasonable arrangements only from customers located in the utility’s certified territory or within the same holding company.

This [bill analysis](#) has been prepared by OMA energy counsel, Carpenter Lipps & Leland. OMA members will be discussing the bill at the [March 6](#) meeting of the OMA Energy Committee. Register [here](#). *2/5/2014*

### **OMA Presents to Midwest Governors Association**

The Midwest Governors' Association (MGA) invited the OMA to make a [presentation](#) at its recent energy summit. The OMA discussed its support for the least-cost energy resources to reduce operating costs to its members, and presented analyses of the costs and benefits of energy efficiency programs, as well as ways to improve the benefit-to-cost ratio of energy efficiency.

The presentation was given by John Seryak, the OMA's consulting energy engineer.

[Energy](#) is a major focus of the MGA. *2/6/2014*  
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## **PUCO Commissioner Slate Goes To Governor**

The Public Utilities Commission of Ohio (PUCO) Nominating Council this week submitted the names of four finalists to be considered by Governor John Kasich for applicants for the position of commissioner of the PUCO to fill a five-year term commencing on April 11, 2014.

The Nominating Council recommended the following individuals: Patrick Donlon, Columbus; Thomas W. Johnson, Columbus; Stacey E. Polk, Cleveland; Tom Waniewski, Toledo.

Kasich has 30 days to select a nominee or request a new list of names from the Nominating Council. The governor's appointment is subject to confirmation by the Ohio Senate.

The PUCO Nominating Council is a 12-member panel charged with screening candidates for the position of commissioner. Mike Koren is the acting chairman of the council. *1/30/2014*

## **New Rider on Gas Bills Proposed**

Legislators are considering [House Bill 319](#), a bill that would permit a natural gas company to establish a rider to fund gas infrastructure development. The bill sponsor, Rep. [Cheryl Grossman](#) (R – Grove City), said in [testimony](#) that the goal of the bill is to spur gas infrastructure development to provide an opportunity for increased natural gas usage.

Here is an [analysis](#) by OMA energy counsel, [Carpenter Lipps & Leland LLP](#), that highlights concerns with the legislation. This issue will be on the agenda of the [March 6](#) OMA Energy Committee. Register [here](#). *1/30/2014*

## **OMA Reserves \$500,000 in AEP Incentives for Large Efficiency Projects**

OMA's energy consultant, [Go Sustainable Energy LLC](#), recently placed a winning bid in AEP-Ohio's "Bid to Win" reverse-auction program for the benefit of OMA members in AEP territory.

A total of \$500,000 in cash incentives is reserved to be split between two large energy efficiency projects or one extremely large project.

For comparison, incentives acquired via AEP's Bid to Win program pay one to three cents more per kWh than AEP's normal [efficiency incentive programs](#).

Eligible projects must have a payback longer than one year, be completed in 2014 or 2015, and should save more than 3,000,000 kWh/year.

Please contact OMA's energy consultant, [John Seryak](#), for more information or to qualify your upcoming efficiency project for this bonus incentive. *1/29/2014*

## **What Are Your Clean Fuels Activities?**

Clean Fuels Ohio conducts an annual survey to capture the amount of petroleum reduction activity in Ohio. This includes alternative fuel stations, vehicles and fleet technology.

If your company is involved in efforts to improve efficiency or deploy alternative fuels and advanced vehicles, Clean Fuels Ohio would like to hear from you via a simple online 10-minute [survey](#). Your participation allows for benchmarking in Ohio. *1/27/2014*

## **Bill Seeks to Repeal Ohio's Alternative & Advanced Energy Standards**

This week senators heard from proponents of [Senate Bill 34](#), legislation to repeal Ohio's renewable energy and advanced energy standards.

"Advanced energy" includes clean coal and nuclear energy technology. "Renewable energy" includes solar photovoltaic or solar thermal energy, wind energy, power produced by a hydroelectric facility, and geothermal energy. Ohio law requires utilities to provide 25% of their retail power supplies from advanced and renewable energy resources by 2025. *12/3/2014*

## **Statewide Electricity Rider?**

A hearing was held this week on [House Bill 312](#), a bill that would allow for the creation of a statewide rider on electricity bills to subsidize large economic development projects. The bill is sponsored by Rep. Terry Johnson (R-McDermott) and is intended to support a proposed steel mill development along the Ohio River in Scioto County.

The bill would allow utilities to recover the costs of reduced price of electricity for the proposed mill (or other economic development project) from electricity consumers across the state, rather than just from the operating territory of the utility, as allowed in current law. *1/24/2014*

## **PUCO Chairman Snitchler Not Seeking Reappointment**

Public Utilities Commission of Ohio (PUCO) Chairman Todd A. Snitchler [announced](#) this week that he will not seek reappointment. His term expires on April 10, 2014.

Appointed to the post by Governor Kasich in 2011, Snitchler leads the 320-person agency that oversees the regulation of electric, natural gas, telecommunications, water and commercial

transportation in the state of Ohio. He also serves as the chairman of the Ohio Power Siting Board (OPSB) that reviews, evaluates and approves the siting of electric generation plants and electric and natural gas transmission lines.

According to the PUCO: "Chairman Snitchler's work has focused on encouraging the development of competitive markets; advancements in gas pipeline safety; leading the charge on gas and electric industry coordination; ensuring Ohio is involved in cybersecurity discussions; boosting savings and benefits to ratepayers through the Securitization Act of House Bill 364; reducing regulatory lag through House Bill 95; as well as streamlining and improving the efficiency of PUCO processes including efforts to accelerate automatic approvals of RECs, OPSB process improvements and implementing internal performance management goals."

An advocate for electric and natural gas choice, he commissioned a new website focused on consumer education regarding electric and natural gas choice, which is scheduled to be released in the coming weeks. 1/16/2014

### **OMA Offers Workshops on Reducing Electricity Costs**

Those manufacturers that spend \$250,000 or more annually or buy at least 3 million kilowatt hours per year are highly encouraged to attend one of six OMA breakfast [workshops](#) scheduled in February.

The impact of the coming capacity cost increases will be felt by Ohio manufacturers starting in June 2014 with another increase to come in June 2015. Customers of all Ohio utilities will be affected to one degree or another, and due to unique aspects of its market, especially by FirstEnergy customers. Large consumers in FirstEnergy territory who have not addressed available strategies to mitigate the coming capacity cost increases will especially benefit.

Attendees will receive a free customized report that quantifies the effect of the coming capacity price increases on their facility. Register [here](#) or call us @ (800) 662-4463. 1/16/2014

### **AEP Files Rate Plan for 2015-2018**

AEP Ohio has filed application with the Public Utilities Commission of Ohio (PUCO) seeking approval of an electric security plan (ESP) for the term June 1, 2015 to May 31, 2018.

The application proposes utilizing full auction-based pricing for AEP Ohio's standard service offer (SSO) customers beginning in June 2015 through the full term of the proposed ESP.

A major focus of the application is a distribution reliability strategic plan, which proposes to continue collecting a number of distribution-related rider charges

throughout the ESP period, as well as creating several new distribution riders. As a result, although the application appears to minimize the overall economic impact of the rate plan, the plan appears to disproportionately impact distribution rates.

Here's a [summary](#) of the filing by OMA's energy legal partner, [Carpenter Lipps & Leland LLP](#).

The OMA Energy Group, OMA's organization for PUCO intervention activity, will intervene in the case to protect manufacturers' interests. Contact OMA's [Ryan Augsburger](#) to learn more. 1/9/2014

### **Cold Taxed the Grid, Set Records**

PJM Interconnection, the electric grid operator for more than 61 million people in Ohio and 12 other states plus D.C. made a [special request](#) earlier this week to the public, prompted by the extreme cold weather, to reduce consumption.

PJM broke the record for peak winter electricity use twice on January 7 from the previous peak of 136,675 megawatts in 2007. Tuesday morning's electricity use peaked at 138,000 MW and in the evening at 141,312 MW.

Conditions were challenging for the grid due to the extreme cold, a number of generating plant outages as well as increased demand for electricity to meet consumers' heating needs. PJM said the generating plant outages were mostly related to the weather.

PJM was able to meet demand without interruption. 1/9/2014

### **ODNR Releases Third Quarter Production Data for Horizontal Shale Wells**

Production results from Ohio's horizontal shale wells for the third quarter of 2013 were [released](#) at the end of last year by the Department of Natural Resources (ODNR).

The [report](#) lists 285 wells, 245 of which reported production results. Forty wells reported no production as they are waiting on pipeline infrastructure. The 245 wells produced 1,332,477 barrels of oil and 33,606,075 Mcf (1,000 cubic feet) of natural gas.

The highest producing oil well was the Gulfport Energy "Boy Scout" well in Harrison County at 41,617 barrels of oil during 70 days of production. The highest producing gas well was the Gulfport Energy "Stutzman" well in Belmont County at 1,249,739 Mcf during 89 days of production.

Passed in Sub. House Bill 59, and effective Sept. 29, operators of horizontal oil and gas wells in Ohio are now required to submit data quarterly instead of annually. The increased reporting provides ODNR, the

industry and the public with more accurate and timely information regarding Ohio's oil and gas industry.

Moving forward, ODNR will release quarterly data online after it is compiled and verified for accuracy. 1/2/2014

### CHP Technical Assistance Available - Act Quickly

The Midwest CHP Technical Assistance Partnership (of the U.S. Department of Energy) is offering a free economic assessment of combined heat and power (CHP) as a compliance option for manufacturers effected by boiler MACT regulations.

The timeline for the free assessment is running short. If you are potentially interested in this assessment, please contact OMA's energy engineer partner, [John Seryak](#), yet this year. 12/19/2013

### House Hears Opponent Testimony on Energy Efficiency Bill

The Ohio House Public Utilities Committee this week heard opponent [testimony](#) on House Bill 302, the companion legislation to Senate Bill 58, from Ohio Partners for Affordable Energy. The group's executive director, Dave Rinebolt, told the committee that the measure would result in greater compensation for utility companies at the cost of Ohio ratepayers.

Rinebolt's remarks included an [overview](#) of how energy efficiency impacts cost in a deregulated marketplace such as Ohio. 12/12/2013

### "Energy Risk Lab" at PUCO

On Tuesday, December 17, the Public Utilities Commission of Ohio (PUCO) will host an "Energy Risk Lab." This interactive simulation will "pit teams of energy experts against each other as they develop new and unique approaches to the challenges facing the energy industry. The workshop will simulate real-world situations to explore how various strategies, tools and policies can help or inhibit meeting the challenges facing the utility industry in the coming decades."

This lab was developed by the National Association of Regulatory Utility Commissioners (NARUC), which has run "tabletop emergency scenario workshops and simulation games that help regulators and public- and private-sector partners practice going through cyber-attacks, natural disasters and other incidents that challenge reliability, to help them find the approaches that work best. Since 2010, NARUC used this model to help regulators become ready for challenges that are caused by policy, technology and market activities, instead of just emergencies."

Read more about the [labs](#). 12/12/2013

### Electric Utilities: PwC Sees "Disruption and Transformation"

The 13th annual PwC [Annual Global Power & Utilities Survey finds](#): "Many in the industry expect the existing power utility business model in their market to transform or even be unrecognizable in the period between now and 2030."

Utility executives surveyed globally see: "The growth of distributed generation and its threat to the power utility business model depends on technological developments and cost. Its rise in Europe has been subsidy-driven. Cost barriers remain in the way of it being truly market-driven. But, if these barriers can be overcome, they could set the scene for widespread global industry transformation. Many believe that point is within reach. Energy efficiency, falling solar prices, demand-side management and smart grid technology head the list of technological developments that the industry believes will have the biggest impact on their power markets."

As to fuel sources: "...new sources of fossil fuel supply will also have a major impact on the power market. The advent of shale gas and tight oil are changing the economics of the energy landscape. Peak oil forecasts are fast being revised. The prospect of North American energy independence is within reach and the geopolitics of world energy flows are in flux. Industry opinion is far from ruling out the possibility that a new abundant energy era might open up. But alongside this, there is a significant degree of societal concern about extractive activities and a feeling that renewable energy can bring benefits and is here to stay." 12/12/2013

### SB 58: No Vote

The Senate went into holiday recess without a committee vote on Senate Bill 58, the controversial and costly proposed rewrite of state energy policy. Senate Public Utilities Committee chairman Sen. Bill Seitz (R-Cincinnati) unexpectedly cancelled the hearing in which a vote had been planned.

In a [summary](#) of the latest substitute bill sent to the Senate Tuesday, the OMA said: "The most recent substitute bill (Nov. 25, 2013) fails to address many critical substantive and technical concerns raised by customers about the previous version of the bill. In its current form, the legislation remains a huge giveaway to utilities and threatens to wipe out billions of dollars in projected energy savings for Ohio businesses and residents."

In a [letter](#) to the Senate, also delivered Tuesday, Consumers' Counsel Bruce Weston noted that "33 states have residential electricity prices that, on average, are lower than electricity prices for consumers in Ohio...Ohio's four million households could pay, on average, as much as \$528 more for their electric service under Senate Bill 58, over a utility's three-year energy efficiency plan... Ohio's businesses could pay, on average, as much as \$3,291 more for their electric service."

In a [statement](#) Senator Seitz vowed to continue to fight ““envirosocialist mandates that have afflicted Ohio ratepayers through hidden charges and fees on their electric bills.”

The Akron Beacon Journal [editorialized](#) after the vote cancellation: “It makes sense to examine and, if necessary, adjust the standards five years after their enactment. Unfortunately, the Seitz bill goes way too far... appearing to do the bidding of power companies more than anything else.” *12/5/2013*

### **Senate Bill 58 Cost to Consumers? \$3.9 Billion**

An updated [analysis](#) by researchers at the Ohio State University shows that Senate Bill 58 would cost Ohio customers even more than originally estimated. The updated analysis shows Ohioans would pay \$3.94 billion more in electricity bills over the next dozen years, with annual increases of \$302.8 million.

The study projects electricity bills 3.7% higher under Senate Bill 58 than under current law.

That \$302 million additional cost in utility bills every year is an amount that would pay manufacturing wages (\$55,318 on average) for 5,490 Ohioans, every year.

Read a [media release](#) on the study. *11/21/2013*

### **OMA Proposes Comprehensive Amendment to Senate Bill 58**

Joined by a broad coalition of opponents to Senate Bill 58, the OMA proposed a comprehensive [amendment](#) to the bill. In its current form, the bill provides utilities with unjustified and unprecedented benefits at the expense of all ratepayers.

The amendment removes all of Senate Bill 58's proposed changes that would raise electricity bills, such as the 33 percent tax utilities would be able to collect from consumers on savings. It also removes provisions that water down the energy efficiency standards by eliminating provisions such as allowing utilities to count old power plant upgrades toward the energy efficiency benchmarks.

The amendment retains the streamlined industrial opt-out program that will provide Ohio's biggest electricity consumers an alternative way to be exempted from the program if they're already doing energy efficiency.

The diverse coalition supporting the amendment includes the Office of the Ohio Consumers' Counsel, Ohio Partners for Affordable Energy, the Ohio Environmental Council, Ohio Advanced Energy Economy, the Ohio Hospital Association, the Environmental Defense Fund, and the National Wildlife Federation.

Read a [press release](#) on the amendment. *11/21/2013*

### **Green Energy Constitutional Amendment Could be on 2014 Ballot**

This week the Ohio Ballot Board gave the okay to "Yes for Ohio's Energy Future" to collect signatures to put a constitutional amendment on the 2014 November general election ballot that would require the state to issue bonds in order to spend \$1.3 billion a year for a decade to make investments in green energy infrastructure: solar, wind, biomass, battery-technology, and geothermal energy, among other technologies.

The amendment would allow all green energy investments to be controlled by an out of state corporation called the Ohio Energy Initiative Commission. The group was incorporated in the state of Delaware in January 2012. It is not known who these people are.

The group needs to secure 385,247 qualified signatures of registered Ohio voters. Read the [initiative petition](#). *11/21/2013*

### **Senate Bill 58, the Energy Efficiency Rewrite Bill Set for Committee Vote**

The controversial and costly Senate Bill 58 has been scheduled for a vote in the Senate Public Utilities Committee next Wednesday at 2:30 p.m. A research group at Ohio State University projects the bill will cost Ohio electric ratepayers [\\$3.65 billion](#) over 12 years. A separate study commissioned by the OMA found the bill would wipe out \$2.5 billion in projected savings from energy efficiency from 2014 through 2020.

Act now to protect your company from experiencing more rate shock. Visit the [OMA toolkit](#) on Senate Bill 58, and press your [state senators and representatives](#) on this. *11/14/2013*

### **PUCO Issues Unfavorable Order in Duke's Manufactured Gas Plant Remediation Request**

OMA has opposed Duke Energy's request that ratepayers be saddled with the costs of remediating long out-of-service manufactured gas plants (MGP), because the plants are not, and haven't been for a long time, "used or useful," a long-standing PUCO yardstick for putting costs on ratepayers, rather than shareholders.

This week, the PUCO ordered that Duke Energy could collect a great deal of those costs from ratepayers.

In a [summary](#) from OMA energy counsel, Kim Bojko, Carpenter Lipps & Leland LLP, Bojko says: "The Commission authorized Duke to recover, amortized over 5 years, a majority of the \$62.8 million it requested from customers ... The Commission found that the used and useful standard does not apply to the remediation of MGP sites because Duke is under a statutory mandate to remediate the former MGP sites and therefore did not make a determination of 165

whether the sites were used and useful in the provision of utility service."

And: "... the participation of Columbia Gas in the case, and the manner in which the Order is drafted will open the door for all of the other utilities that have MGP sites to request similar cost recovery from customers." 11/14/2013

### **OMA Testifies Against Costly Energy Bill**

Witnesses [testifying](#) on behalf of the OMA told members of the Ohio Senate Public Utilities Committee this week that Substitute Senate Bill 58 (SB 58) unjustifiably overcompensates electric utility companies, eliminates important consumer protections and will drive up electricity costs for all customers for many years to come.

Testifying for the OMA were: Bradley Belden, director of support services for The Belden Brick Company, Canton; J. Richard (Rick) Hornby, senior consultant with Synapse Energy Economics; John Seryak, CEO, Go Sustainable Energy LLC; Kim Bojko, Partner, Carpenter Lipps & Leland LLP. Belden is the chairman of the OMA Energy Committee, Seryak is OMA's consulting energy efficiency engineer, and Bojko is OMA's energy counsel.

SB 58 seeks to overhaul Ohio's energy efficiency policy, standards and requirements, which among

other things require each electric utility in Ohio to reduce demand by 22.5 percent by 2025 by working with customers to deploy energy efficiency projects.

[Third-party studies](#) commissioned by the OMA have shown that utilities are achieving the energy-reduction benchmarks and customers are saving money – and that continued compliance with Ohio's Energy Efficiency Resource Standards from 2010 through 2020 could yield almost \$5.6 billion in actual and projected savings for Ohio electricity consumers,

If enacted in its current form, SB 58 could wipe out as much as \$2.56 billion in net projected savings from energy efficiency from 2014 through 2020, driving up electricity prices for all ratepayers. SB 58 would reward utilities with a guaranteed 33 percent profit on the net benefits, while also eliminating numerous important consumer protections and opportunities for stakeholder input currently included in the PUCO hearing process.

OMA infrequently asks members for an all-out campaign against or for a measure. This is one; take action by contacting your state legislator and state senator immediately. Here is the [OMA SB 58 tool kit](#) with complete information. 11/7/2013

## Energy Legislation

Prepared by: The Ohio Manufacturers' Association  
Report created on February 25, 2014

- HB12**      **LICENSED OPERATOR REQUIREMENT (ROEGNER K)** To eliminate the licensed operator requirement for gaseous fuel and fuel oil fired boilers that comply with certain safety and engineering standards.  
*Current Status:* 10/31/2013 - **SIGNED BY GOVERNOR**; Eff. 1/30/2014  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_12](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_12)
- HB41**      **OIL-GAS DRILLING HEALTH-SAFETY STANDARDS (HAGAN R)** To authorize a political subdivision to enact and enforce health and safety standards for oil and gas drilling and exploration.  
*Current Status:* 6/25/2013 - House Agriculture and Natural Resources, (First Hearing)  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_41](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_41)
- HB42**      **OIL AND GAS LAW CHANGES (HAGAN R)** To revise the requirements concerning an oil and gas permit application, an oil and gas well completion record, designation of trade secret protection for chemicals used to drill or stimulate an oil and gas well, and disclosure of chemical information to a health care professional or emergency responder, to require an owner to report all chemicals brought to a well site, and to make other changes in the Oil and Gas Law.  
*Current Status:* 6/25/2013 - House Agriculture and Natural Resources, (First Hearing)  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_42](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_42)
- HB59**      **BIENNIAL BUDGET (AMSTUTZ R)** To make operating appropriations for the biennium beginning July 1, 2013, and ending June 30, 2015; to provide authorization and conditions for the operation of state programs.  
*Current Status:* 6/30/2013 - **SIGNED BY GOVERNOR**; Eff. 6/30/2013; Some Eff. 9/29/2013; Others Various Dates  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_59](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_59)
- HB63**      **TAX CREDIT- OIL AND GAS PRODUCTION (CERA J, O'BRIEN S)** To establish a nonrefundable commercial activity tax credit for companies involved in horizontal well drilling or related oil and gas production services that hire Ohio residents or dislocated workers who have enrolled in or completed a federally registered apprenticeship program.  
*Current Status:* 2/20/2013 - Referred to Committee House Ways and Means  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_63](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_63)
- HB93**      **OIL AND GAS LAW (HAGAN R)** To increase criminal penalties for violations of the Oil and Gas Law relating to improper disposal, transport, and management of brine, to establish a criminal penalty for a negligent violation of certain provisions of the Solid, Hazardous, and Infectious Wastes Law, and to require the revocation of a violator's permits and registration certificate and denial of future permit and registration certificate applications under the Oil and Gas Law.  
*Current Status:* 6/25/2013 - House Agriculture and Natural Resources, (First Hearing)  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_93](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_93)
- HB102**      **NATURAL GAS POLICY (ROEGNER K)** To change state policy regarding natural gas competition, to require assessments on retail natural gas suppliers for subsidies granted in

retail auctions, and to require the assessments to be distributed to nonmercantile customers.

**Current Status:** 3/19/2013 - Referred to Committee House Public Utilities

**State Bill Page:** [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_102](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_102)

**HB124 OIL-GAS BAN-LAKE ERIE (ANTONIO N)** To ban the taking or removal of oil or natural gas from and under the bed of Lake Erie.

**Current Status:** 6/25/2013 - House Agriculture and Natural Resources, (First Hearing)

**State Bill Page:** [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_124](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_124)

**HB136 THIRD FRONTIER COMMISSION-GRANTS (SCHURING K)** To authorize the Third Frontier Commission to award grants related to the establishment and operation of data centers and the development of a high speed fiber optic network in the state, and to authorize a kilowatt-hour excise tax reduction for electric distribution companies supplying such centers at a discounted rate.

**Current Status:** 5/29/2013 - House Public Utilities, (Fifth Hearing)

**State Bill Page:** [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_136](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_136)

**HB148 OIL AND GAS LAW (DRIEHAUS D, HAGAN R)** To prohibit land application and deep well injection of brine, to prohibit the conversion of wells, and to eliminate the injection fee that is levied under the Oil and Gas Law.

**Current Status:** 6/25/2013 - House Agriculture and Natural Resources, (First Hearing)

**State Bill Page:** [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_148](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_148)

**HB282 SALES-USE TAX LICENSE (ROGERS J)** To authorize vendors and others required to hold a sales or use tax license whose business and home address is the same to apply to the Tax Commissioner to keep such address confidential.

**Current Status:** 2/26/2014 - House Ways and Means, (Second Hearing)

**State Bill Page:** [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_282](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_282)

**HB302 ALTERNATIVE ENERGY-PEAK DEMAND REDUCTION LAW (STAUTBERG P)** To modify the alternative energy resource, energy efficiency, and peak demand reduction law.

**Current Status:** 12/11/2013 - House Public Utilities, (Sixth Hearing)

**State Bill Page:** [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_302](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_302)

**HB312 ELECTRIC LIGHT COMPANY-JOB RETENTION PROGRAM COSTS (JOHNSON T)** To permit a public utility electric light company to recover costs of an economic and job retention program from all public utility electric light customers in Ohio.

**Current Status:** 1/22/2014 - House Public Utilities, (Second Hearing)

**State Bill Page:** [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_312](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_312)

**HB319 INFRASTRUCTURE DEVELOPMENT RIDER-GAS COMPANIES (GROSSMAN C)** To permit natural gas companies to apply for an infrastructure development rider to cover costs of certain economic development projects.

**Current Status:** 2/19/2014 - House Public Utilities, (Second Hearing)

**State Bill Page:** [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_319](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_319)

**HB335 GREEN FLEETS LOAN GUARANTEE PROGRAM (BUTLER, JR. J)** To create the Green Fleets Loan Guarantee Program to guarantee the repayment of loans made to governmental entities and private businesses to fund the conversion of all or a portion of

their fleet vehicles to run on natural gas fuel; to apply the motor fuel tax to compressed natural gas; to authorize a temporary exemption from the motor fuel tax for purchasers of propane and compressed natural gas; to require the inspection of certain natural gas vehicles; to create a weight limit exemption for compressed natural gas vehicles; and to clarify the regulatory authority of the Fire Marshal with regard to filling stations dispensing gaseous fuel.

**Current Status:** 12/4/2013 - House Ways and Means, (Second Hearing)

**State Bill Page:** [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_335](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_335)

**HB336 GASEOUS FUEL VEHICLE CONVERSION PROGRAM (O'BRIEN S, HALL D)** To create the Gaseous Fuel Vehicle Conversion Program, to allow a credit against the income or commercial activity tax for the purchase or conversion of an alternative fuel vehicle, to reduce the amount of sales tax due on the purchase or lease of a qualifying electric vehicle by up to \$500, to apply the motor fuel tax to the distribution or sale of compressed natural gas, to authorize a temporary, partial motor fuel tax exemption for sales of compressed natural gas used as motor fuel, and to make an appropriation.

**Current Status:** 2/18/2014 - House Finance and Appropriations, (Second Hearing)

**State Bill Page:** [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_336](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_336)

**HB368 SMART METERS-PUBLIC UTILITY CUSTOMERS RIGHTS (LYNCH M)** To establish rights for public utility customers regarding smart meters installed on their premises.

**Current Status:** 1/22/2014 - House Public Utilities, (First Hearing)

**State Bill Page:** [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_368](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_368)

**HB421 ELECTRIC COMPANY-MERCANTILE CUSTOMER REASONABLE ARRANGEMENTS (CERA J)** To permit the Governor to terminate reasonable arrangements between an electric distribution utility or public utility electric light company and certain mercantile customers.

**Current Status:** 2/19/2014 - House Public Utilities, (First Hearing)

**State Bill Page:** [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_421](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_421)

**HCR9 KEYSTONE XL PIPELINE (ADAMS J)** To urge the United States Department of State to approve the presidential permit application allowing the construction and operation of the TransCanada Keystone XL Pipeline between the United States and Canada.

**Current Status:** 4/9/2013 - Referred to Committee Senate Public Utilities

**State Bill Page:** [http://www.legislature.state.oh.us/res.cfm?ID=130\\_HCR\\_9](http://www.legislature.state.oh.us/res.cfm?ID=130_HCR_9)

**HCR30 COAL ACCOUNTABILITY AND RETIRED EMPLOYEE ACT (CERA J)** To urge Congress to enact the Coal Accountability and Retired Employee Act.

**Current Status:** 10/15/2013 - House Agriculture and Natural Resources, (First Hearing)

**State Bill Page:** [http://www.legislature.state.oh.us/res.cfm?ID=130\\_HCR\\_30](http://www.legislature.state.oh.us/res.cfm?ID=130_HCR_30)

**HCR42 GREENHOUSE GAS EMISSIONS (FOLEY M, RAMOS D)** To recognize that human actions have contributed to the rise in global sea and atmospheric temperatures and the increase in concentration of greenhouse gases, and to declare that Ohio will actively participate in diminishing and minimizing future greenhouse gas emissions.

**Current Status:** 1/21/2014 - House Agriculture and Natural Resources, (First Hearing)

**State Bill Page:** [http://www.legislature.state.oh.us/res.cfm?ID=130\\_HCR\\_42](http://www.legislature.state.oh.us/res.cfm?ID=130_HCR_42)

- HCR43**      **OHIO SUSTAINABLE ENERGY-ABUNDANCE PLAN** (BOOSE T, THOMPSON A) To establish a sustainable energy-abundance plan for Ohio to meet future Ohio energy needs with affordable, abundant, and environmentally friendly energy.  
*Current Status:* 2/26/2014 - House Public Utilities, (Second Hearing)  
*State Bill Page:* [http://www.legislature.state.oh.us/res.cfm?ID=130\\_HCR\\_43](http://www.legislature.state.oh.us/res.cfm?ID=130_HCR_43)
- HR282**      **CARBON DIOXIDE EMISSIONS-EXISTING POWER PLANTS** (DOVILLA M, HILL B) To urge the U.S. Environmental Protection Agency to hold public listening sessions on proposed regulations targeting carbon dioxide emissions from existing power plants in those states that would be most directly impacted by the regulations.  
*Current Status:* 11/19/2013 - **REPORTED OUT**, House Policy and Legislative Oversight, (First Hearing)  
*State Bill Page:* [http://www.legislature.state.oh.us/res.cfm?ID=130\\_HR\\_282](http://www.legislature.state.oh.us/res.cfm?ID=130_HR_282)
- SB17**      **OIL-GAS LAW CHANGES** (SKINDELL M) To revise the requirements concerning an oil and gas permit application, an oil and gas well completion record, designation of trade secret protection for chemicals used to drill or stimulate an oil and gas well, and disclosure of chemical information to a health care professional or emergency responder, to require an owner to report all chemicals brought to a well site, and to make other changes in the Oil and Gas Law.  
*Current Status:* 2/13/2013 - Referred to Committee Senate Energy and Natural Resources  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_SB\\_17](http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_17)
- SB34**      **ELECTRIC DISTRIBUTION COMPANIES** (JORDAN K) To repeal the requirement that electric distribution utilities and electric services companies provide 25% of their retail power supplies from advanced and renewable energy resources by 2025.  
*Current Status:* 2/12/2014 - Senate Public Utilities, (Fourth Hearing)  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_SB\\_34](http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_34)
- SB46**      **OIL AND GAS LAW** (SCHIAVONI J, LAROSE F) To increase criminal penalties for violations of the Oil and Gas Law relating to improper disposal, transport, and management of brine, to establish a criminal penalty for a negligent violation of certain provisions of the Solid, Hazardous, and Infectious Wastes Law, and to require the revocation of a violator's permits and registration certificate and denial of future permit and registration certificate applications under the Oil and Gas Law.  
*Current Status:* 6/19/2013 - **SUBSTITUTE BILL ACCEPTED**, Senate Energy and Natural Resources, (First Hearing)  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_SB\\_46](http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_46)
- SB58**      **RETAIL ELECTRIC SERVICE** (SEITZ B) To review and possibly modify the energy efficiency, peak demand reduction, and alternative energy resource provisions established by Ohio law governing competitive retail electric service.  
*Current Status:* 2/19/2014 - Senate Public Utilities, (Seventh Hearing)  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_SB\\_58](http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_58)
- SB59**      **EDUCATION ENERGY COUNCIL** (BEAGLE B) To authorize an eligible regional council of governments to establish itself as an education energy council for the purpose of issuing debt to pay for school district energy purchases.  
*Current Status:* 2/19/2014 - Senate Public Utilities, (Fourth Hearing)  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_SB\\_59](http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_59)

- SB87**      **OIL/NATURAL GAS-LAKE ERIE (SKINDELL M)** To ban the taking or removal of oil or natural gas from and under the bed of Lake Erie.  
*Current Status:* 10/29/2013 - Senate Energy and Natural Resources, (First Hearing)  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_SB\\_87](http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_87)
- SB181**      **SMART METER INSTALLATION (JORDAN K)** To require electric distribution utilities to obtain a customer's consent prior to installing a smart meter on the customer's property  
*Current Status:* 9/26/2013 - Referred to Committee Senate Public Utilities  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_SB\\_181](http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_181)
- SCR7**      **KEYSTONE XL PIPELINE (HITE C)** To urge the United States Department of State to approve the presidential permit application allowing the construction and operation of the TransCanada Keystone XL Pipeline between United States and Canada.  
*Current Status:* 4/17/2013 - **ADOPTED BY HOUSE**; Vote 90-7  
*State Bill Page:* [http://www.legislature.state.oh.us/res.cfm?ID=130\\_SCR\\_7](http://www.legislature.state.oh.us/res.cfm?ID=130_SCR_7)
- SCR25**      **GREEN BUILDING RATING STANDARDS (UECKER J)** To urge, for Ohio state agencies and other government entities, the use of green building rating systems, codes, or standards that are consistent with state energy efficiency and environmental performance objectives and policies and that meet American National Standards Institute voluntary consensus standard procedures.  
*Current Status:* 2/25/2014 - **REPORTED OUT**, Senate Energy and Natural Resources, (Fourth Hearing)  
*State Bill Page:* [http://www.legislature.state.oh.us/res.cfm?ID=130\\_SCR\\_25](http://www.legislature.state.oh.us/res.cfm?ID=130_SCR_25)
- SCR34**      **U.S. EPA-STATES PRIMACY (GENTILE L)** To urge the U.S. Environmental Protection Agency to recognize the primacy of states to rely on state utility and environmental regulators in developing guidelines for reductions of carbon dioxide emissions from existing power plants and to take other specified actions regarding greenhouse gas emissions.  
*Current Status:* 2/19/2014 - Referred to Committee Senate Energy and Natural Resources  
*State Bill Page:* [http://www.legislature.state.oh.us/res.cfm?ID=130\\_SCR\\_34](http://www.legislature.state.oh.us/res.cfm?ID=130_SCR_34)

**Summary and Analysis – 130<sup>th</sup> General Assembly, HB 312, proposed by Rep. Johnson**

Legislation Summary

HB 312 permits an electric distribution utility to recover the costs of economic and job retention programs, via approved reasonable arrangements, from ALL electric utility customers in the state. This represents a change from existing economic and job development regulations, which permit an electric utility to recover costs for such reasonable arrangements only from customers located in the utility's certified territory or within the same holding company.

HB 312 further prohibits the Public Utilities Commission of Ohio (Commission) from approving applications for economic development and job retention reasonable arrangements and/or modifications or extensions thereof after January 1, 2018.

Analysis

HB 312 was purportedly proposed in response to a developer's representations of its intentions to construct a steel plant in Scioto County if certain electricity incentives are provided.

As proposed, the legislation seems to serve competing interests. First, it would create a state-wide economic development and job retention rider on electric rates. Second, the legislation prevents the Commission from approving any new or modifying/extending any existing economic or job retention reasonable arrangements after January 1, 2018. Third, as written, the rate schedule associated with the new tariff cannot be modified or extended after January 1, 2018, unless it is altered, changed, or modified by the Commission.

Although intended, in many respects, to expand the dollars available and the number of customers that ultimately fund the economic development and job retention reasonable arrangements, the legislation proposes January 1, 2018 as an end date for utilities and mercantile customers to apply for new economic and job retention reasonable arrangements. In so doing, the bill forecloses beneficial economic opportunities to any entities which have not been approved to receive such treatment by January 1, 2018. Proposing a cut-off date by which companies looking to invest or expand operations in Ohio must have been awarded economic development or job retention arrangements in order to benefit from these electricity incentives largely contradicts existing Ohio reasonable arrangement regulations and overarching policies to promote and continue to promote job growth and retention in the state.

As proposed, the legislation may compel businesses in any number of industries to effectively subsidize energy costs for other companies that may be in direct competition. This result is anticompetitive and may have the effect of significantly assisting one company in Ohio, while significantly harming another company in Ohio, possibly in the same industry. This outcome

contradicts existing policy goals of providing ALL customers with access to non-discriminatory and reasonably priced electric service.

Also problematic is the lack of information provided on the estimated cost of a statewide economic development rider. Notwithstanding the fact that costs associated with the proposed rider are not discussed, one outcome of approval of the legislation that may significantly increase the costs of a statewide rider to customers is the potential number of customers who may seek to obtain Commission approval of an economic development arrangement on an expedited basis prior to January 1, 2018. Because the opportunity to obtain incentives of this nature expires on that date, numerous customers may, predictably or, in other cases, unpredictably, apply for economic development arrangements with their electric utilities in order to preserve their rights to the incentives received thereby. To the extent that these arrangements are approved, rider costs associated with economic development arrangements could increase exponentially.

Another consideration relates to the collection of costs of the rider from customers across the state. The collection of economic development and job retention rider costs from electric customers statewide may promote Ohio's effectiveness in the global economy. The availability of electric or economic development incentives for Ohio manufacturers may result, through saved costs, in Ohio products being more widely available nationally and locally and, therefore, more widely used. However, it is important to be sensitive to the fact that customers located, for instance, two hundred miles from a facility for which they have been directed to fund electricity costs for economic development purposes (by participation in the rider), may not recognize the need for or support increases in their electric rates. Such customers might prefer to fund electric incentives or economic development projects located closer to home, as they may feel the benefits of investing in such projects may be more direct or beneficial for them than investing in other projects across the state.

#### Recommendation

Given that OMA does not oppose the concept of reasonable arrangements or economic development initiatives, it must be careful to ensure that any proposed reasonable arrangements will not be significantly detrimental, economically or otherwise, to its members. This policy applies equally to applications for reasonable arrangements submitted by individual OMA members. While OMA encourages member companies to seek out economic development incentives, it must ensure that the incentives sought will not negatively impact other member companies. On a statewide scale, this will be a delicate balancing act.

To the extent that the proposed legislation may be economically or competitively detrimental to its member companies, OMA should consider not supporting this bill. To the extent that proponents of the proposed legislation are able to demonstrate, however, that the economic impacts of the bill will be limited, and the bill will not result in electric rate subsidies that are anticompetitive to existing members' businesses, OMA should consider entertaining and inspecting such information.

CARPENTER LIPPS & LELAND LLP

ATTORNEYS AT LAW

280 PLAZA, SUITE 1300  
280 NORTH HIGH STREET  
COLUMBUS, OHIO 43215

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**Summary and Analysis – 130<sup>th</sup> General Assembly, HB 319, as proposed by Rep. Grossman**

Legislation Summary

HB 319 permits a natural gas company to file an application with the Public Utilities Commission of Ohio (Commission) to establish and recover infrastructure development costs of economic development projects either (1) certified under the SiteOhio program described in Section 122.9511, Revised Code, or (2) located in areas where adequate natural gas infrastructure is unavailable, infrastructure development provides an opportunity for increased natural gas usage, and economic development benefits may result from infrastructure development. Presently, Ohio law does not provide for the establishment of this type of rider or the recovery of these types of costs through a rider dedicated to this purpose.

Analysis

The economic impact of the proposed legislation on manufacturers is presently very difficult to predict. The rider has been proposed as a nonbypassable rider—meaning that all customers of the natural gas distribution utility will be assessed charges pursuant to the rider. The actual costs associated with such a rider, however, have not been quantified or proposed at this point.

It is likewise difficult to predict the development opportunities that may be available to manufacturers based upon approval of the rider. To the extent that manufacturers are able to take advantage of development resulting from the utility's collection of costs for infrastructure development, the bill could provide manufacturers with important opportunities. Manufacturers' ability to influence utilities' decisions to seek recovery of the costs of their projects, however, will color the impacts the bill's provisions may have upon them.

Unfortunately, per proposed Section 4929.16(C)(2), Revised Code, the investments for which a natural gas utility would seek economic recovery pursuant to the rider have previously been determined by the applicable natural gas company not to be "economically justified." While this issue may not pose problems if an independent party or process is used to evaluate which projects the rider proceeds should fund, pursuant to proposed Section 4929.165(E), Revised Code, the natural gas company is afforded the sole discretion to determine the economic development projects for which it will seek funding approval.

The manner in which HB 319 is structured and the extremely favorable treatment of natural gas companies in its provisions suggest that the bill was designed by specific companies seeking investment funds for particular infrastructure development projects, in conjunction with natural gas utilities. This bill reflects the interests of both types of entities, and will ultimately cost both little in comparison to the benefits they stand to gain from its approval.

One additional issue of note is that the proposed legislation directs that in considering an application for approval to fund an economic development project through the infrastructure development rider, the Commission shall not consider whether any of the property of the natural gas company that is currently owned or projected to be owned is “used and useful in rendering utility service.” Although the applicability of the used and useful standard to the circumstances created by the proposed legislation is unclear, OMA intends to closely monitor developments relating to the “used and useful” standard, as it has for other legislation creating an exception to the used and useful requirement in ratemaking proceedings.

### Recommendation

As previously mentioned, although the costs resulting from approval of this bill could prove significant for all classes of customers, manufacturers stand in a position to potentially benefit from the creation of the infrastructure development rider. Therefore, additional information must be obtained regarding the costs to be incurred by customers before OMA can take a firm position supporting or opposing the bill. Further, information must be obtained regarding the intended allocation of costs of the rider across customer classes.

One significant point of concern for OMA is the discretion provided to the natural gas utilities to determine the projects for which they will seek funding. Utilization of a less subjective system should be incorporated into the bill, otherwise, projects affecting business concerns that are not favored by utilities but have important value may not be considered or submitted for funding. An objective qualification system is an important trade-off for manufacturers’ support of the bill. As presently drafted, the utilities are already permitted to exclude any sums of money received or to be received (1) from the rider, or (2) from infrastructure development placed into service, from their property valuations. Permitting the objective, rather than subjective, evaluation of projects for which funding approval will be sought would demonstrate reasonableness and the absence of bias on the part of utilities regarding the projects to be funded.

OMA PRESENTS

# Reduce Electricity Costs IN THE FACE OF RISING CAPACITY RATES

- Springfield, February 14, 2014
- Independence, February 20, 2014
- Akron, February 27, 2014
- Perrysburg, February 28, 2014

## Join us for a working breakfast to learn strategies to reduce your costs of electricity.

It's not business as usual when it comes to purchasing and managing electricity. Ohio's investor-owned utilities are now "market-pricing" power based, in part, on outcomes of Regional Transmission Organization capacity auctions in which **the highest bidder** – not the lowest – prevails. This has significant implications for how industrial consumers think about purchasing and managing electricity.

## Who will benefit most from this workshop?

Those manufacturers that **spend \$250,000 or more annually or buy at least 3 million kilowatt hours per year** are highly encouraged to attend. Large consumers who have not addressed available strategies to mitigate the coming capacity cost increases will especially benefit.

### What is at stake?

The impact of the coming capacity cost increases will be felt by most Ohio manufacturers starting in June 2014 with another increase to come in June 2015.

#### Capacity Rates:

Utility	2013/2014	2014/2015	2015/2016
AEP, DP&L, DUKE	\$27.73	\$125.99	\$136.00
FE	\$27.73	\$125.99	\$294.03

Customers of all Ohio utilities will be affected to one degree or another, and due to unique aspects of its market, **especially by FirstEnergy customers**. Actions you can take in the summer months of 2014 can protect your costs. Understanding these increases and your options is the focus of this workshop.

### Who should attend?

- CFOs & Controllers
- Energy Purchasers & Managers
- Plant & Facilities Managers
- Plant Engineers

## Agenda

7:30 a.m. Breakfast  
8:00 – 9:30 a.m. Program

### How electricity market pricing works in Ohio.

- What market-pricing means compared to the "old days."
- What is capacity and how do capacity markets operate?
- How capacity rates impact your overall cost of power.

### Quantifying the increase to your 2014 budget.

Registrants receive a free customized report that quantifies the effect of the coming capacity price increases on your facilities.

### Strategies you can implement to avoid and lower your costs.

*Subject matter expertise from OMA Connections Partner, Scioto Energy.*

**You will receive a free customized report that quantifies the effect of the coming capacity price increases on your facilities.**

## Registration

**There is no charge for this event.** To register, click here or call (800) 662-4463.



# Senate Bill 58

## Senate Bill 58 – Increases Electricity Costs: Bad for Ohio Manufacturers

Senate Bill 58 (and companion bill, House Bill 302) represents a radical overhaul of Ohio's energy efficiency policy, standards and requirements. If approved, Senate Bill 58 could wipe out \$2.5 billion in projected savings from energy efficiency from 2014 through 2020 and drive up electricity costs for manufacturers for years to come.

Here's a [fact sheet](#) that provides background and an overview of the provisions of the bill.

Here is an [elevator speech](#) – the bill's provisions in a brief summary.

This is [testimony](#) provided on behalf of OMA to the Senate Public Utilities Committee by opponents to Senate Bill 58. Testimony is provided by these subject matter experts:

- [Bradley Belden](#), director of support services for The Belden Brick Company, Canton
- [J. Richard \(Rick\) Hornby](#), senior consultant with Synapse Energy Economics
- [John Seryak](#), CEO, Go Sustainable Energy LLC
- [Kim Bojko](#), Partner, Carpenter Lipps & Leland LLP

Here is a major [amendment](#) to Senate Bill 58 backed by the OMA and a broad coalition of consumer, advanced energy and environmental organizations. Here is a [press release](#) on the action.

### What editorial boards say about Senate Bill 58:

- [Keep the energy-efficiency bill in the 'off' position: editorial](#) (Crain's Cleveland Business News, December 8, 2013)
- [Let it Be: editorial](#) (Toledo Blade, December 2, 2013)
- [Ohio Senate should kill electric-utility sweetheart bill masquerading as reform: editorial](#) (Cleveland Plain Dealer, December 1, 2013)
- [Voices for saving](#) (Akron Beacon Journal, November 19, 2013)
- [Protect Ohio's energy reforms](#) (Cincinnati Enquirer, November 9, 2013)
- [Tweak. Don't wreck](#) (Akron Beacon Journal, October 27, 2013)
- [The Ohio Senate should give flawed energy rewrite a proper burial: editorial](#) (Cleveland Plain Dealer, October 20, 2013)
- [No going back](#) (Toledo Blade, September 28, 2013)

### Act now to protect your cost of electricity and prevent this utility overreach!

Tell your state senator and representative that you are opposed to Senate Bill 58.

- Here is a [sample letter](#) and [talking points](#) for communicating with your elected officials, employees, customers, suppliers, community members, and stakeholders.
- Find your [elected officials](#).

For more information, contact OMA's [Ryan Augsburger](#).

**A BILL**

To amend section 4928.66 and to enact sections 1  
4928.661, 4928.662, 4928.663, 4928.664, 4928.665, 2  
4928.666, and 4928.667 of the Revised Code to 3  
create an energy industrial option. 4

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That section 4928.66 be amended and sections 5  
4928.661, 4928.662, 4928.663, 4928.664, 4928.665, 4928.666, ~~and~~ 6  
4928.667 ~~and 4928.668~~ of the Revised Code be enacted to read as follows: 7

**Sec. 4928.66.** (A) (1) (a) Beginning in 2009, an electric 8  
distribution utility shall implement energy efficiency programs 9  
that achieve energy savings equivalent to at least three-tenths of 10  
one per cent of the total, annual average, and normalized 11  
kilowatt-hour sales of the electric distribution utility **during** 12  
the preceding three calendar years to customers in this state. An 13  
energy efficiency program may include a combined heat and power 14  
system placed into service or retrofitted on or after the 15  
effective date of the amendment of this section by S.B. 315 of the 16  
129th general assembly, ~~September 10, 2012,~~ or a waste energy 17  
recovery system placed into service or retrofitted on or after the 18  
pa= date September 10, 2012, except that a waste energy recovery 19  
system described in division (A) (38) (b) of section 4928.01 of the 20  
**Revised Code may be included only if it was placed into service** 21

between January 1, 2002, and December 31, 2004. For a waste energy 22  
recovery or combined heat and power system, the savings shall be 23  
as estimated by the public utilities commission. The savings 24  
requirement, using such a three-year average, shall increase to an 25  
additional five-tenths of one per cent in 2010, seven-tenths of 26  
one per cent in 2011, eight-tenths of one per cent in 2012, 27  
nine-tenths of one per cent in 2013, one per cent from 2014 to 28  
2018~~2015~~, one and two-tenths per cent in 2016, one and three-tenths per cent in 2017,  
one and five-tenths per cent in 2018, one and six-tenths per cent in 2019, one and seven-tenths  
per cent in 2020, one and eight-tenths per cent in 2021, one and nine-tenths per cent in 2022,  
and two per cent each year thereafter, achieving a 29  
cumulative, annual energy savings in excess of twenty-two per cent 30  
by the end of 2025. For purposes of a waste energy recovery or 31  
combined heat and power system, an electric distribution utility 32  
shall not apply more than the total annual percentage of the 33  
electric distribution utility's industrial-customer load, relative 34  
to the electric distribution utility's total load, to the annual 35  
energy savings requirement. 36

(b) Beginning in 2009, an electric distribution utility shall 37  
implement peak demand reduction programs designed to achieve a one 38  
per cent reduction in peak demand in 2009 and an additional 39  
seventy-five hundredths of one per cent reduction each year 40  
through 2018. In 2018, the ~~public utilities commission standing committees in the house of 41~~  
~~representatives and the senate primarily dealing with energy~~ 42  
~~issues~~ shall make recommendations to the general assembly 43  
regarding future peak demand reduction targets. 44

(2) For the purposes of divisions (A) (1) (a) and (b) of this 45  
section: 46

(a) The baseline for energy savings under division (A) (1) (a) 47  
of this section shall be the average of the total kilowatt hours 48  
the electric distribution utility sold in the preceding three 49  
calendar years, and the baseline for a peak demand reduction under 50  
division (A) (1) (b) of this section shall be the average peak 51  
demand on the utility in the preceding three calendar years, 52

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except that the commission may reduce either baseline to adjust 53  
for new economic growth in the utility's certified territory. The 54  
commission shall exclude from the baselines the load and usage of 55  
any customer that has elected to opt out under sections 4928.661 56  
to 4928.667 of the Revised Code. 57

(b) The commission may amend the benchmarks set forth in 58  
division (A) (1) (a) or (b) of this section if, after application by 59  
the electric distribution utility, the commission determines that 60  
the amendment is necessary because the utility cannot reasonably 61  
achieve the benchmarks due to regulatory, economic, or 62  
technological reasons beyond its reasonable control. 63

(c) Compliance with divisions (A) (1) (a) and (b) of this 64  
section shall be measured by including the effects of all 65  
demand-response programs for mercantile customers of the subject 66  
electric distribution utility, all waste energy recovery systems 67  
and all combined heat and power systems, and all such mercantile 68  
customer-sited energy efficiency, including waste energy recovery 69  
and combined heat and power, and peak demand reduction programs, 70  
adjusted upward by the appropriate loss factors. Any mechanism 71  
designed to recover the cost of energy efficiency, including waste 72  
energy recovery and combined heat and power, and peak demand 73  
reduction programs under divisions (A) (1) (a) and (b) of this 74  
section may exempt mercantile customers that commit their 75  
demand-response or other customer-sited capabilities, whether 76  
existing or new, for integration into the electric distribution 77  
utility's demand-response, energy efficiency, including waste 78  
energy recovery and combined heat and power, or peak demand 79  
reduction programs, if the commission determines that that 80  
exemption reasonably encourages such customers to commit those 81  
capabilities to those programs. If a mercantile customer makes 82  
such existing or new demand-response, energy efficiency, including 83  
waste energy recovery and combined heat and power, or peak demand 84

reduction capability available to an electric distribution utility 85  
pursuant to division (A) (2) (c) of this section, the electric 86  
utility's baseline under division (A) (2) (a) of this section shall 87  
be adjusted to exclude the effects of all such demand-response, 88  
energy efficiency, including waste energy recovery and combined 89  
heat and power, or peak demand reduction programs that may have 90  
existed during the period used to establish the baseline. The 91  
baseline also shall be normalized for changes in numbers of 92  
customers, sales, weather, peak demand, and other appropriate 93  
factors so that the compliance measurement is not unduly 94  
influenced by factors outside the control of the electric 95  
distribution utility. 96

(d) Programs implemented by a utility may include 97  
demand-response programs, smart grid investment programs, provided 98  
that such programs are demonstrated to be cost-beneficial, 99  
customer-sited programs, including waste energy recovery and 100  
combined heat and power systems, and transmission and distribution 101  
infrastructure improvements that reduce line losses. Division 102  
(A) (2) (c) of this section shall be applied to include facilitating 103  
efforts by a mercantile customer or group of those customers to 104  
offer customer-sited demand-response, energy efficiency, including 105  
waste energy recovery and combined heat and power, or peak demand 106  
reduction capabilities to the electric distribution utility as 107  
part of a reasonable arrangement submitted to the commission 108  
pursuant to section 4905.31 of the Revised Code. 109

(e) No programs or improvements described in division 110  
(A) (2) (d) of this section shall conflict with any statewide 111  
building code adopted by the board of building standards. 112

(B) In accordance with rules it shall adopt, the public 113  
utilities commission shall produce and docket at the commission an 114  
annual report containing the results of its verification of the 115  
annual levels of energy efficiency and of peak demand reductions 116

achieved by each electric distribution utility pursuant to 117  
division (A) of this section. A copy of the report shall be 118  
provided to the consumers' counsel. 119

(C) If the commission determines, after notice and 120  
opportunity for hearing and based upon its report under division 121  
(B) of this section, that an electric distribution utility has 122  
failed to comply with an energy efficiency or peak demand 123  
reduction requirement of division (A) of this section, the 124  
commission shall assess a forfeiture on the utility as provided 125  
under sections 4905.55 to 4905.60 and 4905.64 of the Revised Code, 126  
either in the amount, per day per undercompliance or 127  
noncompliance, relative to the period of the report, equal to that 128  
prescribed for noncompliances under section 4905.54 of the Revised 129  
Code, or in an amount equal to the then existing market value of 130  
one renewable energy credit per megawatt hour of undercompliance 131  
or noncompliance. Revenue from any forfeiture assessed under this 132  
division shall be deposited to the credit of the advanced energy 133  
fund created under section 4928.61 of the Revised Code. 134

(D) The commission may establish rules regarding the content 135  
of an application by an electric distribution utility for 136  
commission approval of a revenue decoupling mechanism under this 137  
division. Such an application shall not be considered an 138  
application to increase rates and may be included as part of a 139  
proposal to establish, continue, or expand energy efficiency or 140  
conservation programs. The commission by order may approve an 141  
application under this division if it determines both that the 142  
revenue decoupling mechanism provides for the recovery of revenue 143  
that otherwise may be forgone by the utility as a result of or in 144  
connection with the implementation by the electric distribution 145  
utility of any energy efficiency or energy conservation programs 146  
and reasonably aligns the interests of the utility and of its 147  
customers in favor of those programs. 148

(E) The commission additionally shall adopt rules that 149  
require an electric distribution utility to provide a customer 150  
upon request with two years' consumption data in an accessible 151  
form. 152

Sec. 4928.661. Any customer of an electric distribution 153  
utility that meets either of the following requirements may opt 154  
out of both the opportunity and ability to obtain direct benefits 155  
from the utility's energy efficiency and peak demand reduction 156  
programs established pursuant to section 4928.66 of the Revised 157  
Code: 158

(A) The customer receives service above the primary voltage 159  
level as determined by the utility's tariff classification. 160

(B) The customer's account is subject to the self-assessing 161  
purchaser option under section 5727.81 of the Revised Code. 162

Sec. 4928.662. Any customer electing to opt out under 163  
sections 4928.661 to 4928.667 of the Revised Code shall do so by 164  
providing a written notice of intent to opt out to the electric 165  
distribution utility from which it receives service and submitting 166  
a complete copy of the opt-out notice to the secretary of the 167  
public utilities commission. 168

(A) The notice provided to the utility shall include the 169  
following: 170

(1) A statement indicating that the customer has elected to 171  
opt out; 172

(2) The effective date of the election to opt out; 173

(3) The customer's account numbers for each account subject 174  
to opt out; 175

(4) The physical location of the customer's load center. 176

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opt out and a verified statement that affirms all of the 178  
following: 179

(1) That the customer has contracted with a third party 180  
energy efficiency Aggregator or has ongoing energy efficiency 181  
expertise or processes that enable the customer to identify and 182  
implement cost-effective energy efficiency and peak demand 183  
reduction programs on its own; 184

(2) That the customer shall identify, in its sole discretion 185  
and implement only cost-effective energy efficiency and peak 186  
demand reduction programs; 187

(3) That the aggregator or customer utilizes measurement and 188  
verification protocols that meet or exceed measurement and 189

verification protocols that are accepted by either the public utilities commission 190  
for purposes of compliance with the electric distribution utility's energy 191  
efficiency and peak demand reduction programs or the PJM interconnection 192  
regional transmission organization, L.L.C., or any entity performing the 193  
functions identified in section 4928.12 of the Revised Code within this state; 194

(4) That the aggregator or customer shall bid the eligible and cost 195  
effective energy efficiency and peak demand reduction savings the customer 196  
has achieved into the capacity market of the PJM interconnection regional 197  
transmission organization, L.L.C. or any entity performing the functions 198  
identified in section 4928.12 of the Revised Code within this state in 199  
order to provide compensation to the customer. 200

Sec. 4928.663. Upon a customer's election to opt out under 201  
Sections 4928.661 to 4928.667 of the Revised Code all of the 202  
following apply: 203

(A) An account properly identified in the customer's verified 204  
notice is not subject to cost recovery mechanisms established 205  
under section 4928.66 of the Revised Code. 206

<u>(B) An account properly identified in the customer's verified notice</u>	207
<u>is not eligible to participate in or directly benefit from programs arising</u>	208
<u>from electric distribution utility compliance plans approved by the</u>	209
<u>commission to meet the requirements of section</u>	210
<u>4928.66 of the Revised Code.</u>	211
<u>(C) The customer is not eligible to participate in a cost</u>	212
<u>recovery exemption agreement under division (A)(2)(c) of section</u>	213
<u>4928.66 of the Revised Code.</u>	214
<u>Sec. 4928.664. (A) A customer subsequently may opt in under</u>	215
<u>section 4928.665 of the Revised Code after a previous election to</u>	216
<u>opt out under sections 4928.661 and 4928.662 of the Revised Code</u>	217
<u>if both of the following apply:</u>	218
<u>(1) The customer has previously opted out for a period of at</u>	219
<u>least three consecutive calendar years.</u>	220
<u>(2) The customer gives notice of its intent to opt in to the</u>	221
<u>public utilities commission and the electric distribution utility</u>	222
<u>from which it receives service. The customer shall give the notice</u>	223
<u>six months prior to the next calendar year of the utility's formal</u>	224
<u>plan for compliance with section 4928.66 of the Revised Code.</u>	225
<u>(B) A customer that opts in under this section shall maintain</u>	226
<u>its opt-in status for three consecutive calendar years before</u>	227
<u>being eligible subsequently to exercise its right to opt out after</u>	228
<u>giving the utility notice six months prior to the next calendar</u>	229
<u>year of the utility's formal plan for compliance with section</u>	230
<u>4928.66 of the Revised Code.</u>	231
<u>Sec. 4928.665. Any customer electing to opt in under section</u>	232
<u>4928.664 of the Revised Code shall do so by providing a written</u>	233
<u>notice of intent to opt in to the electric distribution utility</u>	234
<u>from which it receives service and submitting a complete copy of</u>	235
<u>the opt-in notice to the secretary of the public utilities</u>	236
<u>commission. The notice shall include the following:</u>	237

<u>(A) A statement indicating that the customer has elected to opt in;</u>	238
<u>(B) The effective date of the election to opt in;</u>	239
<u>(C) The customer's account numbers for each account subject to opt in;</u>	240
<u>(D) The physical location of the customer's load center.</u>	241
<u>Sec. 4928.666. The baseline for energy efficiency savings and peak demand reductions under divisions (A) (1) (a) and (b) of section 4928.66 of the Revised Code shall exclude load and usage of any customer that has elected to opt out under sections 4928.661 to 4928.667 of the Revised Code.</u>	242
<u>Sec. 4928.667. A customer that has elected to opt out retains ownership rights to energy efficiency and peak demand reduction savings the customer has achieved and shall bid the eligible and cost effective energy efficiency and peak demand reduction savings into the capacity market of the PJM interconnection regional transmission organization, L.L.C. or any entity performing the functions identified in section 4928.12 of the Revised Code within this state.</u>	243
<u>Sec. 4928.668. Costs associated with the electric distribution utility's annual compliance with the energy efficiency and peak demand reduction requirements and associated programs established pursuant to Section 4928.66 of the Revised Code for each respective rate class shall not exceed the compliance costs approved for that electric distribution utility in calendar year 2013, except that the total compliance costs for each respective rate class may increase by no more than 3% annually each year thereafter.</u>	244
<u>Section 2. That existing section 4928.66 of the Revised Code is hereby repealed.</u>	249
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# FirstEnergy explains its dividend cut, blames recession, reveals new directions



By **John Funk, The Plain Dealer**

on January 22, 2014 at 3:00 PM, updated January 22, 2014 at 6:16 PM



You can expect to pay more for power that moves across the grid when FirstEnergy begins planned upgrades.

AKRON-- FirstEnergy Corp's **decision** to slash dividends by a third, shutter power plants and pull back its unregulated subsidiary is not the result of management blunders, top executives said Wednesday.

Rather they are the result of changing business conditions that have forced the Akron-based, multi-state power company to re-think its entire business, they said, including the substantial dividends it has paid to its shareholders since 2008

In a 20-minute public presentation to financial analysts now **recorded on the company's website**, Chief Executive Officer Anthony Alexander and Chief Financial Officer Jim Pearson blamed the company's plight on everything except FirstEnergy's business model - a model that has emphasized the deregulated sale of electricity by FirstEnergy Solutions for the last five years and paid less attention to old-fashioned utility practices.

Nevertheless, referring to details in a **letter to investors** posted overnight on its website and available to anyone, Alexander and Pearson drew a picture of a company that in the future will rely on profits from its regulated side rather than continued power sales expansions throughout the state and region by FirstEnergy Solutions.

The problem with the model based on unfettered growth of FirstEnergy Solutions, analysts have said, is that power prices have been driven lower by the recession and by cheap natural gas, used increasingly by other utilities to generate electricity.

Cleaner, gas-fired power plants competing with coal-fired plants in wholesale markets now supply about 30 percent of all electricity used in the nation, according to federal estimates.

The company, Alexander explained to analysts, is a victim of the recession, of tightening federal pollution and environmental rules, of Hurricane Sandy and of unfair supply auctions conducted by high-voltage grid overseers PJM Interconnection.

That's the same PJM that FirstEnergy fought to join over the objections of consumer groups here who argued in a case before state regulators that it would lead to higher electric bills.

An annual PJM "capacity auction" which determines a portion of the price of power has led to lower-than-expected rates because the auction accepts energy efficiency bids - commitments to permanently use less power - right alongside bids from power plants. Effectively, this lowers overall demand and therefore lowers the price of power.

This so-called "demand response" has proved so successful that Ohio regulators - siding with consumer and environmental groups, have ordered FirstEnergy to bid energy efficiency gains its customers have achieved into future auctions.

"PJM's capacity auctions - which are intended to provide support for competitive generators - do not, and instead have delivered unpredictable and inadequate results," Alexander argued.

To be fair, other power companies have also complained about the PJM capacity auctions, including its estimates of what demand will actually be and the auction's "ability" to generate controversy, say analysts.

PJM spokeswoman Paula DuPont-Kidd disagreed with Alexander's complaints. Noting that the other companies participating in the PJM's markets are building new power plants with a total generating capacity of 28,000 megawatts -- or about the same as 30 Davis-Bess reactors -- DuPont-Kidd argued that power companies that own large coal-fired power plants are being challenged simultaneously by stricter pollution rules and gas-fired plants.

Finally, Alexander pointed to the ongoing sluggish economy as the real problem.

"We have suffered from a multi-year economic downturn that has directly affected us in many ways, including essentially no load (demand) growth at our utilities and declining energy prices," Alexander said.

And storms in 2011 and 2012, including Hurricane Sandy, forced the company to spend more than \$1 billion on repairs, Alexander said -- cash it had to spend from operating budgets and cash it still hopes to make up from customers.

Cutting the dividends is the first step in the company's decision to rely on future profit growth from its regulated divisions, Alexander explained.

"Following a thorough review, the board ultimately determined that aligning the dividend with our regulated operations will provide the best path forward," he said.

In recent years, the company has paid dividends exclusively from profits earned by its regulated divisions. Those divisions are the local system of wires and substations regulated by the state and the regional high-voltage lines, or grid, regulated by the Federal Energy Regulatory Commission.

These authorities set delivery rates - and ultimately company revenues - that are based on how much the utility has invested in the systems and how much they have depreciated, in other words, on their value.

FirstEnergy's board of directors on Tuesday reduced quarterly dividends from 55 cents per share to 36 cents - calculating that the new rate would reflect not only the current regulated income but also the real price of the company's stock, now \$30 to \$32 per share.

FirstEnergy's plan over the next several years is to invest billions to upgrade its delivery systems - investments that it calculates will lead to higher delivery rates and additional income.

Pearson did a quick review of some of those plans and noted that the dividend cut will help pay for the upgrades, which will ultimately make the company more valuable.

"We expect to fund this expansion with a combination of debt, equity issuances (sale of new stock) through the stock investment and employee benefit plans, and \$320 million annually in cash preserved as a result of our dividend action," Pearson told the analysts.

"This should provide sufficient capacity to not only invest in these growth initiatives, but also support significant balance sheet improvements," he said.

Analysts participating in the call asked for detail on some points but were not overly critical.

Moody's Investors Service called the dividend reduction positive, but said it would not lift its negative outlook on the company.

Investors appeared to be trying to figure out the company's future as more than 14 million shares had been traded on the New York Stock Exchange by the end of the day, nearly three times the average volume. The share price fell 3 percent to \$31

**TO: OMA Government Affairs Committee**  
**FROM: Ryan Augsburger/Rob Brundrett, OMA Staff**  
**RE: Environment Policy Update**  
**DATE: February 26, 2014**

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### **Overview**

The General Assembly returned from its winter/holiday break in mid-January. They will continue to work straight through until the summer with a short spring break leading up to the May primary.

Ohio EPA has been quiet on most issues since the late summer. Director Nally resigned at the beginning of the year. Craig Butler was named the new permanent director for Ohio EPA. He had previously served as a policy advisor for Governor Kasich. With the switch in leadership, it is hard to imagine any new or major initiatives coming from Ohio EPA during the election year. Most legislative efforts from the agency appear to be on hold. Rules continue to be reviewed but major rule change initiatives like beneficial use have gone silent. With a mid-biennium review bill being prepped for introduction this month, there might be a chance for Ohio EPA to make some minor legislative changes.

### **General Assembly News and Legislation**

#### **House Bill 592 Review**

Ohio EPA continues its internal work on a rewrite of the old House Bill 592, which created most of Ohio's current solid waste laws. Director Nally made it a priority to update this section of Ohio law and had a taskforce working on the rewrite. The agency appears stalled on phase II of the project. At the end of November the agency released a power point showing the review's progress. Legislation appears to have been pushed back even further unless the agency wants to break up the rewrite into smaller chunks.

One thing to note is that Ohio EPA was seriously considering including language from Senator Lehner's (R-Kettering) old Senate Bill 253 which created a post-consumer recycling liability for manufacturers of certain electronic products. The OMA opposed this legislation last year and has reiterated its opposition to Ohio EPA and Senator Lehner's office.

#### **Senate Bill 150**

Senate Bill 150 cleared the Senate earlier this year and began hearings in the House of Representatives. The bill is geared toward the agriculture industry. The version passed by the Senate would require those who apply fertilizer on Ohio's farmlands to be certified to do so. The General Assembly is hoping the law will help educate on proper fertilizer application to prevent overuse which can result in heavy nutrient runoff. This is important as Ohio EPA continues to review its nutrient strategy that could negatively impact manufacturers.

#### **Senate Concurrent Resolution 25**

Last year Senate Joe Uecker (R-Miami Township) introduced SCR 25. The resolution urges state agencies to adhere to green building standards that meet the American National Standards Institute voluntary consensus standard procedures instead of the most recent U.S. Green Building's Council's LEED standards. There has been controversy over the latest version of the LEED standards regarding process and the inclusion/exclusion of buildings materials that are regularly used. The resolution was scheduled for a vote this week.

### Mid-Biennium Review

The Governor's office is preparing another mid-biennium review (MBR) bill this winter. The MBR bill is a comprehensive policy bill touching all aspects of state government, including Ohio EPA. There have been no official announcements about what the MBR might contain and speculation has not indicated if there will be any important policy impacts on Ohio EPA. However the bill could contain some possible policy tweaks for the department.

### Regulations

#### Solvent Wipes

Last summer, U.S. EPA issued a new rule to clarify the handling and disposal of wipes or shop rags contaminated with solvents. The rule provided that RCRA-authorized states, such as Ohio, can adopt their own solvent-contaminated wipes rule provided they are not less stringent than the U.S. EPA's rule.

On February 20, 2014, Ohio EPA issued an interim guidance document to cover this area until final regulations are adopted later this year.

#### Beneficial Use

Ohio EPA has been working on new beneficial use draft rules for over a year. In the summer of 2012 the agency began asking for feedback and comments through the early stakeholder process. This past summer the agency released draft conceptual language and an updated beneficial use concept paper. The agency also planned to release some draft permits for stakeholders to make comments. These draft permits have not been released.

The agency has not issued any new updates regarding this effort since it released the draft conceptual language in the middle of last year. The original goal was to have something in rule form by the first of the year. However things have gone silent on this front since last summer. The agency is planning to work on a drill cuttings beneficial use plan in 2014.

#### Universal Waste

At the end of 2012 Ohio EPA solicited comments through the early stakeholder outreach program on the expansion of universal waste in Ohio. The agency wanted to examine whether additional hazardous wastes should be designated as universal wastes and specifically if hazardous waste aerosol cans and spent antifreeze should be designated universal wastes. The OMA submitted initial comments on this topic requesting certain paint and paint related wastes. With a new leadership change at the agency it is hard to think that this issue will be a priority.

#### Startup Shutdown Malfunction

Last year the U.S. EPA proposed a state implementation plan call that requires 36 states including Ohio to revise their laws governing emissions associated with emission unit or control device startups, shutdowns and malfunction events.

The EPA is attempting to find the middle ground between the Sierra Club and industry by proposing that states are prohibited from allowing blanket exemptions for SSM events or affirmative defenses for emissions associated with startup and shutdown but would allow affirmative defenses for malfunctions.

The OMA partnered with the Chemistry Council and Ohio Chamber to comment on this call and Ohio EPA has submitted its own comments with align with Ohio industry.

### Water Nutrient Work Group

Ohio EPA has been working on reducing the amount of nutrients that enter in Ohio's waterways. Attached to this report includes the agency's water nutrient reduction plan. The OMA has two members on the working group Ohio EPA created to review the issue. The group is meeting monthly to determine what is the best way to implement the state's water nutrient strategy.

### Agency Notes

#### Director Nally resignation

Governor Kasich's office announced in early January that Ohio EPA Director Scott Nally resigned from the post he held for three years. Nally indicated he resigned "to pursue other opportunities."

Craig Butler was appointed director by the governor. He previously served as the Assistant Policy Director for Energy, Agriculture and the Environment in Governor Kasich's administration. He also previously served as District Chief of both Ohio EPA's Central District Office and its Southeast District Office.

This change follows the resignation of long time Ohio EPA staffer George Elmaraghy who resigned in September. Mr. Elmaraghy was most recently chief of the division of surface water at Ohio EPA. According to several reports Mr. Elmaraghy resigned over issues regarding permits. Ohio EPA has not yet named a permanent replacement but Brian Hall has been acting in his place since the fall.

### Other Notes

#### OMA Signs onto National GHG Advocacy Effort

The U.S. Chamber of Commerce, National Association of Manufacturers, and other key stakeholders have established the Partnership for a Better Energy Future, in response to the Obama administration's greenhouse gas (GHG) regulatory agenda. OMA has signed on as a member of the partnership.

The administration's GHG agenda is just underway and will ultimately extend to nearly every sector of the industrial economy, from refining to manufacturing to agriculture and mining.

The partnership, formally launched on January 30, aims to mobilize the business community to educate and motivate elected and public officials to address widespread concerns with these forthcoming greenhouse gas rules. Its mission is to ensure the continued availability of reliable and affordable energy for American families and businesses.

## Environment

### New GHG Rules Coming for Power Plants

OMA Connections Partner, Jones Day, has produced a [whitepaper](#) on new U.S. EPA rules coming on greenhouse gas. This white paper describes the operation of Clean Air Act Section 111 as a whole. Next, it explains the important aspects of two major provisions, Section 111(b) and Section 111(d), by explaining EPA's authority and responsibilities under the relevant provisions and related regulations.

Under 111(b), the EPA proposes to regulate carbon emissions from new fossil fuel-fired power plants. President Obama also has directed EPA to issue emissions guidelines for existing sources under Section 111(d).

Jones Day describes the legal obstacles these rules face. Even if these obstacles are hurdled, the Clean Air Act "leaves significant discretion to states to implement the guidelines issued by EPA." States are encouraged "to develop rules that best suit the state's particular circumstances."

The firm notes: "Together, the statutory language and state flexibility indicate a lengthy process for comprehensive regulation of greenhouse gases from existing sources." 2/5/2014

### EPA's Proposed New Source Clean Air Act Standards and Carbon Capture and Storage Technology

OMA Connections Partner, Jones Day, reports: On April 13, 2012, the EPA proposed a new source performance standard (NSPS) pursuant to Clean Air Act Section 111 limiting emissions of carbon dioxide (CO<sub>2</sub>) from new fossil-fuel electric generating units that primarily focused on coal- and natural gas-fired units. EPA received more than 2.5 million comments on the April 2012 proposal. Based on EPA's review and consideration of the comments as well as consideration of the future of the electric generating sector, EPA withdrew the April 2012 proposal, and on January 8, 2014, EPA published a new proposed rule.

Unlike the April 2012 proposal, the new rule proposes to establish separate standards for fossil fuel-fired electric steam generating units (utility boilers and Integrated Gasification Combined Cycle units) and for natural gas-fired stationary combustion turbines using separate determinations of the best system of emission reduction, which EPA claims are adequately demonstrated. Read [more](#). 2/3/2014

### Green Building Standards Testimony Heats Up

This week the Senate continued to hear testimony on [Senate Concurrent Resolution 25](#), sponsored by Sen. [Joe Uecker](#) (R-Miami Township), which urges state agencies to adopt the American National Standards Institute building standards, instead of the currently used U.S. Green Building Council's LEED standards.

The latest version of LEED, v4, has created concern in certain sectors of the manufacturing industry, putting manufacturers on both sides of the issue. Here is testimony from a number of manufacturers, which illustrate the perspectives: [Seaman Corporation](#), [United Technologies](#), [Nucor Steel](#) and [Ferro Corporation](#).

The OMA Environment Committee will be taking some time to learn more about this proposal at our next meeting on [February 13](#). [Register](#) today. 2/6/2014

### OMA Signs onto National GHG Advocacy Effort

The U.S. Chamber of Commerce, National Association of Manufacturers, and other key stakeholders have established the Partnership for a Better Energy Future, in response to the Obama administration's greenhouse gas (GHG) regulatory agenda. OMA has signed on as a member of the partnership.

The administration's GHG agenda is just underway and will ultimately extend to nearly every sector of the industrial economy, from refining to manufacturing to agriculture and mining.

The partnership, formally launched on January 30, aims to mobilize the business community to educate and motivate elected and public officials to address widespread concerns with these forthcoming greenhouse gas rules. It's mission is to ensure the continued availability of reliable and affordable energy for American families and businesses.

Here is a one-page [overview](#) of the partnership's mission, structure, and core principles. More information can be found [here](#). We'll keep you updated on the partnership's activities and opportunities for engagement. 1/28/2014

### **ME3 Program Offers Funding to Reduce Costs, Increase Sustainability**

The Materials + Economy + Energy + Environment (ME3) program has funding to help manufacturers statewide save money and reduce their environmental footprint through discounted technical services. The program includes an energy assessment, a lean and green facility review, and participation in the Ohio By-Product Synergy (BPS) Network to help convert waste materials into profitable feedstocks.

The [Calgon Carbon Corporation](#), Columbus plant, has realized an estimated annual savings of \$140,000 through the program. Federal and local funding reduced the cost of technical services by more than 70 percent. "We are thrilled with the outcome, and are excited about the ongoing potential," said Tim Duckwall, Plant Manager.

The ME3 program has both funding and staffing to coordinate services. Resources include: a grant from the U.S. Environmental Protection Agency, and assistance from American Electric Power, Duke Energy, The George Gund Foundation, MAGNET, Ohio By-Product Synergy Network, TechSolve, the City of Columbus, The Ohio State University Center for Resilience, and University of Dayton Industrial Assessment Center.

Contact ME3's [Brandi Whetstone](#) at (614) 233-4174 and visit [ME3](#). March 1 is the participation confirmation deadline. *1/27/2014*

### **2013 Hazardous Waste Reports Due March 1**

The EPA Division of Materials and Waste Management reminds the regulated community that 2013 Hazardous Waste Reports are due March 1, 2014. The report is required of any facility that generated 2200 pounds or more of hazardous waste (or 2.2 pounds or more of acute hazardous waste) in any calendar month in 2013.

There are no changes to the reporting process, which means no changes to the eBusiness data entry screens or paper forms. The only changes for the 2013 report itself are changes to some of the Management Method Codes and to the Waste Minimization Codes. See a list of these changes on pages 2 to 3, 29 to 30 and 62 in the [Hazardous Waste Report Instructions](#). If you are filing a paper report or importing data files, use correct and up to date codes or your report will fail data validation.

If you have any questions contact [Thomas Babb](#), Hazardous Waste Report Coordinator, at (614) 914-2527. *1/16/2014*

### **Ohio EPA Director Scott Nally Resigns**

Governor Kasich's office announced this week that Ohio EPA Director Scott Nally resigned from the post he held for three years. Nally indicated he resigned "to pursue other opportunities."

[Craig Butler](#) was appointed interim agency director by the governor. He previously served as the Assistant Policy Director for Energy, Agriculture and the Environment in Governor Kasich's administration. He also previously served as District Chief of both Ohio EPA's Central District Office and its Southeast District Office. *1/9/2014*

### **OMA Comments on Toxic Air Contaminants Rule Review**

Ohio EPA is beginning the five year rule review process for the rule on "Toxic Air Contaminates," which states that the director may require a permit-to-install for any new or modified air contaminant source that emits a toxic air contaminant. The agency prepared this [fact sheet](#) on the review.

The OMA was involved in the creation of this rule through Senate Bill 265 in 2006.

The OMA and business sector allies submitted these [comments](#) to reinforce that the rule review should be focused on "the directives established by the Revised Code and the recently completed review of the rule by ERAC and the Tenth Appellate Division and that the agency should not reopen and revisit the objection to its rulemaking actions that were recently litigated and put to rest by ERAC and the Court of Appeals."

To learn more about how to participate in this rule review process, contact OMA's [Rob Brundrett](#). *12/12/2013*

### **OMA Asks Ohio Supreme Court to Review Water Discharge Permitting**

This week the OMA filed a memoranda of [amicus curiae](#) asking the Ohio Supreme Court to review two issues regarding water discharge permitting in Ohio.

On November 6<sup>th</sup> the court agreed to review whether Ohio EPA must use the rulemaking process in determining total maximum daily pollutant loadings (TMDLs) for discharges into streams before imposing such limits in discharge permits.

However the court refused to hear two other issues. The first being that the mere presence of a proposed discharge limit in a TMDL does not create, standing alone, a valid factual foundation for a limit in

a National Pollutant Discharge Elimination System (NPDES) permit. The second being that the Environmental Review Appeals Commission's refusal to consider evidence against a NPDES limit based on a TMDL unconstitutionally denies a permittee due process of law because the permittee has no ability to challenge the TMDL, upon which the discharge limit is based.

The OMA filed in support of Fairfield County which was asking the Supreme Court to reconsider these other issues. 11/21/2013

### **Ohio EPA Holds First Water Nutrient Advisory Group Meeting**

This week Ohio EPA held its first Water Nutrient Technical Advisory Group (TAG) meeting. In response to stakeholder outreach earlier this year, the TAG was formed to advise the agency in its work to develop standards for nutrients.

The agency says that nutrient pollution is one of America's most widespread, costly, and challenging environmental problems. It is caused by too much nitrogen and phosphorus in water.

OMA members John Meyer, Director of Environmental Affairs & Sustainability, John Morrell & Company, and Mike Brom, Director, Environment, PotashCorp, are serving as members of the TAG.

Meeting information and details about Ohio's water nutrient strategy can be found [here](#). 11/21/2013

### **OMA Asks Senator Brown to Streamline Pesticide Regulation**

This week the OMA signed on a [letter](#) urging Senator Sherrod Brown to support inclusion of the "Reducing Regulatory Burdens Act" (RRBA) in the Federal Agriculture Reform and Risk Management Act.

The inclusion of the RRBA "corrects the duplicative requirement by specifying that Clean Water Act National Pollutant Discharge Elimination System (NPDES) permits are not needed for the lawful application of pesticides already regulated under Federal Insecticide, Fungicide and Rodenticide Act."

Incorporating this change would return exclusive jurisdiction to the USDA for the regulation of weed and pest control products for food, feed crops, and landscape uses. 11/14/2013

### **Ohio EPA Improves Document Search**

Ohio EPA has launched the next phase of eDocument (eDoc). [eDocument Search](#) is designed to improve efficiency; reduce costs; and greatly improve the public's ability to access to Ohio EPA's public records.

The system currently includes noncompliance documents issued since January 1, 2007. Eventually, electronic copies of most of the agency's public records will be available. 11/14/2013

### **Senators Introduce Resolution Urging Ohio Away from LEED Standards**

This week state Sen. [Joe Uecker](#) (R-Miami Township) and Sen. [Tim Schaffer](#) (R-Lancaster) introduced [Senate Concurrent Resolution 25](#) which urges Ohio state agencies to build green and energy efficient buildings that meet American National Standards Institute voluntary consensus standard procedures, instead of the U.S. Green Building Council's LEED (Leadership in Energy and Environmental Design) (version 4) green building standards.

The LEED standards have come under criticism for lack of rigor and questionable environmental benefit.

Here is, in part, how the resolution critiques LEED v4: "WHEREAS, The U.S. Green Building Council's (USGBC) LEED v4 green building system fails to conform to recognized voluntary standard development procedures, including but not limited to American National Standards Institute (ANSI) procedures, and fails to base environmental and health criteria on risk assessment methodology ..." 11/7/2013

### **Pepperidge Farm and Ohio EPA Team Up to Expedite New Permits**

Cooperation and communication were [key ingredients](#) used by OMA member, Pepperidge Farm, and the Ohio EPA to ensure six necessary permits were received on time to support the manufacturer's \$93 million, 227,000-square-foot plant expansion to install a new Goldfish® cracker production line. Fifty new jobs are expected.

One of those permits was to change the oven heat source from thermal oxidizers to catalytic oxidizers, which are proposed to be installed in 2014. This will result in a significant reduction in fuel consumption, making the facility more energy efficient.

This week Ohio EPA Director Scott Nally toured the facility in Willard.

Pepperidge Farm engaged Ohio EPA to ensure the project would be in compliance with all environmental regulations. The cooperative approach benefited both parties by helping Ohio EPA understand the company's business plans, which contributed to meaningful discussion regarding the permits. *10/31/2013*

### **OMA Environment Committee Gathers**

The OMA Environment Committee gathered this week to discuss the major environmental issues effecting Ohio manufacturers. OMA members Randy Puckett from [Campbell's Soup](#) and Bryson Cole from [Anheuser-Busch](#), gave presentations to the group on what their respective companies are doing in regards to sustainability.

The members also heard from the Department of Natural Resources including an update on the oil and gas drilling in eastern Ohio and what the Department is doing to ensure no adverse impacts to Ohio's environment. *10/24/2013*

### **U.S. Supreme Court Agrees to Hear Greenhouse Gas Cases**

Last week the U.S. Supreme Court agreed to hear several appeals to various appeals related to greenhouse gas emissions (GHGs). Several petitions for hearing were consolidated and the court agreed to hear the cases under a single question, "Whether EPA permissibly determined that its regulation of GHG emissions from new motor vehicles triggered permitting requirements under the Clean Air Act for stationary sources that emit GHGs."

The Court's ruling could profoundly impact EPA's permitting of GHGs. OMA environment counsel Frank Merrill put together [this memo](#) for OMA members on the issue. *10/24/2013*

**Environment Legislation**  
Prepared by: The Ohio Manufacturers' Association  
Report created on February 25, 2014

- HB12**      **LICENSED OPERATOR REQUIREMENT (ROEGNER K)** To eliminate the licensed operator requirement for gaseous fuel and fuel oil fired boilers that comply with certain safety and engineering standards.  
*Current Status:* 10/31/2013 - **SIGNED BY GOVERNOR**; Eff. 1/30/2014  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_12](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_12)
- HB59**      **BIENNIAL BUDGET (AMSTUTZ R)** To make operating appropriations for the biennium beginning July 1, 2013, and ending June 30, 2015; to provide authorization and conditions for the operation of state programs.  
*Current Status:* 6/30/2013 - **SIGNED BY GOVERNOR**; Eff. 6/30/2013; Some Eff. 9/29/2013; Others Various Dates  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_59](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_59)
- HB93**      **OIL AND GAS LAW (HAGAN R)** To increase criminal penalties for violations of the Oil and Gas Law relating to improper disposal, transport, and management of brine, to establish a criminal penalty for a negligent violation of certain provisions of the Solid, Hazardous, and Infectious Wastes Law, and to require the revocation of a violator's permits and registration certificate and denial of future permit and registration certificate applications under the Oil and Gas Law.  
*Current Status:* 6/25/2013 - House Agriculture and Natural Resources, (First Hearing)  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_93](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_93)
- HB148**      **OIL AND GAS LAW (DRIEHAUS D, HAGAN R)** To prohibit land application and deep well injection of brine, to prohibit the conversion of wells, and to eliminate the injection fee that is levied under the Oil and Gas Law.  
*Current Status:* 6/25/2013 - House Agriculture and Natural Resources, (First Hearing)  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_148](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_148)
- HB205**      **BRINE RECYCLING FEE (GERBERRY R)** To authorize a fee on the recycling of brine from oil and gas operations to benefit local governments.  
*Current Status:* 6/25/2013 - House Agriculture and Natural Resources, (First Hearing)  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_205](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_205)
- HB282**      **SALES-USE TAX LICENSE (ROGERS J)** To authorize vendors and others required to hold a sales or use tax license whose business and home address is the same to apply to the Tax Commissioner to keep such address confidential.  
*Current Status:* 2/26/2014 - House Ways and Means, (Second Hearing)  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_282](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_282)
- HB417**      **WATER-WASTEWATER UTILITY SERVICE IMPROVEMENT PROJECTS (THOMPSON A)** To ensure that all proven and acceptable piping materials be included in bids for water and wastewater utility service improvement projects.  
*Current Status:* 2/19/2014 - House Public Utilities, (First Hearing)  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_417](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_417)
- HCR29**      **EPA REGULATIONS (THOMPSON A)** To urge the President of the United States to halt

the Environmental Protection Agency's costly and harmful pursuit of regulations that restrict fuel diversity for electricity generation and to pursue new fuel diversity policies.

**Current Status:** 11/19/2013 - Referred to Committee Senate Energy and Natural Resources

**State Bill Page:** [http://www.legislature.state.oh.us/res.cfm?ID=130\\_HCR\\_29](http://www.legislature.state.oh.us/res.cfm?ID=130_HCR_29)

**SB59 EDUCATION ENERGY COUNCIL (BEAGLE B)** To authorize an eligible regional council of governments to establish itself as an education energy council for the purpose of issuing debt to pay for school district energy purchases.

**Current Status:** 2/19/2014 - Senate Public Utilities, (Fourth Hearing)

**State Bill Page:** [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_SB\\_59](http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_59)

**SB150 AGRICULTURAL ADDITIVES, LIME AND FERTILIZER LAW (HITE C, PETERSON B)** To revise the law governing the abatement of agricultural pollution, to require a person that applies fertilizer for the purposes of agricultural production to be certified to do so by the Director of Agriculture, to provide for an agricultural pesticide-use category on commercial and private pesticide applicator licenses, and to make other changes to the Agricultural Additives, Lime, and Fertilizer Law.

**Current Status:** 2/18/2014 - House Agriculture and Natural Resources, (Second Hearing)

**State Bill Page:** [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_SB\\_150](http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_150)

**SB178 DEEP WELL BRINE INJECTION (SKINDELL M)** To prohibit land application and deep well injection of brine, to prohibit the conversion of wells, and to eliminate the injection fee that is levied under the Oil and Gas Law.

**Current Status:** 10/29/2013 - Senate Energy and Natural Resources, (First Hearing)

**State Bill Page:** [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_SB\\_178](http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_178)

**SCR9 ASIAN CARP (PATTON T)** To urge the President of the United States and the Congress of the United States to take all actions necessary to prevent Asian carp from entering the Great Lakes, including Lake Erie.

**Current Status:** 11/19/2013 - Referred to Committee House Agriculture and Natural Resources

**State Bill Page:** [http://www.legislature.state.oh.us/res.cfm?ID=130\\_SCR\\_9](http://www.legislature.state.oh.us/res.cfm?ID=130_SCR_9)

**SCR25 GREEN BUILDING RATING STANDARDS (UECKER J)** To urge, for Ohio state agencies and other government entities, the use of green building rating systems, codes, or standards that are consistent with state energy efficiency and environmental performance objectives and policies and that meet American National Standards Institute voluntary consensus standard procedures.

**Current Status:** 2/25/2014 - Senate Energy and Natural Resources, (Fourth Hearing)

**State Bill Page:** [http://www.legislature.state.oh.us/res.cfm?ID=130\\_SCR\\_25](http://www.legislature.state.oh.us/res.cfm?ID=130_SCR_25)

**SCR34 U.S. EPA-STATES PRIMACY (GENTILE L)** To urge the U.S. Environmental Protection Agency to recognize the primacy of states to rely on state utility and environmental regulators in developing guidelines for reductions of carbon dioxide emissions from existing power plants and to take other specified actions regarding greenhouse gas emissions.

**Current Status:** 2/19/2014 - Referred to Committee Senate Energy and Natural Resources

**State Bill Page:** [http://www.legislature.state.oh.us/res.cfm?ID=130\\_SCR\\_34](http://www.legislature.state.oh.us/res.cfm?ID=130_SCR_34)

**As Introduced**

**130th General Assembly  
Regular Session  
2013-2014**

**S. C. R. No. 25**

**Senator Uecker  
Cosponsor: Senator Schaffer**

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**CONCURRENT RESOLUTION**

To urge, for Ohio state agencies and other government 1  
entities, the use of green building rating 2  
systems, codes, or standards that are consistent 3  
with state energy efficiency and environmental 4  
performance objectives and policies and that meet 5  
American National Standards Institute voluntary 6  
consensus standard procedures. 7

**BE IT RESOLVED BY THE SENATE OF THE STATE OF OHIO (THE HOUSE OF  
REPRESENTATIVES CONCURRING):**

WHEREAS, The State of Ohio is dedicated both to economic 8  
growth and to the objectives of achieving energy efficiency and 9  
environmental performance in state agency and other government 10  
buildings; and 11

WHEREAS, The selection of building materials and products for 12  
new construction and renovation can significantly contribute to 13  
achieving these objectives; and 14

WHEREAS, Many building materials and products that are 15  
capable of contributing to the state's energy efficiency and 16  
environmental performance objectives are manufactured or harvested 17  
in Ohio, and their manufacture and harvest support Ohio jobs and 18  
contribute to the state's economic growth; and 19

WHEREAS, Energy efficient buildings further contribute to 20  
economic growth by reducing long-term operating and maintenance 21  
costs of state agency and other government buildings; and 22

WHEREAS, To ensure long-term energy conservation and realize 23  
cost savings, buildings must be designed and constructed to exceed 24  
the highest energy standards; and 25

WHEREAS, Private sector green building rating systems, codes, 26  
and other standards can be useful tools that, when implemented, 27  
can result in buildings that exceed the energy standards for 28  
energy efficiency and environmental performance; and 29

WHEREAS, The U.S. Green Building Council's (USGBC) LEED v4 30  
green building system fails to conform to recognized voluntary 31  
standard development procedures, including but not limited to 32  
American National Standards Institute (ANSI) procedures, and fails 33  
to base environmental and health criteria on risk assessment 34  
methodology; now therefore be it 35

RESOLVED, That we, the members of the 130th General Assembly 36  
of the State of Ohio, urge Ohio state agencies and other 37  
government entities to use green building rating systems, codes, 38  
or standards that are consistent with state energy efficiency and 39  
environmental performance objectives and policies; and be it 40  
further 41

RESOLVED, That the only systems, codes, and standards used in 42  
state agency and other government buildings be those that have 43  
been developed in an open and transparent way with the input of 44  
Ohio building materials and products manufacturers and harvesters 45  
to ensure that the use of green building rating systems, codes, 46  
and other standards from the private sector are consistent with 47  
Ohio objectives and policies; and be it further 48

RESOLVED, That the State of Ohio use private sector green 49  
building rating systems, codes, and other standards to implement 50

state energy efficiency and environmental performance objectives 51  
provided that they are voluntary consensus standards that are 52  
properly grounded in science and include the use of environmental 53  
and health criteria that are based on risk assessment methodology 54  
generally accepted by applicable scientific disciplines; and be it 55  
further 56

RESOLVED, That the use of green building rating systems, 57  
codes, and other standards that have been developed pursuant to 58  
ANSI procedures be presumptively deemed to be open, transparent, 59  
and voluntary consensus standards suitable for Ohio government 60  
use; and be it further 61

RESOLVED, That the LEED v4 green building rating system no 62  
longer be used by Ohio's state agencies and government entities 63  
until the USGBC conforms its system development to the ANSI 64  
voluntary consensus standard procedures as confirmed by ANSI or 65  
until the state, after an opportunity for public comment and 66  
participation, incorporates the LEED v4 system by reference, in 67  
whole or in part, into the administrative rules for state agency 68  
or government entity building standards; and be it further 69

RESOLVED, That the Office of Energy Services within the Ohio 70  
Facilities Construction Commission (OFCC) immediately review, 71  
while taking economic growth and long-term operating and 72  
maintenance costs into account, the availability and suitability 73  
of alternative private sector green building rating systems, 74  
codes, and other standards that advance state energy efficiency 75  
and environmental performance objectives; and be it further 76

RESOLVED, That the OFCC continue to incorporate energy 77  
efficiency and sustainable design features into approved school 78  
projects through the use of alternative green building rating 79  
systems, codes, and standards other than LEED v4; and be it 80  
further 81

RESOLVED, That the Clerk of the Senate transmit duly	82
authenticated copies of this resolution to the USGBC.	83



# Interim GUIDANCE DOCUMENT

Division of Materials and  
Waste Management  
February 2014

## Options for the Management of Solvent Contaminated Rags and Wipes

*This is an interim Guidance until Ohio adopts the Federal Rule. Once adopted the conditions listed under the Federal Rule as noted in the table below will be fully in effect.*

### What is the Purpose of this Guidance?

On July 31, 2013, the US EPA published the Final Rules titled “Conditional Exclusion from Hazardous Waste and Solid Waste for Solvent Contaminated Wipes. Ohio’s current guidance on the management of solvent contaminated wipes is less stringent than the new federal regulation. U.S. EPA is requiring states that have less stringent rules or guidance to adopt rules that are as stringent as the new federal regulation.

Ohio EPA expects to adopt these Federal Rules by August 2014. However, in the interim, Ohio EPA will allow the generator to choose which rule they will follow. The Generator may opt to comply with either the Federal Rule or they may opt to comply with Ohio EPA’s existing guidance until the Federal Rule is adopted. The table below lists the conditions of each program. The one thing a generator cannot do is to choose selected conditions from both options. A generator must select and follow all of the requirements under the new Federal rule or continue to follow Ohio guidance or rules.

### Solvent Contaminated Rags Program Requirement

FEDERAL SOLVENT <i>CONTAMINATED WIPES</i> RULE VS Ohio EPA’s DMWM GUIDANCE		
	FEDERAL RULE	STATE GUIDANCE
GENERAL	<p>Wipes and solvent contaminated wipes</p> <p>A wipe means a woven or non-woven shop towel, rag, pad, or swab made of wood pulp, fabric, cotton, polyester blends, or other material. Not all contaminated wipes that meet the definition of a hazardous waste are eligible for the exclusion.</p>	No Definitions
	<p>No Free Liquids</p> <p>Wipes pass a paint filter liquid test and No free liquids can be found in the container</p>	<p>Definition of free liquid in <a href="#">3745-50-10</a>. Not specified in guidance.</p> <p>Free liquids" means liquids which readily separate from the solid portion of a waste under ambient temperature and pressure.</p>

**LAUNDERING**

	<p><b>40 CFR 261.4(a)(26)</b> (Solid Waste Exclusion) Solvent-contaminated wipes that are sent for cleaning and reuse are not solid wastes provided the following conditions of the exclusion are met.</p>	<p>Current guidance states that wipes destined for laundering are not wastes because they are intended to continue to be used. There are no restrictions on the types of contamination present on the wipes.</p>
	<p>Wipes containing one or more F001-F005 listed solvents listed in § <b>261.31</b> or the corresponding P- or U- listed solvents found in § <b>261.33</b>, including:</p> <ul style="list-style-type: none"> <li>- Acetone - Isobutyl alcohol</li> <li>- Benzene - Methanol</li> <li>- n-Butanol - Methyl ethyl ketone</li> <li>- Chlorobenzene</li> <li>- Methyl isobutyl ketone</li> <li>- Creosols - Methylene chloride</li> <li>- Cyclohexanone</li> <li>- Tetrachloroethylene</li> <li>- 1,2-Dichlorobenzene - Toluene</li> <li>- Ethyl acetate - 1,1,2</li> <li>- Trichloroethane</li> <li>- Ethyl benzene</li> <li>- Trichloroethylene *</li> </ul> <p><i>(*For reusable wipes only.)</i></p> <ul style="list-style-type: none"> <li>- 2-Ethoxyethanol - Xylenes</li> </ul> <ul style="list-style-type: none"> <li>● Wipes that exhibit a hazardous characteristic resulting from a solvent listed in <b>part 261</b>.</li> <li>● Wipes that exhibit only the hazardous characteristic of ignitability when containing one or more non-listed solvents.</li> </ul> <p>THIS DOES NOT INCLUDE:</p> <ul style="list-style-type: none"> <li>● Wipes that contain listed hazardous waste other than solvents.</li> <li>● Wipes that exhibit the characteristic of toxicity, corrosivity, or reactivity due to non-listed solvents or contaminants other than solvents.</li> </ul>	

CONDITION 1	Stored in non-leaking containers capable of holding free liquids	No container requirement specified
CONDITION 2	LABELING: Containers must be labeled "Excluded Solvent-Contaminated Wipes."	No labeling requirements specified
CONDITION 3	180 day accumulation limit	No time limit specified, however, must be prepared to demonstrate they are being laundered.
CONDITION 4	Must not contain free liquids at the point they are sent off site, paint filter liquid test specified	No free liquids, however, no compliance point is not specified
CONDITION 5	Free liquids must be managed according to hazardous waste rules	Not addressed, however, because free liquids are not contained in the wipes, they would need to be managed according to the hazardous waste rules
	<b>Documentation required</b>	
CONDITION 6	<ol style="list-style-type: none"> <li>1. Name and address of the laundry, dry cleaner, landfill, or combustor</li> <li>2. Documentation that the 180-day accumulation time limit is being met</li> <li>3. Description of the process the generator is using to meet the "no free liquids" condition.</li> </ol>	None
CONDITION 7	Laundry or dry cleaner discharge regulated under <i>Clean Water Act</i>	Laundry or dry cleaner discharge regulated under <i>Clean Water Act</i>
<b>Disposal</b>		
	<p><b><i>40 CFR 261.4(b)(18)</i></b> (Hazardous Waste Exclusion) Exemption includes ignitable and F001 through F005 listed solvents-except those containing TCE and corrosive, reactive or TCLP toxic (does not include constituents found in the listed solvent)</p>	<p>Does not disqualify TCE containing wipes</p> <p>Does not discuss disposal in Municipal Solid Waste Landfill</p> <p>The Hazardous Waste Listings found in OAC Rule <b><i>3745-51-30 to 33</i></b> do not apply</p> <p>The Hazardous Waste Characteristics OAC Rule <b><i>3745-51-21 to 24</i></b> do apply</p> <p>This would include organics listed as TCLP constituents and metals.</p>
CONDITION 1	Stored in non-leaking containers capable of holding free liquids	No container conditions specified
CONDITION 2	Labeling: Containers must be labeled "Excluded Solvent-Contaminated Wipes."	No labeling requirements specified

CONDITION 3	180 day accumulation limit	No time limit
CONDITION 4	<p>Must not contain free liquids at the point they are sent off site</p> <p>“No free liquids” condition is defined in <b>40 CFR 260.10</b> and is based on the EPA methods test <b>9095b</b> (paint filter liquids test) or other authorized state standard.</p>	No free liquids, however, compliance point is not specified
CONDITION 5	Free liquids must be managed according to hazardous waste rules	Implied but not addressed because free liquids are not contained in the wipes, they would need to be managed according to the hazardous waste rules
CONDITION 6	Documentation required	No documentation required
	<ol style="list-style-type: none"> <li>1. Name and address of landfill or combustion facility</li> <li>2. Documentation of 180 day limit is met</li> <li>3. Description of process used to ensure no free liquids are present.</li> </ol>	
CONDITION 7	<p>Disposal In a Municipal Solid Waste Landfill regulated under <b>40 CFR Part 258</b>, including <b>40 CFR Part 258.40</b>, or</p> <p>A Hazardous Waste Landfill regulated under 40 CFR Parts <b>264</b> or <b>265</b>; or</p> <p>A Municipal Waste Combustor or other Combustion Facility regulated under <b>Section 129 of the Clean Air Act</b> or</p> <p>A Hazardous Waste Combustor, Boiler, or Industrial Furnace regulated under 40 CFR Parts <b>264</b>, <b>265</b> or <b>266 Sub part H</b> under 40 CFR parts <b>264</b> or <b>265</b></p>	Not addressed but implied by operation of state solid waste law.
	<p>If you choose to use this option the Ohio equivalent landfill types are :</p> <p>Subtitle D, Municipal Waste or Industrial Waste Landfill that meets the requirements of rule <b>3745-27-08</b> or <b>3745-29-08</b> of the Administrative Code, and</p> <p>-Is permitted, licensed, or otherwise authorized by Ohio, or</p>	

	<ul style="list-style-type: none"> <li>-Is permitted, licensed, or otherwise authorized by another state that has this exemption; or</li> <li>-Disposal in a hazardous waste landfill unit subject to or that otherwise meets, the requirements of rule <b>3745-57-03</b> or <b>3745-68-05</b> of the Administrative Code; or</li> <li>-Disposal in a municipal waste landfill unit subject to, or that otherwise meets, the requirements of <b>40 CFR 258.40</b>.</li> </ul>	
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**Contact**

For more information, contact the Hazardous Waste Compliance and Inspection Support Unit of the ***Division of Materials and Waste Management*** at 614-644-2621.

# Director's Office

Upholding the Agency's mission to protect human health and the environment.

The office directs all activities of the Agency including policy development and rule making, enforcement, strategic planning, coordinating state and federal initiatives, and providing outreach, education and assistance to the regulated community and citizens.



## Craig W. Butler, Interim Director

On January 7, 2014, the Governor appointed [Craig W. Butler](#) as Interim Director of Ohio Environmental Protection Agency. He previously served as the Assistant Policy Director for Energy, Agriculture and the Environment in Governor Kasich's administration.

A public servant of more than 24 years, he previously served as District Chief of both Ohio EPA's Central District Office and its Southeast District Office. He is a board member of the Dangerous Wild Animal Board and is a past member of the Board of Directors for the Ohio Alliance for the Environment.

Mr. Butler graduated Mansfield University in Mansfield Pennsylvania with honors with a BA in Geography and Environmental Science. After receiving a scholarship from Ohio University he also graduated from Ohio University with a Masters in Environmental Science.



The Partnership for a Better Energy Future (“the Partnership”) is leading a unified advocacy campaign in response to the Administration’s greenhouse gas (GHG) regulatory agenda. The Administration’s agenda is just underway and will ultimately extend to nearly every sector of the industrial economy, from refining to manufacturing to agriculture and mining. To this end, the Partnership’s fundamental mission is to ensure the continued availability of reliable and affordable energy for American families and businesses.

The Partnership will provide a forum for advocacy and messaging coordination through education and outreach efforts with the public, Congress and the Executive Branch. Grassroots engagement across a diverse set of stakeholders will be a central theme. This may include letters, policy statements, and other communications that can be delivered jointly but also through individual associations and their members. Additionally, through the Partnership, various informational and advocacy materials will be distributed in order to promote coordinated communications.

### **Partnership’s Structure**

1. Messaging and advocacy will be done with the Partnership’s broad membership in mind; no one group or industry will singularly drive the agenda.
2. The Partnership will hold weekly calls to provide updates on activities from the previous week and discussion of advocacy efforts with the Administration, Congress and in states.
3. Open to trade associations, labor groups and other organizations representing interested stakeholders. National, state and local groups are welcome.
4. No cost to join.

### **Partnership’s Six Core Principles for GHG Regulations**

1. Must be cost effective.
2. Must be technologically achievable.
3. Must allow all energy resources to play a role in a true all-of-the-above energy strategy.
4. Administration should seek broad stakeholder input in developing regulations.
5. Administration must perform a thorough cost benefit analysis, accounting for the impacts costly energy regulations will have on businesses, markets, employment and households.
6. Administration needs to take the time to get these regulations right; prioritizing a robust rulemaking process over arbitrary deadlines.

Additional details available at [www.BetterEnergyFuture.org](http://www.BetterEnergyFuture.org)

### **Upcoming Partnership Events**

1. Official Partnership launch on January 30<sup>th</sup>
2. Weekly calls Tuesdays at 3pm EST

**To: OMA Government Affairs Committee**  
**From: Ryan Augsburger / Rob Brundrett**  
**Re: Human Resources Update**  
**Date: February 26, 2014**

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### **General Assembly News and Legislation**

#### **Unemployment Compensation Tax Changes**

Ohio manufacturers got another tax hike in 2014 due to the state's large unemployment compensation loan from the federal government.

Ohio's FUTA rate went up another .9%. Ohio's rate will continue to climb until the debt is paid off. There is a concern what another recession could do to the solvency of Ohio's unemployment compensation fund.

#### **Ohio to Seize Federal Tax Returns**

Ohio will seize federal tax returns of individuals who collected unemployment compensation benefits not owed to them. The state believes they stand to collect around \$70 million in outstanding debt.

#### **House Bill 329**

House Bill 329 requires the Director of Budget and Management to make payments on the balance of amounts borrowed by the state from the federal government to issue unemployment benefits and to make an appropriation. It is estimated that the state's savings would be over \$400 million.

#### **Medicaid Expansion**

The Governor initially tried to expand Medicaid in Ohio through the state budget bill. The General Assembly removed that language from the bill. They also inserted language that prevented the Governor from expanding Medicaid through administrative means. The Governor vetoed that language.

The General Assembly began introducing and working on different Medicaid reform bills however no real action took place in the summer and early fall. Finally Governor Kasich decided to push the measure through controlling board. After some political gamesmanship the controlling board approved expansion with a 5-2.

Some members of the General Assembly have sued regarding this maneuver. However Ohio is now one of the states that is currently working to implement an expanding Medicaid program.

## Human Resources

### OSHA Establishes Whistleblower Retaliation Rule in Food Industry

OMA Connections Partner, Roetzel, reports that on February 12, 2014, the Occupational Safety and Health Administration (OSHA) issued an interim final rule that addresses procedures for retaliation complaints under the whistleblower provisions of the Food Safety Modernization Act (FSMA).

The whistleblower provisions of the FSMA protect workers who report concerns related to food safety. OSHA's interim rule explains how the federal agency will deal with complaints.

This interim final rule applies to manufacturers, processors, packers, transporters, and distributors of food products as well as those who hold or import food. Read [more](#). 2/18/2014

### ACA Update

OMA Connections Partner, Roetzel, reports that on February 10, 2014, the U.S. Department of the Treasury announced that it was partially delaying implementation of the Affordable Care Act's employer mandate.

Mid-sized employers with 50 to 99 full-time employees will not be required to pay a penalty for failing to provide health insurance until 2016. The penalty will still apply to large employers with 100 or more full-time employees; however, they will only be required to offer health insurance to 70 percent of their full-time employees in 2015 and 95 percent in 2016.

The delay is the second time the Obama administration has postponed enforcement of the employer mandate, which was originally scheduled to be effective in January of this year.

Small employers with fewer than 50 full-time equivalent employees (FTEs) will continue to be exempt from the mandate.

Other employer and FTE-based requirements are still on pace to take effect. For example, the delay will not have any impact on Section 6055 or 6056 reporting. Read [more](#) from Roetzel. 2/12/2014

### Global Skills Assessments: "Dismal Picture" for U.S.

Cliff Waldman of the Manufacturers Alliance for Productivity and Innovation (MAPI) [reports](#) on two recent assessments of the international workforce,

one for 15 year olds and another for adults. The results present "disturbing data on U.S. skills."

One survey assessed "15-year-old students' reading, math, science, and general problem-solving skills. The goal is to assess the extent to which students, at the end of compulsory education, can apply their knowledge to real-life situations." The U.S. result: lower than the average of all of the members of the Organisation for Economic Co-operation and Development (OECD).

A second test assesses literacy, numeracy, and "problem solving in technology-rich environments." "The results reveal that, relative to adults in other countries, U.S. adults are weak in literacy, especially weak in numeracy, and only slightly worse than average in problem-solving in technology-rich environments." 2/13/2014

### NLRB to Reintroduce "Ambush Election" Rules

This week, the National Labor Relations Board (NLRB) [announced](#) it would issue "proposed amendments to its rules and regulations governing representation-case procedures. In substance, the proposed amendments are identical to the representation procedure changes first proposed in June of 2011."

Jay Timmons, President and CEO of the National Association of Manufacturers (NAM) said in an email to members: "The NLRB proposed sweeping changes to union elections, upending years of precedent and threatening the time-tested balance in the workplace. This "ambush election" rule would limit manufacturers' ability to communicate to their employers during union campaigns by shortening the period in which a representation election is held; an election could be held in as few as 10 days. It would also impose disturbing new mandates on employers, such as forcing them to turn over employees' e-mail addresses.

In 2011, the NAM fought a similar rule, which a federal judge overturned on a technicality. Now, with the NLRB at full strength, the Board re-proposed the measure. It passed along party lines, with the three Democratic members supporting it and two Republican members opposing it.

The Board's own data do not support a need for a shortened time frame for a representation election. Currently, the average time in which an election is held is 38 days from the time a petition is received. In fact, over the past decade, the Board has either met or exceeded its own goal of the amount of days in

which to hold an election. As we did in 2011, the NAM will again look to file comments to this version of the rule, and we welcome any input from you before the comment period closes on April 7." 2/5/2014

### **NAM Summarizes Emerging & Ongoing Employment Law Issues for 2014**

The Employment & Labor Sub Committee of the National Association of Manufacturers (NAM) has identified important labor law issues for manufacturers to watch in the coming year and beyond. This [summary](#) identifies developing issues and expected legal and regulatory actions.

[Joe Trauger](#) and [Amanda Wood](#), who capably staff the NAM sub committee, got out their crystal ball to predict what will develop in 2014. 2/3/2014

### **Is Time Spent Putting On and Taking Off Protective Gear Compensable?**

OMA Connections Partner, Roetzel, tells us about a recent U.S. Supreme Court decision in which the court unanimously ruled that U.S. Steel is not required to pay its workers for time spent putting on and taking off protective clothing necessary for their work.

Specifically at issue in the case was the Fair Labor Standards Act (FLSA) section that allows parties to collectively bargain over whether the time spent changing clothes at the beginning and the end of the workday is compensable.

The collective bargaining agreement in the U.S. Steel case had such a clause excluding this time from compensation, and the court was charged with determining whether putting on and taking off protective gear was included in this exclusion. Read [more](#). 1/30/2014

### **Long-term Unemployed Best Practices**

To help ensure that the long-term unemployed have opportunity to be fairly considered for jobs and reenter the workforce, the Obama administration is advocating this set of [best practices](#). 1/16/2014

### **Employment Forms - Free and Updated for 2014**

OMA [provides](#) free up-to-date reproducible forms to assist your human resource department, managers and supervisors. These forms comply with federal and Ohio laws and have been reviewed by OMA counsel, Bricker & Eckler LLP, for compliance as recently as December 2013.

The reproducible forms offered: [Application for Employment](#), [Health Questionnaire/Physical Condition](#), [Absentee Calendar/Bi-monthly Absence Review](#), and [Vacation Schedule](#). [State & federal posting requirements](#) are also available. Note that you should now be posting the 2014 Ohio Minimum Wage poster reflecting the increase that was effective January 1, 2014. (See [source key A](#) to source your new poster.)

Please read the [special instructions to employers](#) to protect your company when using these forms. 1/2/2013

### **NLRB Gives Up Poster Rule Fight**

OMA Connections Partner, Roetzel, [tells us](#) that on January 6, 2014, the National Labor Relations Board (NLRB) threw in the towel on its fight to require all employers to post an official notice informing employees of their right to unionize.

The NLRB announced it would not seek a review of two appeals court decisions that struck down the "poster rule," which was originally issued on August 26, 2011 and originally set to take effect on November 14, 2011. The rule would require employers to post a notice informing workers of their right to join a union, bargain collectively, discuss wages and benefits with co-workers, strike and picket, and to attempt to improve working conditions.

Legal involvement of the National Association of Manufacturers was instrumental in this gain. 1/7/2014

### **Governor's Workforce Board Releases 2013 Report & 2014 Plan**

The Governor's Executive Workforce Board and the Office of Workforce Transformation recently released its [2013 Annual Report and 2014 Strategic Plan](#). The stated goal of the strategic plan is to create a unified workforce system that supports business in meeting its workforce needs. 12/19/2013

### **OMA Says "No" to FUTA Tax Increase**

This week the OMA signed onto a [letter](#) to Congressional leaders urging them to reject any efforts to increase the Federal Unemployment Tax Act (FUTA) tax base or rate. The three specific requests are: no increase in the Federal Unemployment Tax Act (FUTA) tax base or rate; no extension of federal restrictions on states in adopting measures that would reduce the average weekly benefit amount as part of state unemployment solvency legislation; and no increase in direct spending from employer financed

federal unemployment trust fund accounts that are already deeply in deficit.

A FUTA tax base increase from \$7,000 to \$14,000 would immediately increase state UI taxes in 29 states, placing additional tax burden on employers at a time when their investment in job creation is critical to our nation's economic recovery. 12/12/2013

### **Governor's Workforce Office Produces Online Toolkit**

Governor Kasich's Office of Workforce Transformation released an [online toolkit](#) for industry sector partnerships.

A goal of the office is to facilitate sector partnerships that "bring together an industry-led dialogue with government, education and training providers, workforce development, labor, and community organizations to focus on the workforce needs of an industry within a region or statewide." 12/12/2013

### **NLRB Requests Court to Dismiss Ambush Rule Case**

This week, the National Labor Relations Board (NLRB) filed a Stipulation of Dismissal in the Ambush Election Rule legal challenge.

The Coalition for a Democratic Workplace (CDW), of which the National Association of Manufacturers (NAM) is a leading member, challenged the ambush election rule in the U.S. District Court in Washington, D.C. The judge invalidated the rule based on a technicality and the case has been held up in the appeals court due to the recess appointment case, *Noel Canning*.

According to Joe Trauger, NAM's Vice President, Human Resources Policy, "With the NLRB filing this stipulation, the Court is expected to dismiss the case shortly. It is anticipated the NLRB will move relatively quickly to issue a new version of the ambush election rule in the coming months." 12/11/2013

### **Medicaid Oversight Bill Heads to Governor**

This week the House approved [Senate Bill 206](#), a bill that creates a legislative panel to oversee and recommend changes to Ohio's Medicaid program. It is sponsored by Senators [Dave Burke](#) (R-Marysville) and [Capri Cafaro](#) (D-Hubbard).

The Senate concurred with changes the House made and the bill now goes to the governor for signature.

The oversight panel will consider, among other issues, Medicaid cost containment and health outcome measurement. The General Assembly moved this bill along after the governor's decision to expand Medicaid coverage under the Affordable Care Act. 12/5/2013

### **New Regulations: What Federal Contractors Need to Know**

According to OMA Connections Partner, Jackson Lewis, the U.S. Department of Labor's Office of Federal Contract Compliance Programs has published new employment regulations covering most government contractors and subcontractors. The regulations add substantial new data-collection and recordkeeping requirements, mandatory language for certain notices, and statistical benchmarks and goals. They will take effect starting in March 2014.

To comply with the changes, contractors will need to review and update their affirmative action programs, subcontracts, job postings, invitations to both applicants and employees to self-identify, and application and applicant tracking systems. [More](#). 11/19/2013

### **Senate Passes Medicaid Reform Bill**

Just weeks after the state controlling board approved Medicaid expansion in Ohio, the Senate [passed](#) a bill to reform Ohio's Medicaid program.

[Senate Bill 206](#), sponsored by Sen. [Dave Burke](#) (R-Marysville) and Sen. [Capri Cafaro](#) (D-Hubbard), is a bipartisan bill focused on three major areas: cost containment, increased accountability, and improved health outcomes. The bill "adds accountability to ensure that Medicaid is administered in the most efficient way by covering the greatest number of enrollees at the lowest cost. This is achieved by recommending an actuarially sound rate of growth."

The bill also creates a Joint Medicaid Oversight Committee made up of members from the House and Senate who will be responsible for the program's heightened level of accountability. 11/14/2013

### **IRS Allows \$500 Carryover for Unused Health Care FSAs**

According to OMA Connections Partner, GPQ Partners LLC, the IRS [announced](#) a new exception to the longstanding "use or lose" rule for healthcare flexible spending account (FSA) plans. Under the exception, unused balances in FSAs at the end of the

plan year can be carried over up to \$500 to the following year.

Without such a carryover privilege, any unused balance is forfeited to the employer under the use-or-lose rule. However, an employer must amend its plan to offer the new carryover privilege. 11/12/2013

### **Informational Picketing Does Not Fall Under Ten-Day Statutory Notice Requirement**

Employers of union employees should be aware of a recent decision of the Ohio Supreme Court: Picketing unrelated to a concerted refusal to work requires no advance notice.

OMA Connections Partner, Roetzel, [summarizes](#) the case. 11/14/2013

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## Human Resources, Health Care & Employment Law Legislation

Prepared by: The Ohio Manufacturers' Association

Report created on February 25, 2014

- HB2**      **UNEMPLOYMENT COMPENSATION CLAIMANT** (DERICKSON T, BROWN T) To require an unemployment compensation claimant to register with OhioMeansJobs to be eligible for unemployment compensation benefits and to require a claimant to contact a local one-stop office beginning with the eighth week of filing for unemployment compensation benefits.  
*Current Status:* 7/11/2013 - **SIGNED BY GOVERNOR**; Eff. 10/11/2013  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_2](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_2)
- HB3**      **HEALTH INSURANCE ACCOUNTABILITY ACT** (SEARS B, KUNZE S) To specify licensing and continuing education requirements for insurance agents involved in selling, soliciting, or negotiating sickness and accident insurance through a health benefit exchange and to make changes to copayments, cost sharing, and deductibles for health insuring corporations.  
*Current Status:* 4/30/2013 - **SIGNED BY GOVERNOR**; Eff. 7/30/2013  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_3](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_3)
- HB22**      **MILITARY SPOUSE UNEMPLOYMENT COMPENSATION** (PILLICH C) To permit persons who quit work to accompany the person's spouse on a military transfer to be eligible for unemployment compensation benefits.  
*Current Status:* 2/13/2013 - House Commerce, Labor and Technology, (First Hearing)  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_22](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_22)
- HB37**      **SHAREDWORK OHIO PROGRAM** (DUFFEY M, SCHERER G) To create the SharedWork Ohio Program and to declare an emergency.  
*Current Status:* 7/11/2013 - **SIGNED BY GOVERNOR**; Eff. 7/11/2013  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_37](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_37)
- HB44**      **PUBLIC HEALTH EMERGENCIES** (MCCLAIN J) To develop protocols regarding the authority to administer, deliver, distribute, or dispense drugs during certain public health emergencies.  
*Current Status:* 1/29/2014 - **REPORTED OUT**, Senate Medicaid, Health and Human Services, (Fourth Hearing)  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_44](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_44)
- HB55**      **UNEMPLOYMENT ELIGIBILITY-MILITARY SPOUSE** (PILLICH C, TERHAR L) To permit persons who quit work to accompany the person's spouse on a military transfer to be eligible for unemployment compensation benefits.  
*Current Status:* 2/27/2013 - House Commerce, Labor and Technology, (Third Hearing)  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_55](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_55)
- HB59**      **BIENNIAL BUDGET** (AMSTUTZ R) To make operating appropriations for the biennium beginning July 1, 2013, and ending June 30, 2015; to provide authorization and conditions for the operation of state programs.  
*Current Status:* 6/30/2013 - **SIGNED BY GOVERNOR**; Eff. 6/30/2013; Some Eff. 9/29/2013; Others Various Dates  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_59](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_59)
- HB60**      **MATERNITY UNIT RULES** (HUFFMAN M) To require that rules governing maternity units,

newborn care nurseries, and maternity homes include certain provisions pertaining to the authority to make decisions regarding the transfer of patients to other facilities and to specify procedures for granting variances or waivers of any requirement in the rules governing operation of such facilities.

**Current Status:** 2/27/2013 - House Health and Aging, (Third Hearing)

**State Bill Page:** [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_60](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_60)

**HB91 HEALTH CARE FREEDOM ACT (YOUNG R, THOMPSON A)** To enact the Health Care Freedom Act.

**Current Status:** 4/24/2013 - House Health and Aging, (Second Hearing)

**State Bill Page:** [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_91](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_91)

**HB94 HEALTH CARE INSURANCE (GONZALES A)** To require a health insuring corporation, public employee benefit plan, or sickness and accident insurer to reimburse a board of health for any services provided to an individual by the board that is covered by a plan issued to the individual by the health insuring corporation, public employee benefit plan, or sickness and accident insurer upon request submitted by the board of health.

**Current Status:** 5/7/2013 - House Insurance, (Second Hearing)

**State Bill Page:** [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_94](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_94)

**HB96 PUBLIC EMPLOYEES' COLLECTIVE BARGAINING LAW (STRAHORN F)** To eliminate an exemption from the Public Employees' Collective Bargaining Law for specified educational employees.

**Current Status:** 6/11/2013 - House Education, (First Hearing)

**State Bill Page:** [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_96](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_96)

**HB121 OHIO HEALTH SECURITY ACT (HAGAN R, FOLEY M)** To enact the Ohio Health Security Act to establish and operate the Ohio Health Care Plan to provide universal health care coverage to all Ohio residents.

**Current Status:** 4/17/2013 - Referred to Committee House Insurance

**State Bill Page:** [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_121](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_121)

**HB123 TELEHEALTH SERVICES (GONZALES A, WACHTMANN L)** Regarding Medicaid and health insurance coverage of telehealth services.

**Current Status:** 2/18/2014 - **SIGNED BY GOVERNOR**

**State Bill Page:** [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_123](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_123)

**HB125 MEDICAID EXPANSION (CARNEY J, ANTONIO N)** To permit the Medicaid program to cover the eligibility expansion group authorized by the Patient Protection and Affordable Care Act and to make an appropriation.

**Current Status:** 4/17/2013 - Referred to Committee House Finance and Appropriations

**State Bill Page:** [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_125](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_125)

**HB151 RIGHT TO WORK-PRIVATE EMPLOYERS (ROEGNER K)** To prohibit any requirement that employees of private employers join or pay dues to any employee organization and to establish civil and criminal penalties against employers who violate that prohibition.

**Current Status:** 6/4/2013 - House Manufacturing and Workforce Development, (First Hearing)

**State Bill Page:** [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_151](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_151)

**HB152 RIGHT TO WORK-PUBLIC EMPLOYEES (MAAG R)** To remove any requirement under

the Public Employees Collective Bargaining Law that public employees join or pay dues to any employee organization and to prohibit public employers from requiring public employees to join or pay dues to any employee organization.

**Current Status:** 5/7/2013 - Referred to Committee House State and Local Government

**State Bill Page:** [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_152](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_152)

**HB153**      **MEDICAL CANNABIS** (HAGAN R) Regarding the medical use of cannabis.

**Current Status:** 5/29/2013 - House Health and Aging, (First Hearing)

**State Bill Page:** [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_153](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_153)

**HB163**      **OHIO CIVIL RIGHTS LAW EXPANSION** (MCGREGOR R, ANTONIO N) To prohibit discrimination on the basis of sexual orientation or gender identity, to create an exception for unlawful discriminatory practices concerning admission to or membership in certain religious organizations, to add mediation to the list of informal methods by which the Ohio Civil Rights Commission must attempt to induce compliance with Ohio's Civil Rights Law before instituting a public hearing.

**Current Status:** 5/22/2013 - House Commerce, Labor and Technology, (First Hearing)

**State Bill Page:** [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_163](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_163)

**HB176**      **MEDICAID REFORMS** (SEARS B) To require the Medical Assistance Director to implement Medicaid reforms, to permit the Medicaid program to cover an additional group under certain circumstances, to revise the duties of the Joint Legislative Committee on Medicaid Technology and Reform, and to make an appropriation.

**Current Status:** 10/16/2013 - House Health and Aging, (First Hearing)

**State Bill Page:** [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_176](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_176)

**HB208**      **MEDICAID REFORMS** (AMSTUTZ R, SYKES V) To require the Medicaid Director to implement certain reforms to the Medicaid program, to require the Director of Job and Family Services to implement certain reforms to workforce development activities, to create the Joint Medicaid Oversight Committee to review proposed rules regarding the Medicaid and workforce development activity reforms, to require the Joint Medicaid Oversight Committee to issue reports recommending certain changes to the Medicaid program, and to abolish the Joint Legislative Committee on Health Care Oversight and the Joint Legislative Committee on Medicaid Technology and Reform.

**Current Status:** 1/8/2014 - House Finance and Appropriations, (Fourth Hearing)

**State Bill Page:** [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_208](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_208)

**HB227**      **HEALTH CARE COMPACT** (RETFERFORD W, BOOSE T) To enter into the Health Care Compact.

**Current Status:** 2/18/2014 - House State and Local Government, (Second Hearing)

**State Bill Page:** [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_227](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_227)

**HB235**      **EMPLOYMENT APPLICATIONS** (WILLIAMS S) To prohibit employers from including on an employment application any question concerning whether an applicant has been convicted of or pleaded guilty to a felony.

**Current Status:** 10/2/2013 - House Commerce, Labor and Technology, (First Hearing)

**State Bill Page:** [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_235](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_235)

- HB253**      **PAYCHECK CARD** (ROGERS J) To prohibit certain employers from requiring employees to accept the employees' pay in the form of a paycheck card.  
*Current Status:* 1/15/2014 - **SUBSTITUTE BILL ACCEPTED**, House Commerce, Labor and Technology, (First Hearing)  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_253](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_253)
- HB255**      **MEDICAID ELIGIBILITY** (BECKER J) To revise the law governing eligibility for the Medicaid program and to abolish the Medicaid Buy-In for Workers with Disabilities Program.  
*Current Status:* 10/16/2013 - House Health and Aging, (First Hearing)  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_255](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_255)
- HB316**      **MEDICAID-COVERED COMMUNITY BEHAVIORAL HEALTH SERVICES** (WACHTMANN L) Regarding Medicaid-covered community behavioral health services.  
*Current Status:* 10/30/2013 - Referred to Committee House Health and Aging  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_316](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_316)
- HB317**      **MEDICAID REFORM MEASURES** (SEARS B) Regarding reforms relating to Medicaid, fraud committed against the state, penalties for certain drug offenses committed against pregnant women, non-opiate medication for released inmates, prescription-related identification requirements, and education for individuals without a high school diploma.  
*Current Status:* 10/30/2013 - Referred to Committee House Health and Aging  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_317](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_317)
- HB320**      **FREE CLINICS** (YOUNG R) To create a state income tax deduction regarding certain health care services provided at a free clinic; to extend qualified immunity from civil liability for certain volunteer health care services provided to individuals eligible for or receiving Medicaid; to authorize a person practicing under a volunteer's certificate to provide health care services to any person; to create a volunteer's certificate for retired nurses; and to designate December as "Free Clinic Appreciation Month."  
*Current Status:* 2/19/2014 - Referred to Committee Senate Finance  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_320](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_320)
- HB329**      **FEDERAL FUNDS REPAYMENT-UNEMPLOYMENT BENEFITS** (HALL D) To require the Director of Budget and Management to make payments on the balance of amounts borrowed by the state from the federal government to issue unemployment benefits and to make an appropriation.  
*Current Status:* 11/6/2013 - Referred to Committee House Finance and Appropriations  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_329](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_329)
- HCR23**      **FEDERAL WORKFORCE INVESTMENT ACT** (DERICKSON T, ROMANCHUK M) To urge the Congress of the United States to take action on the federal Workforce Investment Act to allow states greater flexibility to address current economic realities.  
*Current Status:* 10/22/2013 - **REPORTED OUT**, Senate Workforce and Economic Development, (Third Hearing)  
*State Bill Page:* [http://www.legislature.state.oh.us/res.cfm?ID=130\\_HCR\\_23](http://www.legislature.state.oh.us/res.cfm?ID=130_HCR_23)
- HJR5**      **RIGHT TO WORK** (ROEGNER K, MAAG R) Proposing to enact Section 22 of Article I of the Constitution of the State of Ohio to prohibit employees from being forced to participate in a labor organization as a condition of employment.  
*Current Status:* 6/4/2013 - House Manufacturing and Workforce Development, (First Hearing)

*State Bill Page:* [http://www.legislature.state.oh.us/res.cfm?ID=130\\_HJR\\_5](http://www.legislature.state.oh.us/res.cfm?ID=130_HJR_5)

- HJR6**      **MARIJUANA LEGALIZATION** (HAGAN R) Proposing to enact Section 12 of Article XV of the Constitution of the State of Ohio to legalize the production, use, and sale of marijuana under specified conditions and to provide for the regulation and taxation of marijuana.  
*Current Status:* 6/18/2013 - House State and Local Government, (First Hearing)  
*State Bill Page:* [http://www.legislature.state.oh.us/res.cfm?ID=130\\_HJR\\_6](http://www.legislature.state.oh.us/res.cfm?ID=130_HJR_6)
- SB4**      **PULSE OXIMETRY SCREENING** (MANNING G, OELSLAGER S) To require a pulse oximetry screening for each newborn born in a hospital or freestanding birthing center.  
*Current Status:* 6/27/2013 - **SIGNED BY GOVERNOR**; Eff. 9/27/2013  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_SB\\_4](http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_4)
- SB8**      **UNEMPLOYMENT COMPENSATION BENEFITS-MILITARY SPOUSE** (LAROSE F) To permit persons who quit work to accompany the person's spouse on a military transfer to be eligible for unemployment compensation benefits.  
*Current Status:* 9/19/2013 - Referred to Committee House Military and Veterans Affairs  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_SB\\_8](http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_8)
- SB9**      **HEALTH INSURANCE LAWS** (BACON K) To make changes to Ohio's health insurance laws related to implementation of the Federal Affordable Care Act.  
*Current Status:* 6/4/2013 - **SIGNED BY GOVERNOR**; Eff. 9/4/2013  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_SB\\_9](http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_9)
- SB11**     **SUMMER MEAL PROGRAMS** (BROWN E) To require school districts to allow alternative summer meal sponsors to use school facilities to provide food service for summer intervention services under certain conditions, to allow the distribution and consumption of meals on a school bus, and to create a healthy food license for child day-care centers and school child programs.  
*Current Status:* 3/6/2013 - Senate Medicaid, Health and Human Services, (First Hearing)  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_SB\\_11](http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_11)
- SB14**     **UNEMPLOYMENT COMPENSATION LAW** (KEARNEY E) To authorize programs and tax credits to encourage the hiring of unemployed individuals, to make changes to the Unemployment Compensation Law, to authorize grants and tax credits for the rehabilitation of distressed areas and the expansion of broadband connections to rural areas, to create a revolving loan fund and a bonding program for small businesses, to make changes to the Minority Business Bonding Program, to levy taxes, and to make an appropriation.  
*Current Status:* 9/24/2013 - Senate Finance, (First Hearing)  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_SB\\_14](http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_14)
- SB23**     **ADOPTION RECORDS** (BEAGLE B, BURKE D) Regarding access to adoption records.  
*Current Status:* 12/19/2013 - **SIGNED BY GOVERNOR**  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_SB\\_23](http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_23)
- SB25**     **SHAREDWORK OHIO PROGRAM** (PETERSON B, LAROSE F) To create the SharedWork Ohio Program and to declare an emergency.  
*Current Status:* 4/10/2013 - Referred to Committee House Commerce, Labor and Technology  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_SB\\_25](http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_25)

- SB26 HEAD INJURIES-YOUTH SPORTS (SCHAFFER T)** To correct a cross reference with regard to concussions and head injuries in athletic activities organized by youth sports organizations and to declare an emergency.  
*Current Status:* 5/28/2013 - **SIGNED BY GOVERNOR**; Eff. 5/28/2013  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_SB\\_26](http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_26)
- SB39 HUMAN PAPILOMAVIRUS SCREENINGS AND VACCINES (BROWN E, SCHIAVONI J)** To require insurance providers to cover human papillomavirus screenings and vaccines.  
*Current Status:* 2/27/2013 - Senate Insurance and Financial Institutions, (First Hearing)  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_SB\\_39](http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_39)
- SB45 PRIVATE ELECTRONIC ACCOUNTS ACCESS (TAVARES C)** To prohibit employers, employment agencies, personnel placement services, and labor organizations from requiring an applicant or employee to provide access to private electronic accounts of the applicant or employee.  
*Current Status:* 3/6/2013 - Senate Commerce and Labor, (Second Hearing)  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_SB\\_45](http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_45)
- SB49 PHYSICIAN DESIGNATION STANDARDS (PATTON T)** To establish standards for physician designations by health care insurers.  
*Current Status:* 3/13/2013 - Senate Insurance and Financial Institutions, (Second Hearing)  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_SB\\_49](http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_49)
- SB65 PUBLIC EMPLOYEES' COLLECTIVE BARGAINING LAW (TURNER N)** To eliminate an exemption from the Public Employees' Collective Bargaining Law for specific educational employees.  
*Current Status:* 6/12/2013 - Senate Commerce and Labor, (First Hearing)  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_SB\\_65](http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_65)
- SB75 HEALTH CARE INSURERS (TAVARES C)** To prohibit health insurers from denying payment for a service during or after the performance of the service if the insurer provided prior written authorization for the service.  
*Current Status:* 4/10/2013 - Senate Insurance and Financial Institutions, (First Hearing)  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_SB\\_75](http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_75)
- SB88 OHIO HEALTH BENEFIT EXCHANGE PROGRAM (SKINDELL M)** To establish the Ohio Health Benefit Exchange Agency and to establish the Ohio Health Benefit Exchange Program consisting of an exchange for individual coverage and a Small Business Health Options Program.  
*Current Status:* 4/10/2013 - Senate Insurance and Financial Institutions, (First Hearing)  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_SB\\_88](http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_88)
- SB92 WAGE DISCRIMINATION (TURNER N, TAVARES C)** To enact the "Fair and Acceptable Income Required (FAIR) Act" and to revise the enforcement of the prohibitions against discrimination in the payment of wages.  
*Current Status:* 6/18/2013 - Senate Commerce and Labor, (First Hearing)  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_SB\\_92](http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_92)

- SB117**      **MEDICAID PROGRAM** (SMITH S) To permit the Medicaid program to cover the eligibility expansion group authorized by the Patient Protection and Affordable Care Act and to make an appropriation.  
*Current Status:* 5/8/2013 - Referred to Committee Senate Finance  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_SB\\_117](http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_117)
- SB119**      **DOMESTIC WORKERS PROTECTION** (TAVARES C) To require that domestic workers be paid the minimum wage, as provided in Section 34a of Article II, Ohio Constitution, to require that domestic workers be paid overtime wages, to make certain conduct directed toward a domestic worker an unlawful discriminatory practice, and to require a weekly day of rest for domestic workers.  
*Current Status:* 6/18/2013 - Senate Commerce and Labor, (First Hearing)  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_SB\\_119](http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_119)
- SB125**      **OHIO CIVIL RIGHTS LAW EXPANSION** (LAROSE F, SKINDELL M) To prohibit discrimination on the basis of sexual orientation or gender identity, to create an exception for unlawful discriminatory practices concerning admission to or membership in certain religious organizations, to add mediation to the list of informal methods by which the Ohio Civil Rights Commission must attempt to induce compliance with Ohio's Civil Rights Law before instituting a public hearing.  
*Current Status:* 6/26/2013 - Referred to Committee Senate Civil Justice  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_SB\\_125](http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_125)
- SB145**      **MEDICAID REFORMS** (BURKE D, CAFARO C) To require the Medicaid Director to implement certain reforms to the Medicaid program, to require the Director of Job and Family Services to implement certain reforms to workforce development activities, to create the Joint Medicaid Oversight Committee to review proposed rules regarding the Medicaid and workforce development activity reforms, to require the Joint Medicaid Oversight Committee to issue reports recommending certain changes to the Medicaid program, and to abolish the Joint Legislative Committee on Health Care Oversight and the Joint Legislative Committee on Medicaid Technology and Reform.  
*Current Status:* 6/19/2013 - Senate Medicaid Finance Subcommittee, (First Hearing)  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_SB\\_145](http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_145)

As of Feb. 4, 2014, the most recent balances of outstanding state loans from the FUA are:

State	Loan Balance	Began Borrowing
Arkansas	\$117,171,233.93	Mar. 2009
California	\$10,000,352,302.86	Jan. 2009
Connecticut	\$573,439,548.60	Oct. 2009
Delaware	\$71,429,695.03	Mar. 2010
Georgia	\$178,330,018.89	Dec. 2009
Indiana	\$1,424,400,706.21	Dec. 2008
Kentucky	\$673,638,133.99	Jan. 2009
Missouri	\$321,450,889.81	Feb. 2009
New Jersey	\$64,344,618.24	Dec. 2013
New York	\$3,244,548,592.18	Jan. 2009
North Carolina	\$1,837,734,131.89	Feb. 2009
Ohio	\$1,619,600,289.88	Jan. 2009
Pennsylvania	\$26,579,319.67	Jan. 2014
Rhode Island	\$126,387,121.03	Mar. 2009
South Carolina	\$456,512,366.54	Dec. 2008
Virgin Islands	\$84,306,176.41	Aug. 2009
Wisconsin	\$393,454,851.80	Feb. 2009
Total	\$21,213,679,996.96	

Source: [U.S. Dept. of Labor, Employment and Training Administration](#).

**As Introduced**

**130th General Assembly  
Regular Session  
2013-2014**

**H. B. No. 329**

**Representative Hall**

**Cosponsors: Representatives Retherford, DeVitis, Henne, Letson,  
Romanchuk, Brown, Thompson, Grossman, Scherer, Smith, Blair, Terhar,  
Hackett, Conditt**

—

**A B I L L**

To require the Director of Budget and Management to 1  
make payments on the balance of amounts borrowed 2  
by the state from the federal government to issue 3  
unemployment benefits and to make an 4  
appropriation. 5

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** There is hereby appropriated from the General 6  
Revenue Fund \$404,000,000 for the Director of Budget and 7  
Management to make payments to the United States Secretary of the 8  
Treasury on the balance of amounts borrowed by the state from the 9  
federal government to issue unemployment benefits from the state's 10  
Unemployment Compensation Trust Fund. The Director of Budget and 11  
Management shall fully expend the aforementioned amount for this 12  
purpose by June 30, 2015. The Director of Budget and Management 13  
may establish new appropriation items as determined necessary by 14  
the Director to facilitate the payments. 15

**TO: OMA Government Affairs Committee**  
**FROM: Ryan Augsburger/Rob Brundrett, OMA Staff**  
**SUBJ: Safety and Workers' Compensation Policy Update**  
**DATE: February 26, 2014**

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### Overview

The General Assembly returned from their winter holiday break in mid-January. While rumors of possible workers' compensation legislation persisted through the fall, a bill was never introduced. Governor Kasich is expected to introduce his mid-biennium review in late February. The Bureau indicated they are planning to include a new out of state coverage option for employers in the bill.

No other transformative BWC legislation appears possible this late into the General Assembly. Campaign season will take priority and members will work with eye toward the fall.

### Legislation and Rules

#### HB 143 Workers' Compensation Formulas (Dovilla R-Berea and Butler R-Oakwood)

HB 143 would require the Administrator of Workers' Compensation to include in the notice of premium rate that is applicable to an employer for an upcoming policy year the mathematical equation used by the Administrator to determine the employer's premium rate. According to the BWC this information is already available on the web for all employers to review. There would be a compliance cost to the BWC to send out repeat information. The sponsors of the bill say it is necessary because not everyone has internet access. The bill has had one hearing and is not expected to move.

#### SB 176 Worker's Compensation Benefits (Seitz R-Green Township)

SB 176 would prohibit illegal and unauthorized aliens from receiving compensation and certain benefits under Ohio's Workers' Compensation Law. Senator Seitz has introduced this bill in previous General Assemblies. The bill has had two hearings. It most recently had a proponent testimony hearing in January.

#### HB 338 Test to Determine if Certain Individuals are an Employee Under BWC and Other Laws (McGregor R-Springfield and Hottinger R-Newark)

HB 338 exempts an individual who provides services for or on behalf of a motor transportation company transporting property from coverage under Ohio's Workers' Compensation Law, Ohio's Unemployment Compensation Law, and Ohio's Overtime Law if specified conditions apply to the individual. The bill was introduced in late November and had several hearings. There is a concern that the bill would decrease the solvency of Ohio's unemployment compensation trust fund. This would decrease Ohio's FUTA tax credit by 1%. The credit has already been reduced due to the debt Ohio owes to the federal government who floated loans so Ohio could pay unemployment compensation insurance during the most recent recession.

### BWC Medical Reform

Representative Barbara Sears (R-Sylvania) and Senator Bob Peterson (R-Sabina) were planning to reintroduce the BWC medical reform package as companion bills last year. Key to the package is a provision that requires an injured worker to visit a doctor within the MCO's network if they have not returned to work within 45 days of the injury.

However, neither the House or Senate moved to introduce the bills last year and the flurry of interested party activity has dried up in the late summer. Both Peterson and Sears became their caucuses point person on different priority issues which pulled them away from the BWC debate.

The Bureau is operating as if the bills will not be introduced.

#### Mid-Biennium Review

The Governor will be introducing another comprehensive legislative package in February. The Mid-Biennium Review (MBR) will contain policy shifts for many agencies. The BWC will be no different. They are planning on using the MBR as the vehicle to move the prospective billing clean up language. The BWC is also weighing the possibility of including legislation to address the problems companies have with other states' workers' compensation laws.

#### Self-Insurance Rule Changes

The SI rules that the OMA advocated for in the budget have been submitted to JCARR for final approval.

#### PEO Rules

Last fall the BWC performed its five year rule review on PEOs. After the review, the BWC updated several rules including adding a rule requiring PEO's to file under their EIN for reporting purposes. The rules were pulled from JCARR due to one Ohio PEO who reported in an inconsistent way than by what the rule was going to require. The rules have since gone to JCARR. However legislation will be introduced to address this issue.

### **Bureau of Workers' Compensation**

#### Prescription Drugs

The BWC Pharmacy Programs Director, John Hanna, has been highlighting the results of changes made to its pharmacy management program, which have driven total drug cost savings of more than \$20 million since 2011.

Opiate doses have dropped by 10.9 million since 2010.

This report comes on the heels of a new rule requiring medical providers caring for chronically injured workers to use the Ohio Automated Rx Reporting System (OARRS). BWC's newest pharmacy rule became effective Jan 1. Ohio providers who write controlled substance prescriptions for chronic care must now enroll in OARRS in order for BWC to cover these prescriptions.

#### Improving Workers' Compensation Medical Care in Ohio

In January the BWC in conjunction with Ohio State's Center for Health Outcomes, Policy and Evaluation Studies put on a half day seminar focused on improving workers' compensation medical treatment in Ohio. Attendees heard from Administrator Buehrer, Allard Dembe and Tom Wickizer from Ohio State, Greg Moody, Director at Ohio's Office of Health Transformation and two panels made up of various stakeholders including the OMA.

The goals of the seminar were to:

- Reaffirm key principles for what a high performing system should achieve;
- Identify key improvements needed;
- Educate on how health care is evolving;
- Create an ongoing forum where stakeholders can continue to pursue goals in a positive way; and
- Affirm support for the proposed process and solicit ideas for consideration.

### **Industrial Commission**

#### **New Ombudsman**

Beryl Brown Piccolantonio, formerly a district hearing officer at the Ohio Industrial Commission, is the new Chief Ombuds Officer for the Ohio workers' compensation system.

Beryl's experience includes: Supervisor, Legal Research Legal Assistant to General Counsel at Ohio Industrial Commission; Assistant Director, Office of Human Resources at State of Ohio; Legal Assistant to Chairman Patrick Gannon at Ohio Industrial Commission; and, Project Assistant at Vorys, Sater, Seymour and Pease LLP.

She is a graduate of The Ohio State University Moritz College of Law and Kent State University.

## Safety & Workers' Compensation

### OSHA Extends Silica Comment Deadline to February 11

Last week, OSHA [announced](#) it will further extend the filing deadline for comments regarding the proposed rule changes for occupational exposure to crystalline silica to February 11, 11:59 p.m. ET.

In its press release OSHA states, "In response to concerns raised about possible public confusion due to an error on [www.regulations.gov](http://www.regulations.gov), the federal government's online portal for submitting rulemaking comments, the deadline has been extended from Jan. 27 to Feb. 11 to allow stakeholders additional time to comment on the proposed rule."

The public hearing for the proposed rule is still scheduled to begin on March 18. *1/27/2014*

### OSU & BWC Host Conference on Improving Medical Care for Ohio's Injured Workers

This week, the Bureau of Workers' Compensation (BWC), together with The Ohio State University Center for Health Outcomes, Policy and Education Studies, held a [conference](#) to bring together business, medical, and labor stakeholders to focus on improving the quality of medical care delivered to Ohio's injured workers.

The BWC has launched an initiative to transform its health care delivery model. The conference was designed to start to gather stakeholder input.

Subject matter experts on health care delivery systems spoke about Ohio's current system, potential new concepts to drive better outcomes, and how other states have been able to improve outcomes through the delivery of appropriate, timely, high quality, and cost effective care.

OMA President, Eric Burkland, participated on a stakeholder panel. *1/30/2014*

### BWC Making Headway Against Prescription Drug Abuse, Saves \$20M

The Ohio Bureau of Workers' Compensation (BWC) Board of Directors last week heard a presentation from BWC Pharmacy Programs Director, John Hanna, [highlighting](#) the results of changes made to its pharmacy management program, which have driven total drug cost savings of more than \$20 million since 2011.

Opiate doses have dropped by 10.9 million since 2010.

This report comes on the heels of a new rule requiring medical providers caring for chronically injured workers to use the Ohio Automated Rx Reporting System (OARRS). BWC's newest pharmacy rule became effective Jan 1. Ohio providers who write controlled substance prescriptions for chronic care must now enroll in OARRS in order for BWC to cover these prescriptions.

Other pharmacy program controls BWC implemented to support prescription drug safety for injured workers include:

- A lock-in program limits the practice of doctor and pharmacy shopping.
- Standardized Drug Utilization Reviews objectively evaluate the necessity and appropriateness of prescription drug treatment and identify overuse or danger.
- Generic medications are required when available.
- Point of service edits allow for prescriptions that aren't related to injured worker claims to be screened out to ensure injured workers receive medications relevant to their injuries. *1/27/2014*

### BWC Publishes Annual Program Report

The Bureau of Workers' Compensation (BWC) is required to report annually on the aggregate performance of all group experience and group retrospective groups. In addition, the BWC elects to report information regarding other BWC discount and incentive programs. [Here](#) is the 2013 report.

Fewer employers are participating in group experience rating (93,000 in 2013, down from 95,000 in 2012) while the population of employers participating in group retrospective programs is growing (5,000 in 2013, up from 4,000 in 2012).

A sure way to get automatic BWC discounts is to be lapse-free on premium payments for a continuous 60 months and to report payroll and pay premiums online; the BWC credited employers more than \$9,000,000 in 2013 for these actions. Questions? Ask [us!](#) *1/27/2014*

**Submit Comments re. Proposed OSHA Silica Rule - but Hurry**

Many manufacturers have expressed concern about OSHA's proposed crystalline silica rule, which would cut the permissible exposure limit from 100 to 50 micrograms. While the National Association of Manufacturers (NAM) will be submitting comments to the agency on behalf of manufacturing, NAM has also created tools for manufacturers to directly submit comments.

[Here](#) is a template letter NAM has prepared for your use. And [here](#) is where to upload your comments (click the Comment Now button). Submit your comments no later than Monday, January 27 at 11:59 p.m. Questions? Email NAM's [Amanda Wood](#). 01/23/2014

### Tax Forms Related to BWC's "Billion Back"

The Bureau of Workers' Compensation (BWC) will soon mail Internal Revenue Service (IRS) 2013 1099 MISC forms to employers that received rebates in 2013 as part of "A Billion Back." BWC is required to send 1099 MISC forms to all employers that received payment of more than \$600.

The rebate amount listed on your 1099 MISC form may be different from the rebate check amount you received last year. This difference is due to BWC withholding from the rebate check any outstanding balance owed.

Details for the 1099 MISC can be viewed and printed by logging in to your [BWC e-account](#) starting January 31. You can [email BWC](#) for more information about your IRS 1099 MISC form. Rebate recipients are encouraged to consult with their tax professionals regarding tax reporting requirements. 1/15/2014

### BWC Offers Free "Destination: Excellence" Seminars

The Bureau of Workers' Compensation (BWC) has planned 11 free, two-hour [seminars](#) around the state to help employers learn about BWC "Destination: Excellence" programs. Destination: Excellence is a bundle of programs that help employers increase workplace safety, enhance injured worker care, and lower workers' compensation costs.

Seminars start February 25 and run through March 13. They will be led by BWC's regional business development managers.

Topics covered include: Safety councils; Drug-Free Safety Program; Industry-Specific Safety Program; Transitional Work Bonus Program; and Vocational Rehabilitation.

Register [here](#). 1/15/2014

### Safety Toe Shoe Recall & More

Read BWC's [January 2014 Safety Update](#), a three-page newsletter, for a variety of safety news items, including these and more:

[Redwing Shoes recalls work boots](#)  
[Revisions to OSHA's power press standard](#)  
[OSHA fact sheet on abrasive blasting hazards](#)  
[OSHA interpretation for the new HAZCOM law](#) 1/15/2014

### Ohio Safety Congress & Expo Registration Now Open

Registration is now open for the Ohio Bureau of Workers' Compensation (BWC) 2014 Safety Congress and Expo (OSC14). Safety Congress, the longest-running occupational safety, health and workers' compensation conference in Ohio, is free and takes place March 25 - 27 at the Greater Columbus Convention Center.

All sessions offer free continuing education credits. Registration is available [online](#). 1/10/2014

### BWC Administrator Looks Back and Ahead

Steve Buehrer, Administrator/CEO of the Bureau of Workers' Compensation (BWC) submitted this [op-ed](#) and these [clips](#) from 2013 media placements to spotlight progress the agency made last year and to outline priorities for 2014.

Looking ahead, Buehrer says, "The next year is shaping up to be an even busier one for BWC. Instituting a new policy and claims management computer system, preparing for our new billing process, transitioning to the new ICD-10 medical coding requirements, more aggressively promoting safety and improving medical delivery are all major initiatives that will positively impact employers, injured workers and providers." 1/7/2014

### NAM Still Collecting Employer Input on Proposed OSHA Silica Rule

The Occupational Safety and Health Administration (OSHA) has proposed a complete overhaul of its regulation of respirable crystalline silica (RCS). The

proposal would reduce the permissible exposure level (PEL) in the workplace by about half, to 50 micrograms per cubic meter ( $\mu\text{g}/\text{m}^3$ ) and would establish an action level of  $25\mu\text{g}/\text{m}^3$ .

The National Association of Manufacturers (NAM) has extended to January 14 its deadline for manufacturers to participate in its survey to gather employer impacts. NAM will use the data (anonymously) to develop public comments it will file.

[Click here](#) to begin the survey. (Please note: You can exit the survey at any time and resume at the page you made your last entry as long as you have hit the "Next" button to save the information on that page.) More info? Contact NAM's [Amanda Wood](#). 1/9/2014

### **NAM Asks OSHA to Withdraw Proposed Reporting Rule**

On November 8, 2013, OSHA published a proposed rule to revise its regulation on Occupational Injury and Illness Recording and Reporting that would add requirements for employers to electronically submit injury and illness information they are already required to keep. The proposal set a February 6, 2014 deadline for submitting written comments.

OSHA has extended the deadline for submitting comments to March 8, 2014, an additional 30 days.

The National Association of Manufacturers (NAM) made this [statement](#) at the January 9 public forum on the rule asking OSHA to withdraw the proposal. NAM is also drafting comments to file. To express your concerns, contact NAM's [Amanda Wood](#) or [Joe Trauger](#).

Also note: On January 16, the OMA will present a webinar on [OSHA Recordkeeping](#). This webinar will include a briefing on recently proposed OSHA rules, including this electronic reporting proposal as well as proposed crystalline silica rules. 1/9/2014

### **NAM Collecting Employer Input on OSHA Silica Rule**

The Occupational Safety and Health Administration (OSHA) issued a Federal Register notice on September 12, 2013 proposing a complete overhaul of its regulation of respirable crystalline silica (RCS). The proposal would reduce the permissible exposure level (PEL) in the workplace by about half, to 50 micrograms per cubic meter ( $\mu\text{g}/\text{m}^3$ ) and would establish an action level of  $25\mu\text{g}/\text{m}^3$ .

The National Association of Manufacturers (NAM) invites manufacturers to participate in a survey to gather employer impacts to incorporate into the public comments it will file.

The survey contains 33 questions, but it is important for affected companies to provide as much detail as possible about how the proposal would affect their businesses, including potential measures that would be necessary to comply with the proposed PEL and other requirements. Your information will remain confidential. The survey deadline is January 7, 2014.

[Click here](#) to begin the survey. (Please note: You can exit the survey at any time and resume at the page you made your last entry as long as you have hit the "Next" button to save the information on that page.)

[Read more](#) from NAM regarding the rule and its preparation to make public comments. 12/18/2013

### **Beryl Brown Piccolantonio is New Workers' Comp Chief Ombuds Officer**

[Beryl Brown Piccolantonio](#), formerly a district hearing officer at the Ohio Industrial Commission, is the new Chief Ombuds Officer for the Ohio workers' compensation system.

Beryl's experience includes: Supervisor, Legal Research Legal Assistant to General Counsel at Ohio Industrial Commission; Assistant Director, Office of Human Resources at State of Ohio; Legal Assistant to Chairman Patrick Gannon at Ohio Industrial Commission; and, Project Assistant at Vorys, Sater, Seymour and Pease LLP.

She is a graduate of The Ohio State University Moritz College of Law and Kent State University.

The Ombuds office is a "problem-solving service, independent of BWC and the Industrial Commission of Ohio (IC), which answers complaints and general inquiries about Ohio's workers' compensation system." Beryl can be reached at -- Phone: 1-800-335-0996; Fax: 877-321-9481; or, [E-mail](#). 12/19/2013

### **Do Your Employees Hold CDLs?**

The Bureau of Motor Vehicles (BMV) reminds businesses that all Commercial Driver License (CDL) holders must self-certify their type of commercial driving to the BMV, and submit a medical examiner's certificate by January 30, 2014. Failure to take these steps will put holders at risk of losing their CDL.

privileges. More information can be found on the BMV [website](#). 12/18/2013

### **BWC Settles on Prospective Payment Conversion Timeline**

The Bureau of Workers' Compensation board of directors has Ok'd a staff-proposed [timeline](#) for the conversion from its current after-the-fact premium payment practice to a prospective premium payment mode. This aligns BWC with insurance industry premium payment practices.

In August 2015, employers will make their first prospective premium payments. That August, employers will be invoiced for the policy year of July 1, 2015 to June 30, 2016. Multiple installment payment options will be available. And, the BWC will issue a credit for the entire first half of 2015 as well as fund the first two months of the 2015/16 premium year - a total of eight months of premium relief - to ease the transition.

The change in premium payment timing has additional consequences that affect employers. For example, there will be two group experience rating enrollment deadlines in 2014, one on February 28, 2014 for the 2014/15 policy year, and another on November 30, 2014 for the 2015/16 policy year.

Most BWC product and service deadlines will change. January 31, 2015 will become the enrollment deadline for group retrospective rating, one claim program, EM capped program, individual retrospective rating and both small and large deductible programs. May 31, 2015 will become the enrollment deadline for Destination Excellence programs.

Here is a [fact sheet](#) from the BWC.

We'll continue to communicate changes to help members through the transition. Contact OMA's [Scott Weisend](#) or [Denny Davis](#) with your immediate questions. 12/2/2013

### **Weisend Joins OMA Staff**

Scott Weisend has joined the OMA staff to lead the organization's Workers' Compensation Services. Most recently, Scott was Client Services Manager at CompManagement.

OMA President, Eric Burkland, said, "Workers' compensation is a significant issue for manufacturers. We are pleased to have Scott join the OMA workers' compensation team, which includes Denny Davis, Barb Bender, and Georgia Booth, to

lead in service innovation and improvement. Scott brings substantial experience in Ohio workers' compensation and customer service."

Members can reach Scott, Managing Director, OMA Workers' Compensation Services, at (614) 629-6832 or by [email](#). 11/28/2013

### **BWC Safety Intervention Grants - Get Yours**

Ohio Bureau of Workers' Compensation (BWC) Administrator/CEO Steve Buehrer visited OMA member, [Steere Enterprises](#), Tallmadge, this week to promote the availability of safety grants. Last week the Administrator presented a \$40,000 check to [American Fan Company](#), Fairfield, to invest in safety equipment.

Steere Enterprises is a leading international plastics supplier that produces a variety of products, including blow molding and its patented Dual Process overmolding technology. A 2007 Safety Intervention Grant allowed the company to purchase three deflash presses to automate the deflashing of a variety of parts.

American Fan Company manufactures industrial fans and roof ventilators. The company will invest in a press brake work support that will lift and hold sheet metal in position, eliminating the need for manual support; a vacuum lift that will transfer and position sheets; and a magnetic coupling attachment that will transfer scrap, in addition to picking up multiple sheets at one time.

Ohio employers are eligible for [safety intervention grants](#), which include a 3-to-1 matching amount up to a maximum of \$40,000. Quarterly data reports and follow-up case studies help BWC determine the effectiveness of employers' safety interventions and establish best practices.. BWC's Safety Intervention Grant Program received \$15 million in funding this year as part of the BWC's Billion Back plan. 12/5/2013

### **BWC Makes Self-Insurance More Accessible**

This week the Bureau of Worker's Compensation board of directors audit committee took up rules necessary to implement a law change that makes self-insurance more accessible to financially strong Ohio employers.

An OMA-led amendment included in the state budget will allow employers with fewer than 500 employees, a long-standing BWC standard, to receive a waiver to apply for self-insurance.

The [new rule](#) states that an employer with fewer than 500 employees can apply for self-insurance if it meets the normal criteria to qualify for self-insurance and present five years of audited financial statements. In addition, applicants must be able to obtain excess insurance at a level deemed appropriate by the BWC or have a substantial number of employees located outside the state.

The rule was approved by the committee and is expected to pass a full board vote today. The rule change will next go through the state's Common Sense Initiative analysis and Joint Committee on Agency Rule Review in early 2014.

The OMA Workers' Compensation Services team stands ready to help interested manufacturers consider the cost-benefit of self-insurance. Contact OMA's [Dan Noreen](#). 11/21/2013

#### **NAM to Hold Webinar on OSHA's Proposed Silica Rule**

On November 21 at 1:00 p.m. the National Association of Manufacturers (NAM) is holding a webinar on OSHA's proposed Silica Rule. [David Sarvadi](#), Partner, Keller & Heckman, LLP will be the presenter. David and his team are drafting public comments on behalf of the NAM; the comment period has been [extended to January 27, 2014](#) based on community action. [More](#). 11/9/2013

#### **OSHA Proposes New Rule to Electronically Submit Records**

Last week, the Occupational Safety and Health Administration (OSHA) [proposed](#) a new [rule](#) which would require more frequent reporting of injury and illness data, and would make that data publicly available through the web on a company-by-company basis.

The proposal does not add any new requirement to keep records; it modifies an employer's obligation to transmit these records to OSHA.

OSHA is proposing to amend its current recordkeeping regulations to add requirements for the electronic submission of injury and illness information employers are required to keep under existing standards. The first proposed new requirement is for establishments with more than 250 employees (and who are already required to keep records) to electronically submit the records on a quarterly basis to OSHA.

OSHA is also proposing that establishments with 20 or more employees, in certain industries with high

injury and illness rates, be required to submit electronically their summary of work-related injuries and illnesses to OSHA once a year.

OSHA plans to eventually post the data online.

There will be a public meeting in Washington about the rule on January 9, 2014 and public comments are due on February 6, 2014. We'll keep you posted. 11/9/2013

#### **OSHA Offers New Resources for Managing Hazardous Chemicals**

OSHA has created a [toolkit to identify safer chemicals](#) that can be used in place of more hazardous ones. This toolkit walks employers step-by-step through information, methods, tools and guidance to either eliminate hazardous chemicals or make informed substitution decisions by finding a safer chemical, material, product or process.

OSHA also created another new web resource: the [Annotated Permissible Exposure Limits](#), or annotated PEL tables, which will enable employers to voluntarily adopt newer, more protective workplace exposure limits. OSHA's PELs set mandatory limits on the amount or concentration of a substance in the air to protect workers against the health effects of certain hazardous chemicals. 11/12/2013

#### **Ohio Workers' Compensation in the Courts**

Here is a [summary](#) prepared by OMA workers' compensation counsel, [Tom Sant](#), of Bricker & Eckler, of workers' compensation cases that have been decided or heard in recent months by the Ohio Supreme Court.

None of the cases reverse established precedents.

The Supreme Court has agreed to hear yet another intentional tort case, *Pixley v. Pro-Pak Industries, Inc., et al*, after its rulings which affirmed employers' positions in *Kaminski* and *Hewitt*, We'll keep you posted. 11/7/2013

**Workers' Compensation Legislation**  
Prepared by: The Ohio Manufacturers' Association  
Report created on February 25, 2014

- HB33**      **INDUSTRIAL COMMISSION BUDGET** (HACKETT R) To make appropriations for the Industrial Commission for the biennium beginning July 1, 2013, and ending June 30, 2015, and to provide authorization and conditions for the operation of Commission programs.  
*Current Status:* 3/26/2013 - **SIGNED BY GOVERNOR**; Eff. 3/26/2013  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_33](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_33)
- HB34**      **WORKERS' COMPENSATION BUDGET** (HACKETT R) To make appropriations for the Bureau of Workers' Compensation for the biennium beginning July 1, 2013, and ending June 30, 2015, and to provide authorization and conditions for the operation of the Bureau's programs.  
*Current Status:* 3/26/2013 - **SIGNED BY GOVERNOR**; Eff. 3/26/2013  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_34](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_34)
- HB59**      **BIENNIAL BUDGET** (AMSTUTZ R) To make operating appropriations for the biennium beginning July 1, 2013, and ending June 30, 2015; to provide authorization and conditions for the operation of state programs.  
*Current Status:* 6/30/2013 - **SIGNED BY GOVERNOR**; Eff. 6/30/2013; Some Eff. 9/29/2013; Others Various Dates  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_59](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_59)
- HB143**     **WORKERS' COMPENSATION** (DEVITIS A, BUTLER, JR. J) To require the Administrator of Workers' Compensation to include in the notice of premium rate that is applicable to an employer for an upcoming policy year the mathematical equation used by the Administrator to determine the employer's premium rate.  
*Current Status:* 5/14/2013 - House Insurance, (First Hearing)  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_143](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_143)
- HB338**     **WORKERS' COMPENSATION-UNEMPLOYMENT COMPENSATION COVERAGE** (MCGREGOR R, HOTTINGER J) To establish a test to determine whether an individual providing services for or on behalf of certain motor transportation companies is considered an employee under Ohio's Overtime, Workers' Compensation, and Unemployment Compensation Laws.  
*Current Status:* 2/26/2014 - House Commerce, Labor and Technology, (Fourth Hearing)  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_338](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_338)
- HB431**     **WORKERS' COMPENSATION-MEDICAID ELIGIBILITY STUDY COMMITTEE** (SEARS B, HENNE M) To create the Workers' Compensation and Medicaid Eligibility Study Committee.  
*Current Status:* 2/11/2014 - Introduced  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_431](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_431)
- SB176**     **ILLEGAL ALIENS-WORKERS' COMPENSATION** (SEITZ B) To prohibit illegal and unauthorized aliens from receiving compensation and certain benefits under Ohio's Workers' Compensation Law.  
*Current Status:* 1/29/2014 - Senate Commerce and Labor, (Second Hearing)  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_SB\\_176](http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_176)

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# OSHA extends comment period on proposed silica rule to February 11

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# Trade Release



U.S. Department of Labor  
Occupational Safety and Health Administration  
Office of Communications  
Washington, D.C.  
[www.osha.gov](http://www.osha.gov)

For Immediate Release  
Jan. 24, 2014  
Contact: Office of Communications  
Phone: 202-693-1999

## OSHA extends comment period on proposed silica rule to February 11

**WASHINGTON** – The U.S. Department of Labor's Occupational Safety and Health Administration is extending the public comment period for the Notice of Proposed Rulemaking on Occupational Exposure to Crystalline Silica for an additional 15 days to Feb. 11, 2014.

In response to concerns raised about possible public confusion due to an error on [www.regulations.gov](http://www.regulations.gov), the federal government's online portal for submitting rulemaking comments, the deadline has been extended from Jan. 27 to Feb. 11 to allow stakeholders additional time to comment on the proposed rule. To submit comments using [www.regulations.gov](http://www.regulations.gov), stakeholders may click on the "COMMENT NOW!" box next to the title "Occupational Exposure to Crystalline Silica; Extension of Comment Period" and follow the instructions on-line for making electronic submissions.

Public hearings on the proposed rule are scheduled to begin on March 18, 2014. Information on the proposed rule is available at [www.osha.gov/silica](http://www.osha.gov/silica).

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## **OHIO BWC OTHER STATES COVERAGE PROPOSAL**

**January 16, 2014**

**Problem:** Currently, most states do not recognize Ohio's workers' compensation coverage for Ohio employees temporarily working outside of the state. In most of these cases, Ohio employers are required to obtain a separate policy to provide out-of-state coverage to their workforce. In addition to Ohio companies having to purchase coverage at an additional cost, there can also be significant financial penalties enforced by other states for failing to obtain out-of-state coverage. Furthermore, if an employer secures coverage in another state and splits payroll to avoid paying double, the employer's Ohio premiums can increase because there is less payroll against which claim costs are charged, which can result in a higher experience modifier.

To further complicate the issue, there is not uniformity with respect to when coverage in Ohio is needed for employers temporarily in Ohio due to provisions in law on reciprocity agreements. Currently, Ohio will honor the extraterritorial coverage of another state for employees temporarily in Ohio only to the extent the other state recognizes Ohio's extraterritorial coverage for Ohio employers sending employees temporarily within that state. The reciprocity provisions create a complex and difficult environment for all employers – and one that varies from state to state.

**Proposed Solution:** For Ohio employers with employees temporarily working in other states, BWC proposes to allow the Administrator the ability to enter into a fronting arrangement with an insurance carrier to provide "limited other-states coverage" through a competitive-bid process. The carrier will provide a policy for coverage outside of Ohio upon request from Ohio employers, but will cede all losses from that policy back to BWC, who will reimburse the insurance carrier dollar-for-dollar as required by the contract and may subsequently charge those costs to employer whose policy the claim was filed against.

Additionally, to streamline operations for Ohio-domiciled employers wishing to expand their business into other states, the proposal enables the Administrator to develop an "other-states coverage" program. This program would be competitively bid, with BWC selecting at least one insurance carrier. The insurance carrier would provide coverage to employers based on rates filed and approved for use by the preferred carrier in the other states. This will allow BWC to facilitate an Ohio employer obtaining coverage for permanent operations in other states through a relationship with the contracting carrier. As with the "limited other-states' coverage," BWC will insure the risk and reimburse the insurance carrier for any claims costs they incur as required by the contract. BWC may also subsequently charge these costs to the employer whose policy the claim was filed against. For simplicity, BWC will have the ability to provide one bill to Ohio employers containing all mandatory and elected coverage.

Finally, BWC proposes to remove the reciprocity provisions and honor extraterritorial coverage of workers only temporarily in Ohio. If an injury occurs, BWC believes the claim should be filed under the workers' compensation laws of the state where the payroll is required to be reported by that state's workers' compensation laws.

# Improving Workers' Compensation Medical Care in Ohio

Discussing the impacts and opportunities for Ohio's workers' compensation system

January 29, 2014  
140 Pfahl Hall, The Ohio State University

*Sponsored by Ohio State's Center for Health Outcomes, Policy and Evaluation Studies  
in partnership with the Ohio Bureau of Workers' Compensation*

## Background

Workers, employers, and the Ohio Bureau of Workers' Compensation (BWC) have a common interest in making sure that the medical care delivered to injured workers is appropriate, timely, high quality, and cost effective. Across the United States, initiatives are being undertaken to strengthen workers' compensation medical care. Results of studies performed in different locales have shown that progress can be made in a way that benefits all affected stakeholders. The recent enactment and ongoing roll-out of the Affordable Care Act may provide other opportunities for creating care models that meet the goals of a high performing workers' compensation system.

Ideas proposed range from:

- *Establishing new models of care coordination;*
- *Implementing approaches for measuring the quality of care provided;*
- *Ensuring that medical providers are giving the best care possible; and,*
- *Finding ways of facilitating more successful return to work following an injury.*

As BWC contemplates transforming its health care delivery model, the agency wants to set up a process whereby business and labor stakeholders agree on the guiding principles of the system and have early, active, and continuous input into the study, design, and implementation of any and all strategies.

This conference is designed to begin that conversation by providing a point-in-time look at the current performance of the system; considering a variety of ideas and concepts that might help drive better outcomes; and ultimately creating a road map that will lead to the ongoing success and sustainability of Ohio's workers' compensation system.

## Goals for the Conference

1. Reaffirm key principles for what a high-performing workers' compensation system should achieve on behalf of its key customers – workers and employers.
2. Identify the key improvements needed in Ohio's workers' compensation system, and consider ideas for addressing those needs.
3. Educate attendees on how health care is evolving and how those developments might be applied to derive optimal results in workers' compensation cases.
4. Create an ongoing forum through which workers, employers, providers, and other stakeholders can continue to pursue these goals in a positive way.
5. Affirm support for the proposed process and solicit ideas for additional consideration that may further enhance health care delivery in BWC's system.

**TO: OMA Government Affairs Committee**  
**FROM: Ryan Augsburger/Rob Brundrett, OMA Staff**  
**SUBJECT: Tax Policy Highlights**  
**DATE: February 26, 2014**

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### **Overview**

The General Assembly returned from their winter/holiday break in mid-January. On the tax front, the severance tax has dominated most of the debate over the first two months of the year. However, several other bills including income tax reduction and CAT credits have been the subject of committee hearings. The Governor's mid-biennium review will be introduced either late February or early March. There remains a large concern that a CAT rate hike will be included in legislation this spring. The House has named Representative Jeff McClain (R-Upper Sandusky) as the new Ways and Means Committee Chairman replacing Representative Peter Beck (R-Mason) who is under criminal indictment.

### **State Financial Condition**

Real GDP expanded at an annual rate of 3.2% in the fourth quarter, down from the 4.1% rate in the third quarter. Year-over-year growth was 2.7%.

Ohio employment increased by 5,000 jobs in December. The Ohio unemployment rate decreased to 7.2% in December.

Leading economic indicators remain consistent with uninterrupted growth at a modest pace across the country and in Ohio.

### **Tax Reform Hearings**

The House of Representatives created a Tax Reform Study Committee which held tax reform hearings across the state during the summer and into the fall. The OMA and several OMA members provided testimony for the committee. Representative Gary Scherer (R-Circleville) who chaired the committee and recently named House Ways and Means Vice Chairman, has been working to finish the Committee's recommendations. The report is expected at any time.

Not to be outdone by the House, the Ohio Senate began to have tax reform hearings last fall. The OMA provided testimony for the committee. Senate leadership indicated they are in favor of more comprehensive tax reform to pass this spring, probably in the MBR bill.

The Governor's office continues to review Ohio's taxes and is looking for an opportunity to lower the overall income tax burden in the state. More recently the Governor said he wanted the personal income tax rate below 4% which is lower than the 5% goal he set earlier in his term.

## Tax Legislation

### House Bill 5

After almost a full year of hurry up and wait House Bill 5 passed the House floor in November. That capped off almost a year of testimony and aggressive lobbying by both the proponents and the opponents of the bill. The Senate has had the bill since November but has yet to hold a hearing on the bill. It appears that some members of the Senate leadership team have strong concerns regarding the bill. The bill appears stalled for the time being, but may be revived as debate begins on the MBR later this month.

### House Bill 135

Representative Dorothy Pelanda (R-Marysville) introduced a bill to rehab vacant industrial buildings. This is modeled on a bill from Indiana. The bill originally included a CAT credit which the OMA was able to successfully remove from the bill. It is currently pending in Senate committee and has not had a hearing since November.

### Senate Bill 149/House Bill 219

Representative Jim Butler (R-Oakwood) and Senator Bill Beagle (R-Tipp City) have introduced companion bills that would authorize nonrefundable tax credits against the CAT for businesses that contribute to economic development projects undertaken by local governments and nonprofit businesses. The credit is equal to 60% of a business' contribution to a project primarily benefiting a rural area, and 50% of a contribution to a project benefiting an urban area. There is concern with these bills that they will erode the CAT base creating more pressure to increase the CAT rate on businesses. The OMA sent letters to both sponsors and has worked with them and the committee chairmen to remove the CAT credits from the bills.

### Senate Bill 210

Senator Chris Widener (R-Springfield) quickly moved to introduce legislation following the Medicaid expansion controlling board vote that would take the expected savings from expansion and provide a permanent income tax rate reduction of 4% for all tax brackets beginning in 2014. That would put the highest bracket at 5.176%. The bill had its third hearing last week.

### Senate Bill 228

Senator Chris Widener (R-Springfield) introduced legislation in the wake of the controlling board Medicaid expansion vote that would limit the controlling board's authority to approve the expenditure of certain federal and nonfederal funds that are received in excess of the amount appropriated or are not anticipated in the current biennial appropriations act. The bill also requires information about selected non Ohio companies and requires agencies to contact Ohio entities who did not respond to an RFP. The bill was voted out of the Senate is pending in a House committee.

### House Bill 230

Representative Cheryl Grossman (R-Grove City) has recently introduced and provided sponsor testimony on HB 230. This bill creates a refundable CAT credit for a business that donates food inventory to charitable organizations, equal to a percentage of a federal income tax deduction taken by the business for the same donation. This bill also puts pressure on the CAT rate. The OMA has expressed its concerns with Rep. Grossman and has offered language that could create a transparent grant program.

#### House Bill 246

Representatives Terry Blair (R-Washington Twp.) and John Rogers (D-Mentor on the Lake) introduced HB 246 that allows an employer who hires a recent post-secondary graduate to deduct over five years, all or a percentage of the employer's costs of employing that graduate from the employer's gross receipts subject to the commercial activities tax. This is another concern for manufacturers. While not as bad as a credit it still creates a hidden deduction that could eventually impact the CAT rate. OMA met with Rep. Blair and Chairman Beck on this bill to stress our concerns.

#### House Bill 328

Representatives Ron Young (R-Leroy) and Christina Hagan (R-Alliance) introduced legislation from the House that would modify the authority of the controlling board to approve certain expenditures. This was reaction to the controlling board vote to expand Medicaid in the state of Ohio. The bill had a hearing this week.

#### House Bill 336

House Bill 336 sponsored by Reps Dave Hall (R-Millersburg) and Sean O'Brien (D-Hubbard) would provide tax breaks to consumers and businesses who purchase new vehicles or convert existing vehicles to run on natural gas. The bill also provides a phase in for the motor-fuel tax collections for compressed natural gas.

The bill remains a concern because one of the tax breaks included in the bill is a CAT credit for the purchase of a new alternative fuel vehicle or conversion of a traditional fuel vehicle to an alternative fuel vehicle. House Finance Committee has had a couple of hearings on the bill.

#### House Bill 375

In December House Speaker Pro Tem Matt Huffman (R-Lima) introduced legislation supported by the House Speaker that would increase the state's severance tax. The legislation drafted by House leadership and a portion of the oil and gas industry in Ohio would exclude the oil and gas industry from the CAT.

A substitute version of the bill was accepted last week in the House Ways and Means Committee. The latest version removes the CAT exclusion for C corps but includes the exclusion for pass throughs. The bill in its current form does not have very many supporters and the House needs to do more work before a committee vote. They are scheduled to have a hearing this week which may include more amendments. Since it has taken them until almost to the end of February there is a real possibility the Governor may try again with his version in the MBR.

#### Mid-Biennium Review

The Governor's office is preparing another mid-biennium review (MBR) bill this winter. The MBR bill is a comprehensive policy bill touching all aspects of state government, including the Ohio Department of Taxation and taxing issues. There have been no official announcements about what the MBR might contain. However rumor and speculation would indicate there will be something impacting the CAT and the income tax; including an increase in the CAT rate to .30%.

### **Tax news**

Representative Peter Beck (R-Mason) lost his chairmanship of the House Ways and Means Committee. Earlier this month it was announced that he would be facing an additional 53 felony counts on top of the 16 counts previously announced in July 2013. The criminal charges stem from activities by a software company where Beck served as the chief financial officer.

The Speaker released a statement asking for Beck to resign and that it was decided he should no longer chair the Ways and Means Committee. As of this week Representative Beck has yet to resign his seat in the legislature.

The Speaker named Jeff McClain (R-Upper Sandusky) as the new Ways and Means Chairman. Rep. McClain was previously Vice Chairman of the Finance and Appropriations Committee. Gary Scherer (R-Circleville) was named the new Vice Chairman of the House Ways and Means Committee. Representative Terry Boose (R-Norwalk) was moved from Vice Chair of Ways and Means to Vice Chair of Finance and Appropriations.

## Tax

### House Unveils Severance Tax Sub Bill

The week the House unveiled [Sub House Bill 375](#), a modified severance tax proposal. The newest version includes a higher severance tax rate on products extracted through horizontal wells and a mechanism to divide the proceeds from the severance tax among the Ohio Department of Natural Resources, local governments (impacted by drilling activity), and the income tax reduction fund.

The sub bill also offers an exclusion from the commercial activity tax (CAT) for proceeds of the sale of oil and gas by persons paying the severance tax and who are also subject to the income tax.

OMA tax counsel [Mark Engel](#) of Bricker & Eckler has prepared this [analysis](#) of the sub bill.

On [February 20](#) the OMA tax committee will be discussing this bill and other important tax topics. Register [here](#). *2/13/2014*

### OMA Asks House to Leave CAT Out of Severance Tax Reform

This week in a [letter](#) to Rep. [Matt Huffman](#) (R-Lima), OMA expressed appreciation for House leadership's efforts to modernize the state's severance tax via [House Bill 375](#), but cautioned against providing an exemption from the commercial activity tax (CAT) for the horizontal drilling industry.

[Rob Brundrett](#), OMA Director, Public Policy wrote: "As introduced, H.B. 375 excludes horizontal drillers that pay the proposed horizontal well severance tax from paying the CAT on receipts realized on the sale of oil or natural gas. Excluding this industry from the CAT tax base narrows the base, reduces general revenue funds, and increases pressures to raise the rate. ... Please consider the principle of the CAT's broad base and low rate as the discussions move forward." *1/29/2014*

### OMA Tax Committee to Discuss Growth of Local Government

Ohio's Controlling Board President, Randy Cole, has compiled a [presentation](#) detailing how local government has grown to more than 6,500 independent agencies with more than 500,000 employees requiring more than \$50 billion a year to operate. He'll present at the OMA Tax Committee meeting on February 20.

To help schools and municipalities collaborate to be more efficient with tax dollars, the Kasich administration, in conjunction with local officials from across the state, developed [Beyond Boundaries](#), a Shared Services Action Plan for Ohio Schools and Governments. This is a roadmap of public policy recommendations to make Ohio's public sector more efficient.

Register [here](#) for the OMA Tax Committee meeting on [February 20](#) to learn more. *1/30/2014*

### Small Biz? Don't Leave (Tax) Money on the Table!

The Ohio Department of Taxation issued this [alert](#) to Ohio businesses structured as pass-through entities to promote the 50% Small Business Tax Deduction, retroactive to January 1, 2013. The [form](#) and [instructions](#) are now available at the department's [web site](#).

Frequently Asked Questions about the new 50% tax cut are also on the web site. Information and assistance are available at this toll-free Taxpayer Service line: 1-800-282-1780. *1/23/2014*

### Key Tax Law Changes

Last year's W-2s and 1099s should be arriving in your mailbox or inbox soon. OMA Connections Partner, GBQ Partners LLC, tells us about the [key tax law changes](#) that took effect in 2013 *1/23/2014*

## **Bill Would Require Credit or Refund of Overpaid State Business Taxes**

State Representatives [Mike Duffey](#) (R-Worthington) and [Al Landis](#) (R-Dover) joined Senators [Bob Peterson](#) (R-Sabina) and [Bill Beagle](#) (R-Tipp City), along with Ohio Tax Commissioner [Joe Testa](#) this week to [introduce](#) legislation requiring the Ohio Department of Taxation to notify Ohio businesses when they overpay their taxes.

[House Bill 402](#) and [Senate Bill 263](#) add the requirement to the tax commissioner's statutory duties and functions that taxpayers be notified of overpayments so they can claim a refund or allow the money to be credited toward their future taxes. Currently businesses must request the refunds and the state is under no obligation to inform businesses if they have overpaid.

The bills are in response to the Ohio Inspector General's report finding that the Ohio Department of Taxation failed to refund more than \$30 million in state taxes overpaid by businesses and that the Department of Taxation often ignored requests for refunds. *1/30/2014*

## **OMA Following Ohio's Unemployment Comp. Debt Issue**

Ohio was one of 14 states that was subject to a federal reduction in FUTA credit on its IRS Form 940 for 2013; credit reductions ranged from 1.2% to 0.6%. Ohio's reduction was 0.9%. As of November of last year Ohio's outstanding Title XII loan balance was \$1,552,639,928.74.

At its last tax committee meeting in the fall, OMA asked guest speaker, Ohio Office of Budget and Management Director, Tim Keen, about the state's plan to pay down its UC debt. Director Keen was very aware of the situation and said it should be a high priority for the state and businesses alike.

The state has been making the interest payments since 2011 totaling more than \$180 million. There has been talk about bonding the debt. However, constitutional hurdles need to be cleared for this to be a viable option. The General Assembly has also introduced a bill that would use the projected \$400 million the state

would save through Medicaid expansion to help pay down the debt.

In the meantime, manufacturers face escalating UC assessments. This will be a topic of focus at the next OMA tax committee on [February 20](#). Ohio Department of Jobs and Family Services, which regulates Ohio's unemployment compensation, has been invited. All members are invited to attend; register [here](#) or contact OMA's [Rob Brundrett](#). *1/15/2014*

## **Severance Tax Proposal Gets Hearing**

The House Ways and Means Committee held proponent testimony this week on [House Bill 375](#), a House GOP backed bill that makes changes to Ohio's severance tax.

The Legislative Service Commission (LSC), a nonpartisan research organization, produced this [fiscal analysis](#) of the bill, which "...creates a distinction between horizontal wells and nonhorizontal wells for severance tax purposes. It reduces taxes on nonhorizontal wells and imposes a different tax on horizontal wells. A portion of revenues will be used to partially offset revenue losses to two DNR funds, with remaining revenue to be used to fund a personal income tax cut. A personal income tax credit and an exclusion from the CAT for horizontal well receipts will reduce GRF revenues."

The LSC analysis did not predict how much revenue the new tax structure might generate for personal income tax cuts.

House members heard [testimony](#) from the Ohio Oil and Gas Association, among others. *1/9/2014*

## **Important Tax Figures for 2014**

Per OMA Connections Partner, GBQ Partners, every year, the dollar amounts allowed for various federal tax benefits are subject to change based on inflation adjustments and legislation.

[Here](#) are some important tax figures for 2014, compared with 2013, including the estate tax exemption, Social Security wage base, qualified retirement plan and IRA contribution limits,

driving deductions, allowable business write-off amounts and more. *1/7/2014*

### **House Holds First Hearing on New Severance Tax Proposal**

This week the House Ways and Means Committee heard [sponsor testimony](#) from Rep. [Matt Huffman](#) (R-Lima) on [House Bill 375](#), which would decrease severance taxes paid by small traditional drillers and increase severance taxes on horizontal drillers. The bill would also exclude from the commercial activity tax the gross receipts from the sale of oil or natural gas severed through a horizontal well. See [bill summary](#). *12/12/2013*

### **House Hears Alternative Fuel Motor Vehicle Bill**

The House Finance Committee heard sponsor testimony last week on [House Bill 336](#), a bill that is intended to encourage the acquisition and use of motor vehicles propelled by alternative forms of motor fuel.

House Bill 336 provides for the treatment of compressed natural gas used to propel motor vehicles on the public highways as motor fuel for purposes of the motor fuel tax, the motor fuel gross receipts tax, and the commercial activity tax. It also creates a number of credits and exclusions related to the purchase of, or conversion of existing vehicles to, alternative fuel vehicles, including the income tax, the commercial activity tax, and the sales tax. It also provides for a grant program to encourage public and nonprofit organizations to encourage the use of such vehicles.

The bill is sponsored by Representatives [Sean O'Brien](#) (D-Hubbard) and [David Hall](#) (R-Millersburg).

OMA tax counsel, [Mark Engel](#), Partner, Bricker and Eckler, provided this [analysis](#) of the bill. *12/5/2013*

### **House Introduces New Severance Tax Plan**

The Ohio House this week [introduced](#) a new severance tax plan, [House Bill 375](#), that is

sponsored by Speaker Pro Tem [Matt Huffman](#) (R-Lima) and cosponsored by [Speaker Batchelder](#) (R-Medina).

According to OMA tax counsel, [Mark Engel](#), the bill would: "... reduce the severance tax rate on persons extracting oil and natural gas by means other than horizontal wells; impose a tax on the net proceeds of oil and natural gas produced through horizontal wells; provide a credit against the state income tax equal to the amount of tax paid by taxpayers using horizontal wells; and provide an exclusion from the commercial activity tax for proceeds of the sale of oil and gas by persons paying the severance tax applicable to the use of horizontal wells."

You can read a [full analysis](#) of the bill that Mark Engel prepared. *12/5/2013*

### **OMA Asks House Committee to Oppose CAT Credit**

This week the OMA submitted a [letter](#) to the House Ways and Means Chairman, Rep. [Peter Beck](#) (R-Mason), outlining concerns with [House Bill 219](#). The bill [creates](#) a nonrefundable commercial activity tax (CAT) credit for certain economic development contributions.

In his letter OMA Director, Public Policy Services, Rob Brundrett, said, "Some of the most important aspects of the CAT are its broad base, its low rate, and its broad application to business entities. Those attributes can only be maintained when the state stands firm against individual carve-outs and exemptions."

The OMA previously issued a similar letter of concern to senators regarding companion legislation, [Senate Bill 149](#). *12/5/2013*

### **House Bill 5, Municipal Tax Uniformity Bill, Advances to Senate**

Almost a year after it was introduced, [House Bill 5](#), the municipal income tax uniformity bill, was voted out of the House of Representatives yesterday by a vote of 56-39. The bill includes [numerous changes](#) to local income taxes that should reduce administrative time and cost to manufacturers.

The bill continues to receive fierce opposition from city leaders. The most controversial aspect of the bill is a provision that would require city tax systems to allow businesses to carry forward net operating losses for five years. While some cities already allow some type of carry forward, the law would require all cities to fully implement this practice by 2017.

Due to the importance of this legislation to manufacturing competitiveness, the OMA marked it a "key vote" bill. Key vote bills are tracked by the OMA and used in candidate endorsement processes.

House Bill 5 now moves to the Senate. [Contact](#) your state senator to urge passage of House Bill 5. 11/14/2013

### **OMA Warns Against CAT Credit**

This week the OMA submitted a letter to Senate Ways and Means Committee Chairman Tim Schaffer (R-Lancaster) asking the Senate to resist bills that create commercial activity tax (CAT) credits. The committee had a hearing on Senate Bill 149, sponsored by Bill Beagle (R-Tipp City), which creates a credit against the CAT for businesses that contribute to economic development projects.

The OMA wrote, "Manufacturers are concerned that any new carve-outs, exemptions, or credits could provide strain on the CAT forcing an increase in its rate." Ohio manufacturers pay the largest proportionate share of CAT. The renewed push for more credits coming from the General Assembly continues to be a concern among manufacturers. 11/14/2013

## Taxation Legislation

Prepared by: The Ohio Manufacturers' Association  
Report created on February 25, 2014

- HB5 MUNICIPAL CORPORATIONS INCOME TAXES** (GROSSMAN C, HENNE M) To revise the laws governing income taxes imposed by municipal corporations.  
*Current Status:* 11/19/2013 - Referred to Committee Senate Finance  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_5](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_5)
- HB24 TAX EXPENDITURE REVIEW COMMITTEE** (BOOSE T) To create a Tax Expenditure Review Committee for the purpose of periodically reviewing existing and proposed tax expenditures.  
*Current Status:* 12/4/2013 - House Ways and Means, (Third Hearing)  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_24](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_24)
- HB26 SALES-USE TAX EXEMPTION** (MAAG R) To exempt from sales and use taxes the sale or use of investment metal bullion and coins.  
*Current Status:* 6/5/2013 - House Ways and Means, (Second Hearing)  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_26](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_26)
- HB40 INVESTIGATION OF LOST FUNDS-LIBOR** (FOLEY M) To require the Treasurer of State to investigate whether state treasury funds, custodial funds, or funds of state institutions of higher education were lost as a result of fraudulent manipulations to the LIBOR and to declare an emergency.  
*Current Status:* 2/13/2013 - Referred to Committee House Policy and Legislative Oversight  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_40](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_40)
- HB46 SMALL CLAIMS DIVISION-TAX APPEALS BOARD** (AMSTUTZ R) To create a small claims division of the Ohio Board of Tax Appeals, to allow for parties to file a notice of appeal to the Board by facsimile or electronic transmission using electronic mail, to require the Board to establish a case management schedule for appeals, and to authorize the Tax Commissioner to expedite and issue a final determination for residential property value appeals with written consent of the parties.  
*Current Status:* 2/13/2013 - Referred to Committee House Ways and Means  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_46](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_46)
- HB54 INTERNAL REVENUE CODE** (BECK P) To expressly incorporate changes in the Internal Revenue Code since December 20, 2012, into Ohio law, and to declare an emergency.  
*Current Status:* 3/12/2013 - Referred to Committee Senate Ways and Means  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_54](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_54)
- HB56 BUSINESS PROPERTY TAX EXEMPTION** (GERBERRY R) To allow a board of township trustees to reduce the percentage or term of a property tax exemption granted to a business under a tax increment financing agreement if the business fails to create the number of new jobs the business agreed to create in the agreement.  
*Current Status:* 3/12/2013 - House State and Local Government, (First Hearing)  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_56](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_56)
- HB59 BIENNIAL BUDGET** (AMSTUTZ R) To make operating appropriations for the biennium beginning July 1, 2013, and ending June 30, 2015; to provide authorization and conditions for the operation of state programs.

*Current Status:* 6/30/2013 - **SIGNED BY GOVERNOR**; Eff. 6/30/2013; Some Eff. 9/29/2013; Others Various Dates

*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_59](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_59)

- HB63**      **TAX CREDIT- OIL AND GAS PRODUCTION** (CERA J, O'BRIEN S) To establish a nonrefundable commercial activity tax credit for companies involved in horizontal well drilling or related oil and gas production services that hire Ohio residents or dislocated workers who have enrolled in or completed a federally registered apprenticeship program.  
*Current Status:* 2/20/2013 - Referred to Committee House Ways and Means  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_63](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_63)
- HB81**      **TAX EXPENDITURES EFFECTIVENESS** (DRIEHAUS D, FOLEY M) To provide for the periodic appraisal of the effectiveness of tax expenditures.  
*Current Status:* 2/27/2013 - Referred to Committee House Policy and Legislative Oversight  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_81](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_81)
- HB107**     **CAREER EXPLORATION INTERNSHIPS-TAX CREDIT** (BAKER N) To authorize a tax credit for businesses that employ high school students in career exploration internships.  
*Current Status:* 2/25/2014 - Senate Finance, (Fifth Hearing)  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_107](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_107)
- HB118**     **BOND ISSUES BALLOT LANGUAGE** (ROEGNER K) To revise the ballot language requirements for bond issues.  
*Current Status:* 6/11/2013 - House State and Local Government, (Second Hearing)  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_118](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_118)
- HB135**     **INCOME TAX CREDIT-VACANT INDUSTRIAL SITE** (PELANDA D, CERA J) To authorize a nonrefundable credit against the income tax and certain business taxes for the rehabilitation of a vacant industrial site.  
*Current Status:* 11/12/2013 - **SUBSTITUTE BILL ACCEPTED**, Senate Ways and Means, (Second Hearing)  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_135](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_135)
- HB138**     **TAX APPEALS BOARD LAW CHANGES** (MCCLAIN J, LETSON T) To make changes to the law governing the Board of Tax Appeals, including authorizing a small claims division within the Board, requiring the Board to institute measures to manage certain appeals, requiring the Board to receive notices of appeal and statutory transcripts electronically, providing pleading standards for appeals to the Board, granting the Board authority to grant summary judgments and consider motions, vesting hearing examiners with the authority to determine credibility of witnesses and issue statements of fact and conclusions of law separately, and authorizing the Board to require parties to engage in mediation, and to authorize the Tax Commissioner to expedite and issue a final determination for residential property value appeals with written consent of the parties.  
*Current Status:* 7/11/2013 - **SIGNED BY GOVERNOR**; Eff. 10/11/2013; Some Provisions Other Dates  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_138](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_138)
- HB189**     **JOBSONIO ACCOUNTABILITY ACT** (LUNDY M) To create the JobsOhio Accountability Act.  
*Current Status:* 6/4/2013 - Referred to Committee House Policy and Legislative

Oversight

*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_189](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_189)

- HB198**     **TAX INCREMENT FINANCING** (BUTLER, JR. J, BURKLEY T) To establish a procedure by which political subdivisions proposing a tax increment financing (TIF) incentive district are required to provide notice to the record owner of each parcel within the proposed incentive district before adopting the TIF resolution, and to permit such owners to exclude their parcels from the incentive district by submitting a written response.  
*Current Status:* 2/25/2014 - House State and Local Government, (Fifth Hearing)  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_198](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_198)
- HB212**     **SEVERANCE TAX-HORIZONTAL WELLS** (HAGAN R) To levy a tax on the severance of oil, gas, condensate, and natural gas liquids from horizontal wells, to distribute revenue from the tax to environmental and oil and gas regulatory purposes, local governments impacted and not impacted by horizontal well development, and a permanent fund to promote economic development, and to provide for the administration, investment, and use of the permanent fund.  
*Current Status:* 1/21/2014 - House Agriculture and Natural Resources, (First Hearing)  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_212](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_212)
- HB219**     **CONTRIBUTIONS-ECONOMIC DEVELOPMENT PROJECTS** (BUTLER, JR. J) To authorize tax credits for contributions of money to economic and infrastructure development projects undertaken by local governments and nonprofit corporations.  
*Current Status:* 12/4/2013 - House Ways and Means, (Third Hearing)  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_219](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_219)
- HB224**     **TAX CREDITS** (GONZALES A, TERHAR L) To make various changes to the administration of the investment tax credit and the venture capital loan loss tax credit, including the increase of the maximum amount of the investment tax credit and the venture capital loan loss tax credit and the elimination of the Industrial Technology and Enterprise Advisory Councils.  
*Current Status:* 6/26/2013 - Referred to Committee House Ways and Means  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_224](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_224)
- HB230**     **TAX CREDIT-FOOD DONATIONS** (GROSSMAN C, ANIELSKI M) To authorize an income tax or commercial activity tax credit for businesses that donate food inventory to charitable organizations.  
*Current Status:* 10/2/2013 - House Ways and Means, (First Hearing)  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_230](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_230)
- HB245**     **PROPERTY TAX ROLLBACK** (BARBORAK N) To extend the 10% and 2.5% partial property tax "rollback" exemptions to new and replacement levies approved at the 2013 general election and to declare an emergency.  
*Current Status:* 9/19/2013 - Referred to Committee House Finance and Appropriations  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_245](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_245)
- HB246**     **TAX DEDUCTION-COLLEGE GRADUATES** (ROGERS J, BLAIR T) To allow recent college graduates to claim an income tax deduction for qualified higher education expenses and allow employers of recent college graduates to deduct the employer's costs of employing the graduate from the employer's gross receipts subject to the commercial

activities tax.

**Current Status:** 10/2/2013 - House Ways and Means, (First Hearing)

**State Bill Page:** <http://www.legislature.state.oh.us/bills.cfm?ID=130> HB 246

**HB260 ELECTRONICALLY FILED TAX RETURNS (GONZALES A)** To allow the Department of Taxation to provide taxpayers who file electronic returns the option of receiving their income tax refund in the form of a credit card, debit card, prepaid card, or other device used to electronically transfer funds.

**Current Status:** 12/4/2013 - House Ways and Means, (Second Hearing)

**State Bill Page:** <http://www.legislature.state.oh.us/bills.cfm?ID=130> HB 260

**HB282 SALES-USE TAX LICENSE (ROGERS J)** To authorize vendors and others required to hold a sales or use tax license whose business and home address is the same to apply to the Tax Commissioner to keep such address confidential.

**Current Status:** 2/26/2014 - House Ways and Means, (Second Hearing)

**State Bill Page:** <http://www.legislature.state.oh.us/bills.cfm?ID=130> HB 282

**HB284 HISTORIC REHABILITATION TAX CREDIT INCREASE (SCHURING K)** To increase the maximum historic rehabilitation tax credit allowed to a taxpayer, from \$5 million to \$25 million, and to limit the amount of such credit that may be claimed in each year to \$5 million.

**Current Status:** 10/10/2013 - Referred to Committee House Ways and Means

**State Bill Page:** <http://www.legislature.state.oh.us/bills.cfm?ID=130> HB 284

**HB289 JOINT ECONOMIC DEVELOPMENT ZONE-DISTRICT (SCHURING K)** To require subdivisions to obtain written approval from owners and lessees of real property located within a proposed or existing joint economic development zone (JEDZ) or joint economic development district (JEDD) before approving, amending, or renewing the JEDZ or JEDD contract, to require that income tax revenue derived from a JEDZ or JEDD approved, amended, or renewed after the bill's effective date be used to carry out the JEDZ or JEDD economic development plan before being used for other purposes, and to institute contiguity requirements for which subdivisions may create a JEDZ or JEDD.

**Current Status:** 2/18/2014 - **SUBSTITUTE BILL ACCEPTED & REPORTED OUT**, House State and Local Government, (Seventh Hearing)

**State Bill Page:** <http://www.legislature.state.oh.us/bills.cfm?ID=130> HB 289

**HB312 ELECTRIC LIGHT COMPANY-JOB RETENTION PROGRAM COSTS (JOHNSON T)** To permit a public utility electric light company to recover costs of an economic and job retention program from all public utility electric light customers in Ohio.

**Current Status:** 1/22/2014 - House Public Utilities, (Second Hearing)

**State Bill Page:** <http://www.legislature.state.oh.us/bills.cfm?ID=130> HB 312

**HB319 INFRASTRUCTURE DEVELOPMENT RIDER-GAS COMPANIES (GROSSMAN C)** To permit natural gas companies to apply for an infrastructure development rider to cover costs of certain economic development projects.

**Current Status:** 2/19/2014 - House Public Utilities, (Second Hearing)

**State Bill Page:** <http://www.legislature.state.oh.us/bills.cfm?ID=130> HB 319

**HB329 FEDERAL FUNDS REPAYMENT-UNEMPLOYMENT BENEFITS (HALL D)** To require the Director of Budget and Management to make payments on the balance of amounts borrowed by the state from the federal government to issue unemployment benefits and to make an appropriation.

**Current Status:** 11/6/2013 - Referred to Committee House Finance and

Appropriations

*State Bill Page:* <http://www.legislature.state.oh.us/bills.cfm?ID=130> HB 329

- HB336**      **GASEOUS FUEL VEHICLE CONVERSION PROGRAM** (O'BRIEN S, HALL D) To create the Gaseous Fuel Vehicle Conversion Program, to allow a credit against the income or commercial activity tax for the purchase or conversion of an alternative fuel vehicle, to reduce the amount of sales tax due on the purchase or lease of a qualifying electric vehicle by up to \$500, to apply the motor fuel tax to the distribution or sale of compressed natural gas, to authorize a temporary, partial motor fuel tax exemption for sales of compressed natural gas used as motor fuel, and to make an appropriation.  
*Current Status:* 2/18/2014 - House Finance and Appropriations, (Second Hearing)  
*State Bill Page:* <http://www.legislature.state.oh.us/bills.cfm?ID=130> HB 336
- HB345**      **LOST REVENUE-TAX INCENTIVES** (BARBORAK N) To require the Director of Development Services to estimate the revenue that would be foregone by the state as a result of each tax incentive proposed to the Tax Credit Authority and publish that estimate on the web site of the Development Services Agency.  
*Current Status:* 11/19/2013 - Referred to Committee House Ways and Means  
*State Bill Page:* <http://www.legislature.state.oh.us/bills.cfm?ID=130> HB 345
- HB357**      **SALES-USE TAX CREDITS-RECYCLED ITEMS** (BECKER J) To exclude credits afforded by vendors to consumers for conveying items of tangible personal property to the vendor for recycling or remanufacturing from the price of a sale for sales and use tax purposes.  
*Current Status:* 12/3/2013 - Referred to Committee House Ways and Means  
*State Bill Page:* <http://www.legislature.state.oh.us/bills.cfm?ID=130> HB 357
- HB365**      **BUSINESS TAX OVERPAYMENT** (STINZIANO M, DUFFEY M) To require the Tax Commissioner to notify a taxpayer that the taxpayer has overpaid certain business taxes.  
*Current Status:* 12/4/2013 - Referred to Committee House Ways and Means  
*State Bill Page:* <http://www.legislature.state.oh.us/bills.cfm?ID=130> HB 365
- HB375**      **SEVERANCE TAX-HORIZONTAL OIL AND GAS WELLS** (HUFFMAN M) To levy a severance tax on well owners of oil and gas severed from horizontal wells, to create a nonrefundable income tax credit for the amount of horizontal well severance tax paid, to repeal a cost recovery assessment imposed on oil and gas well owners, to reduce the severance tax rate on natural gas extracted from nonhorizontal wells, to exclude from the tax base of the commercial activity tax gross receipts from the sale of oil or natural gas severed through use of a horizontal well, and to make an appropriation.  
*Current Status:* 2/26/2014 - House Ways and Means, (Seventh Hearing)  
*State Bill Page:* <http://www.legislature.state.oh.us/bills.cfm?ID=130> HB 375
- HB405**      **INCOME TAX CREDIT-CERTAIN DEGREES** (BUDISH A, HOTTINGER J) To grant an income tax credit to individuals who earn degrees in science, technology, engineering, or math-based fields of study.  
*Current Status:* 1/28/2014 - Referred to Committee House Ways and Means  
*State Bill Page:* <http://www.legislature.state.oh.us/bills.cfm?ID=130> HB 405
- HB450**      **SALES TAX HOLIDAY** (PATTERSON J) To provide a three-day sales tax "holiday" each August during which sales of back-to-school clothing, school supplies, personal computers, and personal computer accessories are exempt from sales and use taxes.  
*Current Status:* 2/18/2014 - Introduced

*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_HB\\_450](http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_450)

- HCR6**      **FEDERAL EXCISE TAX-MEDICAL DEVICES** (BRENNER A, HUFFMAN M) To urge the Congress of the United States and the President of the United States to repeal the new federal excise tax on medical devices.  
*Current Status:* 4/30/2013 - Referred to Committee Senate Medicaid, Health and Human Services  
*State Bill Page:* [http://www.legislature.state.oh.us/res.cfm?ID=130\\_HCR\\_6](http://www.legislature.state.oh.us/res.cfm?ID=130_HCR_6)
- SB27**      **PROPERTY TAX EXEMPTION-MILITARY VETERANS** (SCHAFFER T) To exempt from property taxation the primary residences of military veterans who are 100% disabled from a service-connected disability.  
*Current Status:* 2/27/2013 - Senate Ways and Means, (First Hearing)  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_SB\\_27](http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_27)
- SB28**      **INTERNAL REVENUE CODE** (OBHOF L) To expressly incorporate changes in the Internal Revenue Code since December 20, 2012, into Ohio law, and to declare an emergency.  
*Current Status:* 3/22/2013 - **SIGNED BY GOVERNOR**; Eff. 3/22/2013  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_SB\\_28](http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_28)
- SB29**      **INCOME TAX REFUND-JUDGMENT DEBTOR TENANT** (SCHAFFER T) To enable a judgment creditor landlord to obtain a court order directing the Tax Commissioner to pay the judgment debtor tenant's income tax refund to the landlord.  
*Current Status:* 2/27/2013 - Senate Ways and Means, (First Hearing)  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_SB\\_29](http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_29)
- SB30**      **AMERICAN RED CROSS CONTRIBUTIONS** (SCHAFFER T) To allow taxpayers to make contributions to the American Red Cross Ohio Disaster Response Readiness and preparedness Fund through their income tax returns.  
*Current Status:* 2/27/2013 - Senate Ways and Means, (First Hearing)  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_SB\\_30](http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_30)
- SB31**      **INCOME TAX CREDIT-TEACHERS** (SCHAFFER T) To allow a credit against the personal income tax for amounts spent by teachers for instructional materials.  
*Current Status:* 2/27/2013 - Senate Ways and Means, (First Hearing)  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_SB\\_31](http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_31)
- SB42**      **PROPERTY TAXES-SCHOOL SECURITY** (MANNING G, GARDNER R) To authorize school districts to levy a property tax exclusively for school safety and security purposes.  
*Current Status:* 6/19/2013 - House Ways and Means, (Third Hearing)  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_SB\\_42](http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_42)
- SB52**      **PROPERTY TAX COMPLAINTS** (COLEY W) To permit property tax complaints to be initiated only by the property owner.  
*Current Status:* 6/18/2013 - Senate Ways and Means, (Fourth Hearing)  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_SB\\_52](http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_52)
- SB56**      **INCOME TAX REFUNDS** (KEARNEY E) To require the Department of Taxation to provide taxpayers the option of receiving their income tax refund in the form of a prepaid debit card.  
*Current Status:* 3/5/2013 - Senate Ways and Means, (First Hearing)  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_SB\\_56](http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_56)

- SB76**      **NONPROFIT CORPORATION CORRECTIONAL FACILITY TAX EXEMPTION** (SCHIAVONI J) To specify that a nonprofit corporation, the principal purpose of which is operating a halfway house, community-based correctional facility, or other venue offering rehabilitative residential programming to criminal offenders is presumed to be a charitable institution exempt from property taxation.  
*Current Status:* 6/18/2013 - Senate Ways and Means, (Second Hearing)  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_SB\\_76](http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_76)
- SB85**      **TAX EXEMPTION-INVESTMENT METAL BOUILLON-COINS** (JORDAN K, BEAGLE B) To exempt from sales and use taxes the sale or use of investment metal bullion and coins.  
*Current Status:* 4/16/2013 - Senate Ways and Means, (First Hearing)  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_SB\\_85](http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_85)
- SB89**      **EARNED INCOME TAX CREDIT** (SKINDELL M) To grant a state earned income tax credit equal to a percentage of the federal earned income tax credit.  
*Current Status:* 6/11/2013 - Senate Ways and Means, (First Hearing)  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_SB\\_89](http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_89)
- SB108**      **INCOME TAX** (JONES S) To repeal the income tax deduction for wagering losses, to increase the income tax credit for the legal adoption of a child to \$10,000 for each child, and to increase the maximum income tax deduction for college savings contributions to \$10,000 annually for each beneficiary.  
*Current Status:* 4/30/2013 - Senate Ways and Means, (Second Hearing)  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_SB\\_108](http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_108)
- SB120**      **TECHNOLOGY INVESTMENT TAX CREDIT PROGRAM** (KEARNEY E) To increase the total amount of credits that may be awarded under the Technology Investment Tax Credit Program from \$45 to \$145 million.  
*Current Status:* 5/8/2013 - Referred to Committee Senate Finance  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_SB\\_120](http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_120)
- SB149**      **CONTRIBUTIONS-ECONOMIC DEVELOPMENT PROJECTS** (BEAGLE B) To authorize tax credits for contributions of money to economic and infrastructure development projects undertaken by local governments and nonprofit corporations.  
*Current Status:* 11/19/2013 - Senate Ways and Means, (Third Hearing)  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_SB\\_149](http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_149)
- SB159**      **PROPERTY TAX ROLLBACK EXEMPTIONS** (SCHIAVONI J) To extend the 10% and 2.5% partial property tax "rollback" exemptions to new and replacement levies approved at the 2013 general election and to declare an emergency.  
*Current Status:* 9/26/2013 - Referred to Committee Senate Ways and Means  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_SB\\_159](http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_159)
- SB203**      **INCOME TAX CREDIT-NONPROFITS** (SCHAFFER T, TAVARES C) To authorize an income tax credit for individuals that earn a nonprofit management degree or certain professional designations and to allow a sales tax exemption for out-of-state nonprofit corporations that relocate jobs to Ohio.  
*Current Status:* 11/19/2013 - Senate Ways and Means, (First Hearing)  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130\\_SB\\_203](http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_203)

- SB210**      **INCOME TAX RATE REDUCTION (WIDENER C)** To provide for a permanent income tax rate reduction of 4% for all tax brackets beginning in 2014.  
*Current Status:* 2/25/2014 - Senate Finance, (Fourth Hearing)  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130 SB 210](http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_210)
- SB211**      **INCOME TAX CREDIT (SCHAFFER T, PETERSON B)** To authorize an income tax credit for donations to the permanent endowment fund of an eligible community foundation.  
*Current Status:* 11/19/2013 - Senate Ways and Means, (Third Hearing)  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130 SB 211](http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_211)
- SB243**      **SALES TAX HOLIDAY (BACON K)** To provide a three-day sales tax "holiday" each August during which sales of back-to-school clothing, school supplies, personal computers, and personal computer accessories are exempt from sales and use taxes.  
*Current Status:* 2/25/2014 - Senate Ways and Means, (Fourth Hearing)  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130 SB 243](http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_243)
- SB282**      **MUNICIPAL CORPORATIONS-INCOME TAX (JORDAN K)** To prohibit municipal corporations from levying an income tax on nonresidents' compensation for personal services or net profits from a sole proprietorship.  
*Current Status:* 2/19/2014 - Referred to Committee Senate Ways and Means  
*State Bill Page:* [http://www.legislature.state.oh.us/bills.cfm?ID=130 SB 282](http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_282)
- SCR1**      **FEDERAL EXCISE TAX-MEDICAL DEVICES (JORDAN K)** To urge the Congress of the United States and the President of the United States to repeal the new federal excise tax on medical devices.  
*Current Status:* 2/13/2013 - Referred to Committee Senate Medicaid, Health and Human Services  
*State Bill Page:* [http://www.legislature.state.oh.us/res.cfm?ID=130 SCR 1](http://www.legislature.state.oh.us/res.cfm?ID=130_SCR_1)

Chairman of the Board  
**RICK SCHOSTEK**  
Senior Vice President, Honda of America Manufacturing



President  
**ERIC L. BURKLAND**

December 4, 2013

The Honorable Jim Butler  
Ohio House of Representatives  
77 S. High St., 13th Floor  
Columbus, OH 43215

**RE: House Bill 219**

Dear Representative Butler:

The Ohio Manufacturers' Association (OMA) has been an ardent supporter of the 2005 tax reforms including the creation of the commercial activity tax (CAT). Some of the most important aspects of the CAT are its broad base, its low rate, and its broad application to business entities. Those attributes can only be maintained when the state stands firm against individual carve-outs and exemptions.

According to the Ohio Department of Taxation in a report dated March 12, 2013 in fiscal year 2012 manufacturers made up the third largest group of CAT taxpayers, at 10.1%. At the same time, in terms of CAT liability manufacturers made up the largest share, at 27.3% of the total. Manufacturers are concerned that any new carve-outs, exemptions, or credits could provide strain on the CAT forcing an increase in its rate.

H.B. 219 authorizes a nonrefundable tax credit against the CAT for businesses that contribute to economic development projects undertaken by local governments and nonprofit corporations. While manufacturers agree economic development is important and in some case must be incentivized; creating a credit against the CAT gives us great pause.

The General Assembly has only allowed a handful of credits against the CAT since its inception in 2005. We urge the General Assembly to stay strong against new carve-outs, credits and exemptions. If not we risk following the path of the ineffective and exemption riddled corporate franchise tax.

Thank you for your time and we would be happy to discuss this matter further in hopes to finding a workable solution that can benefit all parties.

Sincerely,

Robert Brundrett  
Director, Public Policy Services  
Ohio Manufacturers' Association



# Ohio Legislative Service Commission

## Bill Analysis

Megan Cummiskey and Mackenzie Damon

### H.B. 336

130th General Assembly  
(As introduced)

**Reps.** O'Brien and Hall, Stautberg, Celebrezze, Ashford, Baker, Barborak, Barnes, Beck, Bishop, Blair, Boose, Boyd, Brown, Burkley, Butler, Cera, Clyde, Condit, Curtin, Damschroder, Derickson, DeVitis, Doviola, Duffey, Fedor, Gerberry, Green, Grossman, Hackett, C. Hagan, R. Hagan, Henne, Hill, Hottinger, Johnson, Landis, Letson, Lundy, Maag, Mallory, McClain, Patmon, Patterson, Peilanda, Phillips, Ramos, Redfern, Retherford, Roegner, Rogers, Romanchuk, Ruhl, Schuring, Sheehy, Slaby, Slesnick, Smith, Stinziano, Thompson, Williams, Winburn

### BILL SUMMARY

- Subjects compressed natural gas to the motor fuel tax, measured by gallon equivalents.
- Phases in the motor fuel tax rate for compressed natural gas over five years, with a rate of 7¢ per gallon in the first three years, 14¢ per gallon in the following two years, and the full 28¢ per gallon thereafter.
- Exempts gross receipts from the sale of compressed natural gas from the commercial activity tax, but subjects those receipts to the motor fuel receipts tax.
- Reduces the amount of sales tax due on the purchase or lease of a qualifying electric vehicle by up to \$500 for purchases and leases before 2015.
- Authorizes a nonrefundable income tax or commercial activity tax credit for the purchase of a new alternative fuel vehicle or the conversion of a traditional fuel vehicle to an alternative fuel vehicle.
- Provides that the credit equals 50% of the adjusted purchase price of the vehicle or of the cost of the conversion parts and equipment, subject to a per-vehicle cap of between \$5,000 and \$25,000 depending on gross vehicle rating.
- Limits the credit to alternative fuel vehicles purchased or converted within five years after the bill's effective date.

- Establishes the Gaseous Fuel Vehicle Conversion Program, to be administered by the Director of Environmental Protection.
- Permits the Director to make grants to eligible public entities and nonprofit corporations for the purpose of promoting the use of vehicle fleets that operate on cleaner fuels.
- Makes an appropriation.

### CONTENT AND OPERATION

#### Taxation of compressed natural gas under the motor fuel tax

The bill subjects compressed natural gas to Ohio's existing motor fuel tax. Under continuing law, Ohio levies an excise tax on all motor vehicle fuel used, distributed, or sold within Ohio and used to generate power for the operation of motor vehicles on Ohio public roads. This tax is levied at a rate of 28¢ per gallon and generally is payable by motor vehicle fuel wholesalers and distributors. Under current law, taxable motor fuel includes liquid motor fuels such as gasoline, diesel, kerosene, liquid petroleum gas, and liquid natural gas.<sup>1</sup>

The bill expands the definition of motor fuel to include compressed natural gas, subjecting compressed natural gas to the motor fuel tax if it is to be used to fuel vehicles on public roads in Ohio.<sup>2</sup> However, unlike liquid motor fuel, which, except for liquid natural gas, is taxed according to gallons received, the tax on compressed motor fuel is measured according to gallon equivalents. For compressed natural gas that is received through a dispenser capable of measuring gallons, the gallon equivalent standard is 5.67 pounds of compressed natural gas. For all other compressed natural gas, the gallon equivalent standard is either 126.67 cubic feet of compressed natural gas or the amount of compressed natural gas that has a lower heating value of 114,100 BTUs.<sup>3</sup>

#### Temporary rate reduction

The bill phases in the 28¢-per-gallon motor fuel tax rate for compressed natural gas over five years. For the first three years, beginning in the first month after the bill's effective date, the rate equals 7¢ per gallon. For the following two years, the rate equals 14¢ per gallon. After five years, the rate increases to the full 28¢-per-gallon rate.

<sup>1</sup> R.C. Chapter 5735.

<sup>2</sup> R.C. 5735.01.

<sup>3</sup> R.C. 5735.012 and 5735.015.



Legislative Service Commission

Revenue collected both during and after the phase-in period is credited and distributed in the same proportion and manner as motor fuel tax collected under existing law.<sup>4</sup>

### Taxation of compressed natural gas receipts

By defining compressed natural gas as a form of motor fuel, the bill excludes receipts from the sale of compressed natural gas from the commercial activity tax (CAT) and instead subjects those receipts to a recently enacted tax on motor fuel receipts. Under continuing law, the CAT is a tax levied at a rate of 0.26% of taxable gross receipts from sales or exchanges in Ohio.<sup>5</sup> Beginning July 1, 2014, motor fuel receipts are excluded from the tax base of the CAT.<sup>6</sup> Taxation under the CAT then is replaced, as it applies to receipts from the sale or exchange of motor fuel, with a separate tax – the "motor fuel receipts tax" (MFRT). The MFRT is modeled on the CAT, but is based solely on receipts from one sale or exchange of motor fuel.

When motor fuel receipts were taxed under the CAT, the tax applied to receipts from most transactions involving the sale or exchange of motor fuel. Unlike the CAT, which could have applied to multiple transactions involving the same motor fuel, the MFRT was designed to apply to only one transaction in the motor fuel distribution chain – the first transaction in which motor fuel is sold for delivery to a location in the state. The rate of the MFRT is 0.65% of a taxpayer's motor fuel receipts.<sup>7</sup>

The MFRT uses the definition of motor fuel located in the motor fuel tax law.<sup>8</sup> The bill, by expanding the definition of motor fuel for purposes of the motor fuel tax, excludes from the CAT gross receipts from the sale of compressed natural gas in Ohio and subjects those receipts to the MFRT, beginning July 1, 2014.<sup>9</sup>

### Electric vehicle sales tax reduction

The bill authorizes a reduction in the amount of sales and use tax that would otherwise be owed on the purchase or lease of a qualifying electric vehicle. The tax reduction equals the lesser of \$500 or the amount of the tax otherwise due. If the vehicle is procured for personal use by an individual consumer, then the reduction applies to

<sup>4</sup> R.C. 5735.016.

<sup>5</sup> R.C. Chapter 5751.

<sup>6</sup> R.C. 5751.01(F)(2)(r), not in the bill.

<sup>7</sup> R.C. Chapter 5736.

<sup>8</sup> R.C. 5736.01, not in the bill.

<sup>9</sup> R.C. 5735.01.

one purchase or lease of a qualified vehicle per year. If the vehicle is procured for use in a business, then the reduction applies to the purchase or lease of up to ten qualified vehicles per year.<sup>10</sup>

To qualify for the sales tax reduction, a vehicle must meet the following requirements:

(1) Be a four-wheeled vehicle manufactured primarily for use on public highways and not modified from its original manufacturer specifications;

(2) Have a maximum speed capability greater than or equal to 55 miles per hour;

(3) Be propelled "to a significant extent" by an electric motor that draws power from a battery with a capacity of at least four kilowatt-hours that can be recharged via an external source of electricity;

(4) Be registered in Ohio for operation on public highways;

(5) Be purchased or leased for personal or business use and not for the purpose of resale on or after the bill's effective date, but before January 1, 2015.<sup>11</sup>

Under current law, the purchase of motor vehicles that are registered in Ohio are subject to the state's sales or use tax and the use tax of the county or transit authority territory where registered. The state sales and use tax rate is 5½%, county and transit authority rates currently range from ¼% to 2¼%. The reduction in tax would affect state, county, and transit authority tax collections in proportion to the relative rates of those taxes in the jurisdiction where the vehicle is first registered.

### Alternative fuel vehicle tax credit

The bill authorizes a nonrefundable credit against the income tax or commercial activity tax for the purchase or conversion of an alternative fuel vehicle. An alternative fuel vehicle includes any vehicle, including a bi-fueled or dual-fueled vehicle, that is registered for use on public highways and that runs on compressed natural gas, liquid natural gas, or liquid petroleum gas (e.g., propane).

To qualify for the credit, a taxpayer must purchase a new alternative fuel vehicle, or convert a traditional fuel vehicle (i.e., a vehicle that runs on gasoline or diesel) to an alternative fuel vehicle, within five years after the bill's effective date. The purchase of a new alternative fuel vehicle must meet the following conditions:

<sup>10</sup> R.C. 5739.025(H)(2).

<sup>11</sup> R.C. 5739.025(H)(1), Section 3.

- (1) The taxpayer must purchase the vehicle from an original equipment manufacturer, automobile retailer, or after-market conversion facility;
- (2) The taxpayer must be the first person to purchase the vehicle for personal use or for use in business and not for resale;
- (3) The alternative fuel technology used in the vehicle must have received a compliance designation or been certified by the U.S. Environmental Protection Agency for new or intermediate use;
- (4) If the vehicle runs on compressed natural gas, at least five years must remain until the date established by the manufacturer of the fuel tank as the end-of-life date for the tank.

**Credit amount**

The amount of the credit equals 50% of the adjusted purchase price of the new alternative fuel vehicle or 50% of the cost of equipment and parts needed to convert a traditional fuel vehicle, subject to a per-vehicle cap based on the vehicle's gross vehicle rating. The "adjusted purchase price" of a new vehicle is the portion of the price of the vehicle that is attributable to the parts and equipment used for the storage of alternative fuel, the delivery of alternative fuel to the motor, or the exhaust of gases from the combustion of alternative fuel. For a converted vehicle, the cost of conversion parts and equipment may not include the cost of any parts and equipment that have previously been used to modify or retrofit another traditional fuel vehicle. For either a purchase or a conversion, the credit is limited to the one of the following amounts:

- (1) If the vehicle has a gross vehicle rating of 8,500 pounds or less, \$5,000;
- (2) If the vehicle has a gross vehicle rating of between 8,500 and 10,000 pounds, \$10,000;
- (3) If the vehicle has a gross vehicle rating of more than 10,000 pounds, \$25,000.

**Credit carry-forward and pass-through treatment**

A taxpayer may claim the credit for the taxable year or tax period in which the taxpayer purchases the new vehicle or the conversion parts and equipment. The credit allowed for a vehicle may be claimed against either the income or commercial activity tax, but not both. If the credit exceeds the taxpayer's tax liability for that year or tax period, the taxpayer may carry the credit forward to future years or tax periods until it is fully used.

The bill allows the equity owners of a pass-through entity that purchases or converts a vehicle to claim their proportionate or distributive share of the credit against the income tax.<sup>12</sup>

**Gaseous Fuel Vehicle Conversion Program**

The bill requires the Director of Environmental Protection to administer the Gaseous Fuel Vehicle Conversion Program. The purpose of the Program is to promote the conversion of public fleets to operate on cleaner fuels. Under the Program, the Director may make grants to eligible public entities and nonprofit corporations for the conversion of a vehicle to operate on gaseous fuel or for the incremental cost associated with the purchase of a vehicle originally equipped by the manufacturer to operate on gaseous fuel. "Incremental cost" means the excess cost associated with the purchase of a vehicle originally equipped by the manufacturer to operate on gaseous fuel as compared to the purchase of an equivalent vehicle that operates on gasoline or diesel fuel.<sup>13</sup>

Under the bill, "gaseous fuel" means compressed natural gas, liquefied natural gas, or liquid petroleum gas. "Compressed natural gas" means a clear, odorless, and noncorrosive natural gas that is compressed to a pressure of at least 3,800 pounds per square inch but less than 4,500 per square inch. "Liquefied natural gas" means natural gas that is cooled to -260 Fahrenheit and is in a liquefied state. "Liquid petroleum gas" means a material with a vapor pressure not exceeding that of commercial propane which is composed predominantly of the following hydrocarbons or mixtures: propane, propylene, normal butane or isobutane, and butylene.<sup>14</sup>

**Entities eligible to receive Program grants**

Under the bill, the Director may make grants to the following entities:<sup>15</sup>

- (1) State agencies;
- (2) Political subdivisions of the state;
- (3) City, local, exempted village, or joint vocational school districts;

<sup>12</sup> R.C. 5747.89, 5747.98, 5751.55, and 5751.98.

<sup>13</sup> R.C. 122.079(A) and (B).

<sup>14</sup> R.C. 122.079(A).

<sup>15</sup> R.C. 122.079(A) and (B); R.C. 1702.01, not in the bill.



(4) County transit systems, regional transit authorities, or regional transit commissions;

(5) Nonprofit corporations (domestic or foreign corporations formed otherwise than for the pecuniary gain or profit of, and whose net earnings or any part of them is not distributable to, its members, directors, officers, or other private persons).

#### Rulemaking

The bill requires the Director to adopt rules in accordance with Ohio's Administrative Procedure Act<sup>16</sup> that are necessary for the administration of the Program. The rules must establish all of the following:<sup>17</sup>

- (1) An application form and procedures governing the process for applying to receive a grant under the Program;
- (2) Grant eligibility requirements;
- (3) A maximum grant amount of \$500,000 per eligible entity;
- (4) Any other procedures, criteria, or grant terms that the Director determines necessary to administer the Program.

#### Gaseous Fuel Vehicle Conversion Fund and appropriation

The bill creates the Gaseous Fuel Vehicle Conversion Fund in the state treasury. The Fund is to consist of money transferred to the Fund by the General Assembly. Money in the Fund must be used solely to make grants under the Program. Any interest earned from money in the Fund must be used to administer the Program.<sup>18</sup>

The bill appropriates \$16 million per year in fiscal years 2014 and 2015 to the Gaseous Fuel Vehicle Conversion Fund. The amounts appropriated are to be transferred from the General Revenue Fund. The bill also states that it is the General Assembly's intent to continue appropriating to the Gaseous Fuel Vehicle Conversion Fund \$16 million per fiscal year through the end of fiscal year 2018.<sup>19</sup>

<sup>16</sup> R.C. Chapter 119, not in the bill.

<sup>17</sup> R.C. 122.079(C).

<sup>18</sup> R.C. 122.079(D).

<sup>19</sup> Sections 4 through 6.

#### HISTORY

ACTION	DATE
Introduced	11-06-13

H0336-F130-0007/06



Chairman of the Board  
RICK SCHOSTEK  
Senior Vice President, Honda of America Manufacturing



President  
ERIC L. BURKLAND

January 30, 2014

The Honorable Matt Huffman  
Ohio House of Representatives  
77 S. High St., 14th Floor  
Columbus, OH 43215

**RE: House Bill 375**

Dear Representative Huffman:

The Ohio Manufacturers' Association (OMA) has been an ardent supporter of the 2005 tax reforms including the creation of the commercial activity tax (CAT). Some of the most competitive aspects of the CAT are its broad base and its low rate. Those advantages are maintained when the General Assembly stands firm against carve-outs and exemptions.

According to the Ohio Department of Taxation in a report dated March 12, 2013, in fiscal year 2012, manufacturers made up the third largest population of CAT taxpayers, at 10.1%. In terms of CAT liability, manufacturers made up the largest share, at 27.3%. Manufacturers are concerned that new carve-outs, exemptions, or credits will strain CAT proceeds, forcing an increase in its rate, and pick CAT winners and losers, rather than an equitable application of the tax.

As introduced, H.B. 375 excludes horizontal drillers that pay the proposed horizontal well severance tax from paying the CAT on receipts realized on the sale of oil or natural gas. Excluding this industry from the CAT tax base narrows the base, reduces general revenue funds, and increases pressures to raise the rate. The OMA appreciates the General Assembly's efforts to modernize the state's severance tax. Please consider the principle of the CAT's broad base and low rate as the discussions move forward.

We urge the General Assembly and its leaders to remain strong against a new exclusion. If not, we risk damaging the competitive state tax advantages Ohio enjoys.

Thank you for your time and we would be happy to discuss this matter further.

Sincerely,

A handwritten signature in blue ink that reads "Robert Brundrett".

Robert Brundrett  
Director, Public Policy Services  
(614) 629-6814  
[rbrundrett@ohiomfg.com](mailto:rbrundrett@ohiomfg.com)

cc: The Honorable Peter Beck  
The Honorable Gary Scherer

## Updated Severance Tax Proposal Presented in Ohio House of Representatives

Mark A .Engel  
Bricker & Eckler LLP

On February 12, 2014, the Ways and Means Committee of the Ohio House of Representatives was presented with a modified version of the severance tax proposal previously introduced on December 4, 2013. The modified legislation, known as Substitute House Bill 375 (Sub. HB 375), proposes to:

- Reduce (and for certain periods of time eliminate) the severance tax rate on persons extracting oil and natural gas by means other than horizontal wells (e.g. conventional drilling);
- Impose a new, higher severance tax on oil and natural gas produced through horizontal wells based on “gross receipts” received at the first point of sale less any costs incurred prior to the point of first sale;
- Eliminate the regulatory assessment fee currently paid by severers of oil and gas;
- Divide the proceeds from the severance tax among the Ohio Department of Natural Resources (ODNR), local governments and the income tax reduction fund;
- Provide a non-refundable credit against the state income tax equal to the amount of any severance tax paid by a royalty interest owner; and
- Offer an exclusion from the commercial activity tax (CAT) for proceeds of the sale of oil and gas by persons paying the severance tax and who are also subject to the income tax.

### **The Severance Tax: R.C. 5749.02(B)**

#### 1. Conventional Oil and Gas Wells

The current volume-based severance tax is set forth in R.C. 5749.02(B), and is levied at a rate of 10 cents per barrel of oil and 2.5 cents per thousand cubic feet (MCF) of natural gas. Sub. HB 375 sets up a two-tiered structure for the severance tax depending on the type of well producing the hydrocarbons (e.g. conventional vs. horizontal) and based on the value (rather than the volume) of the hydrocarbons produced. R.C. 5749.02(C)(2) provides that with respect to oil and gas produced and sold from conventional wells after October 1, 2014, for the first three years after a well first produces, there is no severance tax. From years 4 through 20, the severance tax rate equals 0.25% of the gross receipts from the first sale of oil or gas; and, for all years thereafter the rate drops to 0.10%. For purposes of this proposal, the term “gross receipts” means those receipts “from the point of first sale of oil or gas severed from the soil or water of this state, without deduction for costs incurred after the point of first sale,” while the “point of first sale” is defined to mean the “first point after the production of oil or gas from an owner’s well at which the owner transfers ownership of the oil or gas.” The substitute bill is silent as to whether expenses incurred prior to the point of first sale may be excluded. It also does not require any sort of consideration to be paid with respect to the point of first sale.

#### 2. Horizontal Oil and Gas Wells

Sub. HB 375 proposes new language in R.C. 5749.02(C)(1) to establish a different mechanism for calculating the severance tax upon persons who extract oil and gas through the use of a horizontal well. Prior to October 1, 2014, oil and gas produced through a horizontal well remain subject to the existing, volume-based severance tax rates. Beginning October 1, 2014, during the initial two (2) years of production, the severance tax equals one percent (1%) of the gross receipts (as defined above) from the point of first sale of oil or gas, with an increase to two and one-quarter percent (2.25%) of the gross receipts in years 3 through 20, and back down to one percent (1%) in all subsequent years. Unlike the as-

introduced bill, there is no lesser severance tax rate for low-producing wells (e.g., when quarterly production falls below an average of 100 MCF per day of natural gas, or 17 barrels of oil).

**Chart Summarizing Ohio Severance Tax**

Date	Vertical Well			Horizontal Well		
<b>Existing Law</b>	Natural Gas – 2.5¢ per MCF Oil – 10¢ per barrel			Natural Gas – 2.5¢ per MCF Oil – 10¢ per barrel		
<b>HB 375 (as-introduced)</b>	Natural Gas – 1.5¢ per MCF Oil – 10¢ per barrel			<b>Years 1-5</b>	<b>After Year 5</b>	
				Oil/Natural Gas – 1% of net proceeds	Oil/Natural Gas – 2% of net proceeds (unless production falls below average of 100 MCF per day of natural gas, or 17 barrels of oil, in any calendar quarter)	
<b>Sub. HB 375</b>	<b>Years 0-3</b>	<b>Years 4-20</b>	<b>After Year 20</b>	<b>Years 0-2</b>	<b>Years 3-20</b>	<b>After Year 20</b>
	None	0.25% of gross receipts	0.10% of gross receipts	1% of gross receipts	2.25% of gross receipts	1% of gross receipts

**NOTE:** It is unclear with respect to wells producing as of the effective date of the statute whether Year 1 starts on October 1, 2014, or on the day the well first started producing.

3. Owner vs. Severer

A new proposal in R.C. 5749.02(C)(3) attempts to link the definition of a well “owner” in R.C. 1509.01 with the concept of severer as used in R.C. 5749.06 for purposes of establishing who is required to pay the severance tax. Consequently, the owner is obligated to report the gross receipts and quantity of oil and gas sold on the quarterly return required to be filed with the tax commissioner, and to remit the tax that is owed.

4. Affiliate Sales

With respect to affiliated entities, R.C. 5749.02(C)(3) gives the tax commissioner unfettered discretion to analyze transactions that constitute the point of first sale to determine whether the relationship between the well owner/severer and purchaser is such that the sale price is not indicative of the market price at the point of first sale. If the tax commissioner determines that the price does not reflect the “market price,” the tax commissioner may determine the price to use for purpose of calculating the severance tax. The bill contains no guidance as to how this determination is to be made, nor does it provide a basis for a taxpayer to contest that determination.

5. Record Retention

Another new provision in Sub. HB 375, R.C. 5749.13, requires the severer to retain all severance tax-related records for a period of five (5) years.

**Elimination of the Regulatory Assessment in R.C. 1509.50**

In addition to restructuring the calculation of Ohio's oil and gas severance tax, Sub. HB 375 (like the as-introduced version) proposes to eliminate the regulatory assessment currently found in R.C. 1509.50. For most well owners, the existing regulatory assessment totals 10 cents per barrel of oil and ½ of one (1) cent per thousand cubic feet (or 1 MCF) of natural gas produced, which goes towards funding of ODNR's Division of Oil and Gas Resources.

#### **Oil and Gas Severance Tax Fund: New R.C. 5749.02(D)(6)**

Under new language in R.C. 5749.02(D)(6), the General Assembly proposes to create a new oil and gas severance tax fund within the state treasury to manage and distribute the collected severance tax payments. By September 25th of each year, the director of budget and management must transfer: (i) \$18 million to ODNR's oil and gas well fund and \$3 million to the geological mapping fund, which amounts are to be proportionately reduced if the amount in the fund totals less than \$21 million; (ii) of any remaining balance, 10% of the original amount credited to the fund to the local government reimbursement fund; and (iii) any remaining amount to the income tax reduction fund, which is to be used to provide temporary income tax rate reductions.

#### **Local Government Reimbursement Fund: New R.C. 5747.56**

The new local government reimbursement fund is designed to return some of the severance tax money to the areas in Ohio where shale development is occurring. The money within this fund will be distributed in various proportions to: (i) the undivided local government fund and public library fund; (ii) the new severance tax infrastructure fund; (iii) the new matching revenue fund (used to match funds from federal or state grants not associated with employee compensation, benefits or other personnel costs); and (iv) the new severance tax trust fund (only for use after 2025 to fund projects fostering "long-term prosperity" and "a positive legacy"). See e.g., R.C. 190.01-.04, and R.C. 321.50.

#### **Non-Refundable Income Tax Credit for Royalty Interest Owners: New R.C. 5747.63**

In R.C. 5747.63, the General Assembly modifies its proposal to establish a nonrefundable income tax credit equal to the amount of the severance tax paid for calendar quarters that end during the taxpayer's taxable year. Unlike the as-introduced version of the bill, Sub. HB 375 provides the income tax credit only to a person with a royalty interest (defined to mean the "fee holder's share in the production from a well") who is liable for the severance tax (e.g., under the terms of an oil and gas lease). The credit is equal to the severance tax paid by the owner multiplied by the lesser of 12.5% or the proportion of the tax which the royalty owner-taxpayer is contractually required to pay to the owner. The royalty interest owner cannot carry the credit forward, and is unable to utilize the credit if it also takes an income tax deduction under R.C. 5747.01(A)(31) (the small business investor deduction). In order to facilitate the royalty interest owner's use of this credit, Sub. HB 375 also imposes a new obligation on the well owner to provide an annual statement identifying the total amount of the severance tax paid by the person holding the royalty interest. While the original bill based the income tax credit on severance tax paid with respect to oil and gas extracted by means of a horizontal well, the credit in the substitute bill applies to any severance tax paid under R.C. 5749.02(C) with respect to oil and gas extracted by any means.

#### **Exclusion from Commercial Activity Tax (CAT)**

A new exclusion from the definition of gross receipts for purposes of the commercial activity tax is created in R.C. 5751.01(F)(2)(jj). This provision excludes receipts from the first sale of oil or gas sold after October 1, 2014, if the CAT taxpayer is subject to the personal income tax or is a pass-through entity, the direct or indirect owners of which are subject to the income tax on the income from the sale.



*Tax Analysis Division*  
30 E Broad St, 22<sup>nd</sup> Floor  
Columbus, Ohio 43215  
(614)466-3960 Fax (614)752-0700  
<http://tax.ohio.gov>

Table CAT 1&2  
No. 44 & 45 (2013)  
March 12, 2013

## **COMMERCIAL ACTIVITY TAX: Number of Taxpayers and Tax Return Data, Fiscal Year 2012**

The commercial activity tax went into effect on July 1, 2005. It is a privilege tax measured by gross receipts from activities in this state. The tax is a key component of the 2005 tax reform package enacted by Am. Sub. House Bill 66 (126th General Assembly). Major business tax components of the act consist of the phase-out of both the tangible personal property tax and the corporate franchise tax and the phase-in of the commercial activity tax.

The tax is levied and paid on a quarterly or annualized basis. Taxpayers with annual taxable gross receipts above \$1 million must report and pay the tax quarterly. Taxpayers whose annual taxable gross receipts are between \$150,000 and \$1 million are considered annual taxpayers and are subject only to the \$150 minimum tax. Taxpayers with annual gross receipts below \$150,000 are not subject to the commercial activity tax.

The attached CAT-1 and CAT-2 tables reflect information reported on tax returns that were due and filed during fiscal year 2012. For quarterly taxpayers, these returns reflect activity for the April 2011 to March 2012 period; the returns were due and filed in August 2011, November 2011, February 2012 and May 2012. In addition, the data include tax returns filed by annual taxpayers for the calendar year 2012 period; the returns were due in May 2012. Several notable factors affecting the data in these tables are explained below.

- Ohio law phased-in the commercial activity tax rate over a five-year period that began in July 2005. The fully phased-in 0.26% tax rate took effect on April 1, 2009 (first impacting fiscal year 2010 tax revenues), and is reflected in the attached tables.
- Each combined and consolidated taxpayer group is shown as a *single entity* in these tables. In the CAT-1 table, the combined or consolidated group is reported under the primary filer's industry code. In the CAT-2 table, the entire group's gross receipts determine the size category in which the group is placed.

As shown in these tables, the total reported commercial activity tax liability before credits for fiscal year 2012 is \$1,658.5 million. Of this amount \$22.7 million is attributable to the minimum tax and \$1,635.8 million is attributable to the 0.26% tax rate. Taxable gross receipts amount to \$712.1 billion but the exclusion available on each return reduces taxable receipts by \$82.9 billion, or 11.6%; the resulting net taxable gross receipts amount to \$629.2 billion.

Table CAT-1 shows tax return information for 19 industrial sectors. The industrial sector data is based on each taxpayer's reported primary business activity, using the North American Industry Classification System (NAICS). The retail sector comprises the largest group of taxpayers, accounting for 12.8% of all taxpayers. This is followed by taxpayers in the unclassified (10.2%), manufacturing (10.1%), professional, scientific and technical services (9.3%), and construction (9.3%) categories. In terms of tax liability, manufacturers account for the largest share at 27.3% of the total. The retail (20.1%) and wholesale (16.0%) sectors account for the next largest shares of total liability.

Table CAT-2 provides tax return information based on the size of each taxpayer's taxable gross receipts (prior to the exclusion). Filers whose fiscal year 2011 taxable gross receipts were \$1 million or below account for 68.8% of all returns, but only 0.9% of the total liability. Filers with taxable gross receipts above \$1 billion comprise less than 0.1% of all returns but account for 25.5% of total tax liability.

Data contained in these tables is derived from commercial activity tax returns filed by taxpayers with the Ohio Department of Taxation.

**Fiscal Year 2012 Commercial Activity Tax Returns:**  
Number of Returns and Reported Financial Data, by Industrial Classification (a)  
Dollar amounts are in 1,000's

Industrial Sector	NAICS Code	Number of Taxpayers	Taxable Gross Receipts	Exclusion (b)	Net Taxable Gross Receipts	Tax at 0.26% Rate	Annual Minimum Tax (c)	Tax Before Credits	Non-refundable Tax Credits	Refundable Tax Credits	Total Tax Due: 0.26% Tax and Minimum Tax
Agriculture, Forestry, and Fishing	111100-115310	6,077	\$6,814,795	\$2,906,649	\$3,908,145	10,161	\$919	\$11,080	\$5	\$12	\$11,060
Mining	211110-213110	745	\$5,661,679	\$432,789	\$5,228,889	13,595	\$109	\$13,704	\$183	\$155	\$13,364
Utilities (excluding telecommunications)	221100-221300	154	\$16,606,767	\$100,685	\$16,506,082	42,916	\$23	\$42,939	\$292	\$0	\$42,647
Construction	236110-238900	14,337	\$32,812,682	\$7,461,605	\$25,351,078	65,913	\$2,083	\$67,996	\$26	\$115	\$67,791
Manufacturing	311110-339900	15,700	\$191,748,675	\$10,966,741	\$180,781,935	470,033	\$2,301	\$472,334	\$23,809	\$9,140	\$435,612
Wholesale Trade	423100-425120	8,802	\$104,450,216	\$6,038,690	\$98,411,527	255,870	\$1,288	\$257,158	\$331	\$515	\$256,184
Retail Trade	441110-454390	19,851	\$136,407,010	\$11,812,510	\$124,594,500	373,946	\$2,900	\$326,845	\$349	\$5,847	\$320,656
Transportation and Warehousing	481000-493100	4,330	\$16,082,490	\$2,446,866	\$13,635,623	35,453	\$632	\$36,084	\$36	\$421	\$35,615
Information (including telecommunications)	511110-519100	1,593	\$27,575,364	\$944,703	\$26,630,661	69,240	\$229	\$69,469	\$2,068	\$414	\$66,915
Finance and Insurance	522110-525990	5,535	\$9,426,081	\$2,014,278	\$7,411,802	19,271	\$808	\$20,078	\$0	\$450	\$19,631
Real Estate, and Rental & Leasing of Property	531110-533110	12,974	\$16,430,121	\$5,732,743	\$10,697,378	27,813	\$1,899	\$29,712	\$8	\$0	\$29,714
Professional, Scientific and Technical Services	541110-541990	14,435	\$38,066,512	\$7,262,390	\$30,804,122	80,091	\$2,112	\$82,203	\$248	\$1,513	\$80,394
Management of Companies (Holding Companies)	551111-551112	880	\$36,313,624	\$682,092	\$35,631,532	92,642	\$128	\$92,769	\$746	\$7,342	\$84,648
Administrative & Support Services, and Waste Management & Remediation Services	561110-562000	3,862	\$9,203,570	\$1,957,861	\$7,245,709	18,839	\$565	\$19,403	\$122	\$1,165	\$18,116
Education, Health Care and Social Assistance	611000-624410	11,833	\$24,831,001	\$6,988,236	\$17,842,766	46,391	\$1,728	\$48,119	\$157	\$0	\$47,960
Arts, Entertainment, and Recreation	711100-713900	1,515	\$2,615,628	\$701,297	\$1,914,331	4,977	\$221	\$5,198	\$0	\$0	\$5,201
Accommodation and Food Services	721110-722410	8,634	\$15,590,323	\$4,782,861	\$10,807,462	28,099	\$1,264	\$29,363	\$173	\$0	\$29,215
Other Services	811110-812990	7,947	\$7,880,069	\$3,634,394	\$4,245,675	11,039	\$1,175	\$12,214	\$151	\$3	\$12,060
Unclassified	n/a	15,755	\$13,556,298	\$6,053,420	\$7,502,878	19,507	\$2,290	\$21,797	\$22	\$387	\$21,379
<b>TOTAL</b>		<b>154,959</b>	<b>\$712,072,902</b>	<b>\$82,920,809</b>	<b>\$629,152,093</b>	<b>1,635,795</b>	<b>\$22,672</b>	<b>\$1,658,467</b>	<b>\$28,727</b>	<b>\$27,479</b>	<b>\$1,598,162</b>

(a) The total tax liability shown in this table does not match actual commercial activity tax revenues in fiscal year 2012. This is because the table reflects reported tax liability, not actual payments made. In addition, the table reflects information from tax returns posted in the department's database as of the dates when the August 2011, November 2011, February 2012 and May 2012 return data was extracted; any subsequently filed tax returns or subsequent corrections made to previously-filed tax returns are not reflected in this table.

(b) On a quarterly basis, each taxpayer's first \$250,000 in taxable gross receipts is excluded from the 0.26% tax, resulting in an annual exclusion of \$1 million per taxpayer.

(c) The annual minimum tax is \$150. All taxpayers (annual taxpayers and quarterly taxpayers alike) are required to pay the annual minimum tax.

**Fiscal Year 2012 Commercial Activity Tax:**  
Number of Returns and Reported Financial Data, by Size of Taxable Gross Receipts (a)  
*Dollar amounts are in 1,000's*

Size of FY 2012 Taxable Gross Receipts (b)	Number of Taxpayers	Taxable Gross Receipts	Exclusion (c)	Net Taxable Gross Receipts	Tax at 0.26% Rate	Annual Minimum Tax (d)	Tax Before Credits	Non-refundable Tax Credits	Refundable Tax Credits	Total Tax Due: 0.26%
Less than \$1,000,000	106,609	\$35,412,809	\$34,983,121	\$429,688	1.117	\$15,306	\$16,423	\$0	\$1,987	\$14,457
\$1,000,000 - \$1,999,999	19,409	\$27,752,488	\$19,311,082	\$8,441,406	21,948	\$3,054	\$25,002	\$22	\$127	\$24,857
\$2,000,000 - \$2,999,999	8,204	\$19,956,964	\$8,142,792	\$11,814,172	30,717	\$1,244	\$31,961	\$46	\$790	\$31,135
\$3,000,000 - \$3,999,999	4,567	\$15,765,416	\$4,522,841	\$11,242,575	29,231	\$682	\$29,913	\$87	\$1,825	\$27,994
\$4,000,000 - \$4,999,999	2,747	\$12,303,304	\$2,705,919	\$9,597,385	24,953	\$405	\$25,358	\$37	\$294	\$25,030
\$5,000,000 - \$9,999,999	6,023	\$42,076,981	\$5,928,819	\$36,148,161	93,985	\$889	\$94,874	\$297	\$1,311	\$93,217
\$10,000,000 - \$24,999,999	4,070	\$62,640,363	\$4,015,293	\$58,625,070	152,425	\$601	\$153,027	\$720	\$2,698	\$149,409
\$25,000,000 - \$49,999,999	1,559	\$54,340,616	\$1,544,676	\$52,795,939	137,269	\$230	\$137,500	\$670	\$1,766	\$135,046
\$50,000,000 - \$99,999,999	867	\$59,749,207	\$860,247	\$58,888,959	153,111	\$127	\$153,239	\$1,828	\$5,104	\$146,157
\$100,000,000 - \$499,999,999	746	\$151,426,623	\$748,005	\$150,678,618	391,764	\$110	\$391,875	\$4,055	\$5,107	\$382,356
\$500,000,000 - \$999,999,999	95	\$64,731,956	\$95,000	\$64,636,956	168,056	\$14	\$168,070	\$4,723	\$1,192	\$161,386
\$1 billion and above	63	\$165,916,177	\$63,014	\$165,853,163	431,218	\$9	\$431,228	\$16,241	\$5,277	\$407,118
<b>TOTAL</b>	<b>154,959</b>	<b>\$712,072,902</b>	<b>\$82,920,809</b>	<b>\$629,152,093</b>	<b>1,635,795</b>	<b>\$22,672</b>	<b>\$1,658,467</b>	<b>\$28,727</b>	<b>\$27,479</b>	<b>\$1,598,162</b>

(a) The total tax liability shown in this table does not match actual commercial activity tax revenues in fiscal year 2012. This is because the table reflects reported tax liability, not actual payments made. In addition, the table reflects information from tax returns posted on the department's database as of the dates when the August 2011, November 2011, February 2012 and May 2012 return data was extracted; any subsequently filed tax returns or subsequent corrections made to previously-filed tax returns are not reflected in this table.

(b) These categories reflect aggregate taxable gross receipts (before exclusion) as reported by taxpayers on returns that were due and filed during fiscal year 2012. For example, a taxpayer whose taxable gross receipts were \$5 million, \$6 million, \$4 million, and \$7 million, on returns filed in August 2011, November 2011, February 2012, and May 2012, respectively, would have total fiscal year 2012 taxable gross receipts of \$22 million, and thereby would be included within the \$10-\$25 million category.

(c) On a quarterly basis, each taxpayer's first \$250,000 in taxable gross receipts is excluded from the 0.26% tax, resulting in an annual exclusion of \$1 million per taxpayer.

(d) The annual minimum tax is \$150. All taxpayers (annual taxpayers and quarterly taxpayers alike) are required to pay the annual minimum tax.