



# **Government Affairs Committee**

**June 3, 2015**

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**2015 Government Affairs  
Committee Calendar**  
*Meetings will begin at 9:30 a.m.*

Wednesday, June 3  
Wednesday, September 2  
Wednesday, December 2

**OMA Government Affairs Committee Meeting Sponsor:**



# OMA Government Affairs Committee

June 3, 2015



## AGENDA

### Welcome & Introductions

**Christopher Hess**, Manager, Government Affairs,  
Eaton Corporation; Committee Chair

### Special Guest

**Hon. Ron Amstutz**, Speaker Pro-Tempore,  
Ohio House of Representatives

### National Association Reports

### Committee Members

### OMA Counsel's Report

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

### Staff Reports

**Ryan Augsburger**, OMA Staff  
**Rob Brundrett**, OMA Staff  
**Committee Members**

### Discussion / Action Items

### Member Discussion

- **Current Action Alerts -- Ozone**
- **HB 64 State Budget – Tax Reform**
- **Redistricting Ballot Issue**
- **Marijuana Ballot Issue**
- **Transportation (SETA, Freight and Maritime Ports)**
- **2016 Elections Roundtable**

### Guest Presentation:

Budget Forecast

**Hon. Kirk Schuring**, Vice Chair, House Finance Committee  
Ohio House of Representatives

### Guest Presentation:

Employee Communication & Engagement

### Chad Wilson

Nationwide & Ohio Prosperity Project Board Member

### Lunch – provided by OMA

### Gust Presentation:

Ballot Issues and Elections

**Hon. Jon Husted**, Ohio Secretary of State

**Our thanks to today's meeting sponsor:**



## Representative Ron Amstutz, Speaker Pro Tempore 1<sup>st</sup> House District

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State Representative Ron Amstutz serves Wayne County in Northeastern Ohio, a mix of rural agricultural and smaller industrial communities.

He also serves as Speaker Pro Tempore, second to Speaker Cliff Rosenberger (R-Clarksville).

Representative Amstutz is a lifelong resident of Wayne County, was raised on a dairy farm and previously served as mayor of the City of Orrville. He also worked for five years in the Orrville office of *The Daily Record* as a writer, photographer and bureau editor.

He earned a bachelor's degree in government communications from Capital University and is a graduate of Central Christian High School. He and his wife have two grown children and live in Wooster.

Representative Amstutz has extensive experience in the legislature, having served more than 35 years, including eight in the Ohio Senate, where his primary assignment was Chair of the Ways and Means and Economic Development Committee. In the House some of his leadership posts included Chair of the House Finance and Appropriations Committee, Assistant Majority Whip and Chair of the Joint Committee on Agency Rule Review.





As Ohio's 53rd Secretary of State, Jon Husted is responsible for oversight of elections in one of the nation's most hotly-contested swing states. Under his leadership, Ohio delivered a smooth 2012 Presidential Election and 2014 Gubernatorial Election. To ensure all voters were treated fairly and equally, Husted has worked to

implement uniform rules that included the first ever statewide absentee ballot application mailing to voters in all 88 counties in 2012 and again in 2014, as well as setting expansive hours for early, in-person voting. These efforts made it easier to vote and helped reduce the chance of long lines at the polls on Election Day.

From using technology to streamline the voting process to cleaning up Ohio's voter rolls, and making it easier for military families to vote no matter where their service takes them, Jon is always looking to improve how we run elections in Ohio – and it's getting noticed nationally. In 2013, the *Washington Post's* blog "The Fix" named him one of their "Top 10 Rising Stars" in America. For his outreach to military families, Jon was recently recognized by the Association of the United States Army and Ohio was deemed an *All-Star State* by the Military Voter Protection Project. Under his watch, Ohio also received high marks for elections preparedness by voter advocacy groups, including Common Cause, the Verified Vote Foundation and Rutgers University Law School. In addition, Jon currently serves as co-chair of the National Association of Secretaries of State Election Committee and previously served on the organization's Executive Board and as Vice President for its Midwestern Region.

In addition to serving as chief elections official, the Secretary of State is also the custodian of business filings in Ohio. Secretary Husted is committed to ensuring that Ohio's job creators have a positive first interaction with the state of Ohio. He has achieved this through innovative reforms like allowing businesses to file online and reminds his team that government should be in the business of good customer service, working every day to eliminate bureaucratic delays that cost businesses time and money. During his tenure Ohio has seen record business filings five years in a row.

## PREVIOUS SERVICE AND PERSONAL HISTORY

Jon Husted was first elected to public office in 2000 as a member of the Ohio House of Representatives. Only four years later, Jon's colleagues elected him Speaker of the Ohio House, making him one of the youngest ever to lead the body.

As Speaker, Jon was instrumental in passing the most fiscally-conservative budget in 40 years that included the reform of the state tax code and the largest income tax cut in Ohio's history. He also led the passage of the Ed Choice Scholarship -- a school choice option for children trapped in chronically-failing schools -- and the creation of the Choose Ohio First Scholarship to encourage Ohio students studying in the STEM disciplines of science, technology, engineering, mathematics and medicine. For his legislative work, he's proud to have been recognized as a *Watchdog of the Treasury* and as a *Legislative Trail Blazer* by School Choice Ohio.

After serving two terms as Speaker, Husted was elected to the Ohio Senate, where he was a leading advocate for redistricting reform – a cause he continues to champion as Secretary of State.

Raised in Montpelier, Ohio, Husted attended the University of Dayton (UD), where he earned All-American Defensive Back honors as a member of the 1989 Division III National Championship football team. After receiving his bachelor's and master's degrees from UD, Husted stayed in the Dayton area where he served as Vice President of Business and Economic Development at the Dayton Area Chamber of Commerce.

With all of his responsibilities, Secretary Husted considers his most important roles as that of husband to his wife Tina and father to his children, Alex, Katie and Kylie.



## JON HUSTED'S

### KEY GOALS FOR THE OHIO SECRETARY OF STATE'S OFFICE

- Provide leadership that builds trust and confidence in Ohio's system of elections through consistent and timely policy directives, just arbitration of disputes and enhanced services to voters and county boards of election.
- Enhance economic growth and job creation using technology and customer service practices that save businesses time and money.



# DUTIES AND RESPONSIBILITIES

## CHIEF ELECTIONS OFFICER

As Ohio's chief elections officer, the Secretary of State oversees the elections process and appoints the members of boards of elections in each of Ohio's 88 counties. The Secretary of State supervises the administration of election laws; reviews statewide initiative and referendum petitions; chairs the Ohio Ballot Board, which approves ballot language for statewide issues; canvasses votes for all elective state offices and issues; oversees the investigation of election fraud and irregularities; trains election officials, and works with counties to train poll workers. The Elections Division of the Secretary of State's office also compiles and maintains election statistics and other election-related records.

### *Campaign Finance Compliance*

Statewide and state legislative candidates' campaign finance reports are filed with the office, together with the reports for state political action committees (PACs), state political parties and legislative caucus campaign committees.

### *Apportionment Board*

The Secretary of State is a member of the Ohio Apportionment Board, which meets every 10 years following the decennial census. The five-member board redraws boundaries for each of the 99 Ohio House and 33 Ohio Senate districts to reflect population changes. Other members of the Apportionment Board are the Governor, the Auditor of State and two members, one Republican and one Democrat, appointed by state legislative leaders.

## GRANTING AUTHORITY TO DO BUSINESS IN OHIO

The Business Services Division receives and approves articles of incorporation for Ohio business entities and grants licenses to out-of-state corporations seeking to do business in Ohio. Limited partnerships and limited liability companies also file with the Secretary of State's office.

The Corporations Section of the Business Services Division also approves amendments to filed documents, mergers, consolidations and dissolutions, registers trademarks, trade names, service marks and fictitious names. This section also approves and keeps a registry of business names, names and addresses of statutory agents, incorporators' names, corporations' charter numbers, dates of incorporation, and the number of authorized shares per corporation.

### *Documenting Secured Commercial Transactions*

Secured parties file financing statements in the Uniform Commercial Code section of the Business Services Division to claim an interest in collateral used for a loan and to have the claim indexed for public notice.

## RECORDS CERTIFICATION & FILING

### *Document Certification*

The Secretary of State provides authentication of documents for use overseas. Authentications are in the form of either an apostille or a gold seal certificate. Apostilles are used for documents pertaining to countries that are part of the Hague Convention of 1961. Gold seal certificates are used if a country is not part of this convention.

### *Historical Records*

All laws passed by the Ohio General Assembly, municipal charters, administrative rules adopted by agencies, and executive orders issued by the Governor are filed with the Secretary of State's office.

### *Minister Licenses*

The Secretary of State's office licenses ministers for the purpose of solemnizing marriages in Ohio. Licenses are issued to any ordained or licensed minister of any religious society or congregation requesting the license.

### *Notary Commission*

Part of the Secretary of State's office, the Notary Commission maintains records of all registered notaries in Ohio. Additional information is available on the duties and requirements of notaries in Ohio, as well as guidelines for newly commissioned notaries public on our website at [www.OhioSecretaryofState.gov](http://www.OhioSecretaryofState.gov).

## Representative Kirk Schuring

48<sup>th</sup> House District

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State Representative Kirk Schuring returns to the Ohio House of Representatives for his third term. He represents the 48th District, which includes portions of Stark County.

Since joining the General Assembly in 1993, Representative Schuring has authored dozens of legislative initiatives benefiting health care, economic development, and families that have been passed into law. These include the establishment of Joint Economic Development Districts and Cooperative Economic Development Agreements to help further economic development in communities across the state, as well as bills stiffening penalties for repeat domestic violence offenders and enhancing school safety zones.

Representative Schuring has also been involved in improving Ohio laws regarding organ donation, acupuncture, nursing and chiropractic care.

Representative Schuring's dedication to the people of Ohio has brought him numerous accolades. He has been named Legislator of the Year by AMVETS - Department of Ohio, the Ohio Network of Children's Advocacy Centers, the Ohio Association of Free Clinics, the Ohio Fraternal Order of Police, the Ohio Speech and Hearing Association, the Public Children Services Association of Ohio, and the Ohio Association of Acupuncturists. Representative Schuring has also been named a Friend of Public Education by the Ohio Federation of Teachers, a Guardian of Small Business by the National Federation of Independent Businesses and received the legislative award from The Justice League of Ohio. Additionally he is a past recipient of the Heritage Award for his work in establishing Ohio's Historic Preservation tax credit law.

A lifelong resident of Stark County, Representative Schuring graduated from Perry High School and attended Kent State University. He is married and has two children.





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## MEMORANDUM

TO: Ohio Manufacturers' Association  
Government Affairs Committee

FROM: Bricker & Eckler LLP

DATE: June 9, 2015

RE: Legislative, Judicial Report

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### I. June 2015 Government Affairs Committee Counsel Report.

Please find below several political and legislative efforts we have been monitoring for the OMA.

### II. Ohio Constitutional Modernization Commission.

The Ohio Constitutional Modernization Commission (“OCMC”), which was created in 2011, continues its work studying the Constitution of Ohio and is considering changes to update various Constitutional sections and provisions.

The Legislative Branch & Executive Branch Committee recommended to the full commission two proposals to extend term limits for members of the General Assembly to 12 consecutive years. The only difference between the two proposals is whether the extended term limits would apply to current legislators. A vote has not yet been taken by the full commission. Any recommendations made by the Committees of the OCMC must receive a two-thirds vote by the full Commission to become an official recommendation.

The Committee has started to identify its next subject by reviewing sections of Article II of the Ohio Constitution that may be ready for re-examination. The Committee heard a presentation identifying 10 possible subjects, including the “single subject” rule for legislation, the restriction on those convicted of embezzlement from holding office, and a provision that the only non-constitutional issues that can be put before voters by the General Assembly are statutes involving education.

The Constitutional Revisions & Updating Committee heard a proposal from State Auditor Dave Yost for an amendment to ban new constitutional amendments conferring economic benefits to specific individuals. This proposal arose out of the recent casino amendment and pending marijuana proposal.

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The Education Committee anticipates that no changes will be recommended to sections of the Constitution dealing with the sale of “educational or religious lands” or to the “thorough and efficient” standard.

The Judicial Branch & Administration of Justice Committee began consideration of the grand jury process by studying how other state constitutions handle this process. This work is the result of a recommendation from the Governor’s Task Force on Community-Police Relations which suggested studying the grand jury process in Ohio.

The Committee also indicated that it will not further consider proposals on the Ohio Supreme Court’s adoption of an advisory committee process or whether to permit declaratory judgment actions challenging the constitutionality of state legislation to be directly filed with the Ohio Supreme Court.

### III. Ballot Issues

Ohio General Assembly Redistricting: H.J.R. 12 was enacted during the last few days of the 130<sup>th</sup> General Assembly to create a new Ohio redistricting commission. Former Representatives Matt Huffman (R-Lima) and Vernon Sykes (D-Akron) will chair the statewide ballot campaign., which, if enacted by Ohio voters in November 2015, will require a seven person panel to draw new legislative districts, instead of the current five, and require the approval of two minority panel members in order to adopt the new legislative map for the full ten year term.

Marijuana: Two marijuana-related issues are working their way towards the ballot. Both have been certified by the Attorney General’s office as having a “fair and truthful” summary and by the Ballot Board as being a single issue. The supporting groups are now working to collect the required signatures to place the issue on the ballot. A petition must have a total number of signatures equal to at least 10 percent of the total vote cast for the office of governor in the last gubernatorial election and must be collected from at least 44 of the 88 counties in Ohio.

The two proposals vary in how they would legalize marijuana in the State of Ohio. A proposal from Responsible Ohio proposes the creation of the Ohio Marijuana Control Commission to regulate the industry. It also provides for 10 site specific locations for the growth of marijuana and allows an individual to cultivate up to 4 plants for personal use.

A proposal from Better for Ohio would allow for medical and recreational use of marijuana for persons 21 years of age or older. This amendment would allow a person to grow up to 8 marijuana plants and would create the Ohio Marijuana Control Commission as the regulating entity. The amendment provides for 40 licensed locations for Marijuana Growth, Cultivation and Extraction facilities.

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July 1 is the deadline for submitting enough valid signatures to make the November 2015 ballot.

Right to Work: Two right to work proposals were presented to the Ohio Constitutional Modernization Committee’s Coordinating Committee by Opportunity Ohio. The proposals would prohibit mandatory union membership at workplaces and would prohibit the use of public resources to assist a labor organization in collecting dues or service fees from the wages of public employees. The proposals appear to be stalled for now, as the Commission discusses its role in considering constitutional amendment proposals from the public.

Bottle Bill: A proposed amendment to require the Ohio General Assembly to enact laws to establish a 5-10 cent refundable deposit on all glass, metal and plastic containers sold at retail was certified by the Attorney General and the Ballot Board in October 2014. The proposals would allow consumers to return containers to receive cash back. It would also allow businesses to return containers, but stipulates that businesses must give 80 percent of the refund to the state to lower health and car insurance costs for residents. Signature gathering is underway and must be submitted to the Secretary of State’s office by July 1 to make the November 2015 ballot.

#### IV. Pending Legislation.

H.B. 10 and S.B. 38 – Transparency in Private Attorney Contracts Act (“TiPAC”): (Representative Jim Butler (R-Oakwood) and Senator Bill Seitz (R-Cincinnati)): H.B. 10 and S.B. 38 are companion bills and are identical. The bills are also identical to H.B. 238, which was introduced by Representative Butler during the 130<sup>th</sup> General Assembly.

S.B. 38 was passed by the legislature and signed into law by the Governor on May 12, 2015. The bill becomes effective on August 12, 2015.

The bill includes provisions to prohibit the state from entering into contingency fee contracts with private attorneys unless the Attorney General determines that private representation is cost-effective. The bill sets caps on contingency fees that private attorneys 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 bill also includes a new section which describes the intention of the General Assembly with this legislation. Section 9.498 states that provisions in the bill are only to apply to contracts with a private attorney retained on a contingency basis with the state, and not to contingency fee contracts between private parties and contracts not involving the state.

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

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Association (“ATRA”), the US Chamber of Commerce, the Institute for Legal Reform, and other business-backed interests dedicated to civil justice reform.

H.B. 194 -- Ohio Patent Troll Legislation: During the last legislative session we provided analysis of Ohio H.B. 573, a bill introduced by Representative Kristina Roegner (R-Hudson) to curb the extortionary practices of certain non-practicing patent owners pejoratively referred to as “patent trolls.” Generally, H.B. 194 would proscribe the “widespread sending of bad faith, objectively baseless” demand letters to “intended recipients” alleging patent infringement. The Bill also would empower the Ohio Attorney General to investigate and bring civil actions against violators.

Representative Roegner reintroduced legislation to curb these practices in H.B. 194. This bill has received one hearing in the House Judiciary Committee. Representative Roegner indicated that Senator Bill Seitz (R-Cincinnati) is working on companion legislation, but that bill has not yet been introduced.

We have participated as OMA’s counsel at three interested party meetings to discuss the proposed legislation. As a group, OMA is comprised of members who are not only the recipients of patent troll demand letters but also are patent owners and therefore, may have the need to enforce patents themselves. As such, we have worked with OMA’s legislative affairs director and representatives of OMA member Proctor & Gamble to turn the conversation from the original language in former H.B. 573 supported by interest groups comprised of predominantly non-patent owners such as the Ohio Bankers League and Ohio Retailers Association, towards an alternative bill that seeks to reduce unintended consequences impacting patent owners, among other issues.

As introduced, H.B. 194 is a substantial improvement over H.B. 573 and interim drafts that followed its introduction. H.B. 194 is relatively more narrowly tailored to the activities of true patent trolls. H.B. 194 also includes less ambiguity in its language and creates a generally less onerous compliance burden for Ohio manufacturers and other patent owners. The bill is highly similar in form and content to a draft proposed last term by Proctor & Gamble.

With the assistance of Senator Seitz, we were able to build support for these proposals at the February 11, 2015 interested party’s meeting, while also discouraging several creative, though ultimately problematic proposals presented by Representative Butler, such as setting up an Ohio administrative regime to review patent infringement demand letters. Senator Seitz was also helpful in our efforts to rebut several proposals presented by the Ohio Retailers and Ohio Bankers League.

At the most recent meeting on May 26, which was again attended by Representative Roegner and Chairmen Butler, the other interested parties raised a number of the points from the February 11

meeting. The Pharmaceutical lobby joined our responses in support of maintaining language in the bill to ease the compliance obligation of legitimate patent owners. These included maintaining H.B. 194's limitation on its scope to only the "wide spread" sending of patent infringement demand letters and the continued inclusion of a safe harbor provision.

One potential concern is that Representative Butler appeared to be interested in exploring ways to strengthen the bill against all parties other than the pharmaceutical industry. He pointedly asked for more data from interested parties who have the need to send patent demand letters so that the bill could be further revised.

Prior to the meeting on February 11, we also provide OMA with legal analysis to the effect that, as worded, even the alternative draft language would still be at risk of being interpreted by the courts as providing an inherent private right of action. We continue that opinion. If OMA's preference remains to prevent a private right of action, our recommendation is to push for inclusion of an express prohibition rather than simply removing language that would have expressly provided the private right of action. This may potentially be achievable given the strong concerns Senator Seitz raised with the ability of Ohio courts to interpret patent-related subject matter and his proposal to further empower the Ohio Attorney General to interpret that statute. Also, in responding to a question from Representative Cupp at the bill's introduction as to whether the bill would allow for a private right of action, Representative Roegner stated her belief that enforcement would be limited to the Attorney General, who could investigate a case and file civil action.

Judicial Pay: A proposal to increase the pay for Ohio's judges was included in the Executive version of H.B. 64 – Ohio's biennial budget bill. The Governor's proposal included a 5 percent annual raise, rounded to the next \$50, beginning in 2015 through 2018. The proposal was removed by the House of Representatives in their version of the budget bill.

Senate Joint Resolution 1, which will have its first hearing in the House Government Accountability and Oversight Committee on June 2, proposes an amendment to the Ohio Constitution to create the Public Office Compensation Committee. If approved by voters, the Commission would determine salaries of all elected officials in the state except those who serve under home rule ordinances. The Commission would consist of nine member of the public, including two each appointed by the Governor, Senate President and Speaker of the House, one each appointed by the minority leader of each chamber and one by the chief justice of the Ohio Supreme Court. The proposal was passed unanimously in the Senate by a vote of 33-0.

S.B. 171 – Uniform Interstate Depositions and Discovery Act: Senator Seitz (R-Cincinnati) has introduced Senate Bill 171, which would repeal current Ohio Revised Code section 2319.09 and replace it with the Uniform Interstate Depositions and Discovery Act. This model legislation from The National Conference of Commissioners on Uniform State Laws provides procedures

for courts in one state to issue subpoenas for out-of-state depositions. Under the act, litigants may present the clerk of the court located in the state where discoverable materials are sought with a subpoena issued by a court in the trial state. The clerk will issue a subpoena for service on the person or entity indicated on the original subpoena. This will eliminate certain costs currently incurred, including the need for obtaining local counsel in the discovery state.

Thirty-five states and the U.S. Virgin Islands have already adopted the Act and four states, including Ohio, have introduced legislation to adopt. The Act is approved by the American Bar Association and suggested state legislation by the Council of State Governments. S.B. 171 has not yet been referred to a committee or scheduled for a first hearing.

#### V. Litigation Update

Chiquita Brands International, Inc. v. National Union Fire Ins. Co. of Pittsburgh, PA, 1<sup>st</sup> Dist. Case No. C-1400492.

In late November of 2014, the OMA (along with several other companies) filed an amicus merit brief in support of Chiquita in a case involving an insurance coverage battle. This dispute began in 2007 when Chiquita notified its insurance carrier, National Union, of certain underlying tort actions and demanded that National Union honor its coverage obligations. National Union sent a reservation of rights letter in which it agreed to participate in Chiquita's defense but purported to "reserve the right to seek reimbursement from Chiquita for attorneys' fees or costs incurred with regard to allegations and/or claims for which there is no coverage." National Union did not pay any amount to defend Chiquita under the reservation of rights letter. Years later, the trial court determined that National Union had a duty to defend Chiquita. Thereafter, National Union began paying Chiquita's defense costs and did so for years under this interim order. National Union paid more than \$9 million before the trial court entered final judgment on December 16, 2011. After the December 16, 2011 entry, National Union paid an additional \$2.5 million in defense payments for Chiquita until the First District Court of Appeals reversed.

Upon remand, National Union sought and obtained a declaration that it was entitled to reimbursement of the amount it had paid to defend Chiquita (\$11.7 million). Chiquita appealed to the First District Court of Appeals and formed an amici coalition to support its position that the trial court erred in requiring it to reimburse National Union. The amici have asserted that the trial court erred for several reasons, including that (1) the payments were voluntarily made to satisfy Chiquita's interim judgment against National Union and, therefore, the issue is moot and National Union cannot recoup the payments; (2) under Ohio law, an insurer cannot create an implied in-fact contract that allows it to seek reimbursement of defense costs (for which the policy does not provide); and (3) even if an insurer could create an implied in-fact contract for reimbursement of defense costs it paid, National Union's reservation of rights letter did not do so because, among other things, there was a lack of consideration.

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The purpose of the amicus brief was to support current Ohio law which holds that an insurer's duty to defend is broader than its duty to indemnify and to preserve the rights of policyholders to collect and retain amounts due them under the defense coverages of their policies – even in cases where the insurers ultimately are determined not to have a duty to indemnify. Unfortunately, the court of appeals denied the motion for leave to file an amicus brief. As a result, the amicus brief filed by the OMA and others will not be considered by the Court.

Oral argument was held on April 28, 2015.

*Navistar, Inc. v. Levin*, Sup. Ct. No. 2014-0140

The OMA filed an amicus brief in support of the taxpayer in *Navistar, Inc. v. Levin*, Sup. Ct. No. 2014-0140. The case involves the credit against the CAT for net operating loss carryforwards contained in R.C. 5751.53. The statute provides a credit for deferred franchise tax assets net of any associated valuation reserve recorded on its books and records as of the last day of the taxpayer's taxable year ending in 2004 (the "amortizable amount"). Any taxpayer wishing to claim the credit had to file a report notifying the tax commissioner of its amortizable amount by June 30, 2006. The Tax Commissioner had until June 30, 2010, to audit the report any make any correction to it.

Navistar timely filed its report and claimed an amortizable amount based upon its books and records. However, in December 2007 it restated its financial statements for the years ending in 2003-2005. This restatement caused Navistar to increase its valuation reserve, causing its amortizable amount to be reduced to \$0. Upon audit, the Tax Commissioner reduced Navistar's credit accordingly. The BTA upheld the action and Navistar appealed to the Supreme Court.

On appeal, Navistar and OMA argued there is no authority for the Tax Commissioner to alter an otherwise correct amortizable amount due to events occurring after the date the report was due in 2006. Rather, that official's authority is limited to correcting mistakes existing as of the date of the report was filed. The Tax Commissioner argued that because the records were restated for FYE 2004, he could reduce the amortizable amount accordingly.

Oral argument was held on May 6. We were permitted to participate in oral argument, but due to the number of questions asked of Navistar's counsel, our time was limited. A decision may be expected in early fall 2015.

## Public Policy “Hot Topics” June 3, 2015

### Overview

The 131<sup>st</sup> General Assembly continues its debate on the state budget bill. The House and Senate appear to be at odds on the tax provisions, Medicaid expansion, and school funding. The bill must be signed by June 30. Governor Kasich continues to travel the country laying the groundwork for a potential presidential campaign.

### General Assembly

State budget legislation has dominated attention of state policy makers since early February. Legislators are scheduled in session until the end of June and have been told to standby for July session days if there is a budget standoff. A summer recess will follow and lawmakers are expected back at the statehouse September through early December.

Legislative committee hearings are in full swing and are moving bills. See attached legislative directory compiled by Hannah News Service listing leadership and committees. A hard copy is also available courtesy of Bricker & Eckler, LLP, Counsel to the OMA.

### Budget

Among much fanfare in early February, Governor Kasich unveiled his budget proposal(s) dubbed the *Blueprint for a New Ohio*. Proposed revisions to taxes, including business taxes, have been especially controversial. See “tax policy” article. Also controversial is authorization of continued Medicaid expansion and school funding. The executive budget recommends GRF of \$35.3 billion in FY 2016 (12.5% increase over FY 2015) and \$37.0 billion in FY 2017 (4.8% increase over FY 2016).

The transportation budget (HB 53) is already complete. The workers’ comp budget (HB 52), and the related industrial commission budget (HB 51), will soon be voted. These budget bills use restricted revenues such as gas tax or federal highway fund dollars or employer premiums, in contrast, to the main operating budget (HB 64) which appropriates the general revenue funds (GRF).

Senate activity on the main budget bill, HB 64, will be complete by June 17, leaving just over a week for a conference committee where House and Senate differences will be hashed out in order to send the bill to the Governor by June 30.

### Tax Policy

The House made significant changes to the Governor’s introduced tax plan. The House removed the provisions that would raise and expand the sales tax, and raise the commercial activity tax. They decreased the sized of the income tax reduction, but won approval from the entire business community for their revisions. The Senate continues its debate on the budget bill. They appear poised to include a severance and tobacco tax increase in their budget, along with a larger income tax cut. See tax report.

### Workforce Development

Speaker Rosenberger signified support for meaningful investment in Ohio’s workforce education and training needs by designating a bill to improve these assets as HB1, reflecting top priority. Representatives Kirk Schuring and Nathan Manning the bill sponsors have been accessible to OMA members. The bill was folded into the state budget and funding levels have been

trimmed, however the concept presents a worthwhile pilot. The OMA remains supportive of this first step.

### **Civil Justice**

The TiPAC bill (SB 38) to impose transparency in certain attorney general contracting was approved and signed by the Governor earlier this Spring. The OMA supports the bill. See counsel's report.

After hitting road blocks late last year, work on patent troll legislation is again underway. Patent trolls are a person or company who enforces patent rights against accused infringers in an attempt to collect licensing fees, but does not manufacture products or supply services based upon the patents in question. Patent troll abuse has become a big issue across the country. A federal solution is preferable for many manufacturers. However in the absence of federal legislation, states are taking up the cause. The Ohio bill has divided the business community on what is the appropriate bill language that would prevent trolls while allowing companies to protect their intellectual property. See counsel's report.

### **Environment**

Federal proposals governing clean power plants under 111(d) of the Clean Air Act and a recent proposal to tighten the National Ambient Air Quality Standards (NAAQS) for ground-level ozone from the current 75 parts per billion have eclipsed traditional state environmental issues. If approved the regulations would be enormously costly. The OMA submitted comments expressing concerns with both proposals. The OMA will continue to educate influential policymakers of the shortcomings of both proposals.

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

Bureau of Workers' Compensation (BWC) proposed to again reduce overall rate levels for private employers beginning July 1. The proposed 10.8% reduction is an overall statewide average. The actual premium paid by individual private employers will depend on a number of factors, including the expected future costs in their industry segment, recent claims history, and participation in various premium credit and savings programs.

State fund employers will see a major change this year as the state moves to prospective billing instead of the arrears versions the state had been using.

### **Energy Efficiency Standards / SB 310 Study Committee**

Governor Kasich signed SB 310 into law last June, freezing and making revisions to Ohio's alternative energy standards. In spite of the bill, most utilities have voluntarily elected to continue their energy efficiency plans. A study committee was created by the bill and is holding meetings while the standards are frozen. Their report is due by the end of September. A co-chair of the panel recently told a media outlet that the Clean Power Plan, also known as proposed EPA rule 111(d) would impact the study committee's findings.

### **Human Resources – unemployment taxes**

Representative Sears is working to introduce legislation to overhaul Ohio's unemployment compensation trust fund to ensure solvency and drive down the federal rate. The OMA has met with the Representative on several occasions and welcomes her leadership on the important issue.

### **Marijuana Legalization**

Several proposals to legalize marijuana have been offered by groups seeking voter approval on the November 2015 ballot. The most viable option amends the Ohio Constitution to allow the sale and use of both medical marijuana and recreational marijuana. The source would be limited to a cartel of a ten production facilities. Cartel investors are staking needed investment to manage an effective ballot campaign.

Employers are confronted with an expansion of substances that may influence employee performance and safety. Additionally, some drug policy provisions would likely be trumped by the Constitutional provisions if enacted. An opposition campaign has been slow to emerge. Concerned manufacturers should stand by to engage and support the “vote no” campaign. Also see OMA counsel’s report.

### **Legislative Redistricting / Constitutional Modernization Commission**

Last year, the General Assembly enacted HJR 12 (Huffman) to revise the redistricting process. A campaign will be managed to garner a majority yes vote in November, 2015. The revised plan is partially the result of ongoing deliberations of the Ohio Constitutional Modernization Review Commission. See OMA counsel’s report for more information.

## Leadership

### Governor Kasich Moves into Tie for 9th in Presidential Race

Governor Kasich is now in a tie for 9th place in polling for the 2016 Republican presidential campaign. That is important as Fox News has limited, controversially, participation in the first Republican presidential debate to the top 10, plus ties. That debate will take place in Cleveland on August 6.

Fox recently announced that debate participants "must place in the top 10 of an average of the five most recent national polls ... such polling must be conducted by major, nationally recognized organizations that use standard methodological techniques." Fox did not say which polls would be used.

Right now, in a [five-poll average](#) prepared by Real Clear Politics, the governor is in a tie for 9th with Texas's Rick Perry with 2% of the vote. Jeb Bush leads the race with 14.8%, followed by Wisconsin Governor Scott Walker with 13% and Florida Senator Marco Rubio at 2.2%. 5/28/2015

### Bill Passed to Allow Winner-Take-All Republican Presidential Primary

This week the Ohio Senate approved, and passed on to Governor Kasich's desk, HB 153 (Dovila, R-Berea), which would move Ohio's 2016 presidential primary election back one week to March 15.

The reason for pushing back the primary election date? After the 2012 election, the national Republican Party passed rules under which Ohio GOP delegates would be elected in 16 separate elections, one for each congressional district, if the state holds its primary before March 15. In 2012, this proportional system gave Rick Santorum 21 of the state's 66 Republican delegates, even though Mitt Romney won the statewide primary election.

Moving the election to March 15 allows the party to have a winner-takes-all delegate allocation. That'll help Governor Kasich, who very likely could win the Ohio primary vote, and therefore all of Ohio's Republican delegates. 5/28/2015

### OMA President Sends Letter to Editor in Support of Ex-Im Bank

OMA president Eric Burkland delivered [this letter](#) to the editor of the Cincinnati Enquirer: "I was disappointed to see the misguided op-ed titled "Boehner Should Join Kasich Against Ex-Im" by

Americans for Prosperity state director Baylor Myers.

The Ohio Manufacturers' Association represents numerous local manufacturers, many of which directly, or indirectly, rely on the availability of Export-Import Bank financing. Across the state, more than 326 small businesses use the Bank to support over 17,000 Ohio jobs.

Oftentimes, Ex-Im is the only source some manufacturers can obtain financing from to export locally made products around the world. If the Bank were to close, as some special interest groups propose, the ability of these businesses to compete in the global marketplace would be impaired. This would mean fewer export sales and fewer jobs for Ohioans."

And, "Congress should reauthorize the Ex-Im Bank and allow Ohio businesses to continue to succeed abroad." 5/21/2015

### Be Ready: PUCO Roadcheck June 2-4

The Public Utilities Commission of Ohio (PUCO) is participating in the 28th annual Roadcheck, an international transportation safety and security event, scheduled June 2-4. The 72-hour event highlights the important role roadside enforcement plays in saving lives on North America's highways and helping to provide a safe and secure place to travel.

PUCO inspectors will be on the job day and night during the event conducting safety inspections of commercial motor vehicles (CMVs) on roadways all across Ohio in an effort to reinforce important state and federal safety regulations that ensure Ohio's roadways remain safe.

Each safety inspection follows a thorough process to make sure that the driver and CMV meet necessary state and federal regulations. Vehicles and drivers that fail to meet these regulations may be placed out-of-service and cannot continue operating until they comply with the regulations.

Roadcheck is sponsored by the [Commercial Vehicle Safety Alliance](#) as an annual event to highlight the impacts law enforcement and the transportation industry have on highway safety. The event has been held since 1988 in the United States, Canada and Mexico. In 2014, PUCO specialists completed 150 inspections during Roadcheck, discovering 261 safety violations. 5/21/2015

## Governor Kasich Talks to Fox's Megyn Kelly

Governor Kasich continues to make the rounds on the national television news shows. Unlike some other of his potential competitors for the Republican presidential nomination, the governor had a clear and definitive answer to Kelly's question about the Iraq war.

Watch the governor [here](#). 5/20/2015

## Exporting? Thinking of Exporting?

District Export Councils (DECs) are organizations of business leaders from local communities, appointed by various U.S. Secretaries of Commerce, whose knowledge of and expertise in international business provides a source of professional advice for their region's local firms. Fifty-nine DECs exist throughout the country including two in Ohio that have created [this website](#) with a ton of resources and learning events. 5/18/2015

## Watch Out for the "Beaumonts!"

The [only all-girls team](#) among the 65 teams competing in this year's National Robotics League grand championship is from the Buckeye State. And, they made Ohio proud!

The girls are from Beaumont High School, an all-girls Catholic school in Cleveland Heights. They designed, manufactured and assembled their 15-pound fighting battle robot and named it "Joan of Arc." They called themselves the "Beaumonts." They came in fourth.

Their advisors are from Christopher Tool and Manufacturing, a family-owned firm that makes aircraft parts.

Congratulations, Molly Cogan, Ana Maria Vargas, Julie Schiffer and Alyssa Muttillio! 5/20/2015

## OMA Member on U.S. Dept. of Commerce Manufacturing Council

U.S. Secretary of Commerce Penny Pritzker chairs the [Manufacturing Council](#), a forum of private sector leaders. The council was established in 2004 to serve as the principal private sector advisory body to the Secretary of Commerce on matters relating to U.S. manufacturing.

On the council for the 2015-16 term is OMA member Timothy O'Meara, President, [GEMCITY Engineering](#)

[& Manufacturing](#), Dayton.

Council members advise the Secretary of Commerce on government policies and programs that affect U.S. manufacturing and recommend ways to ensure that the United States remains the preeminent destination for investment in manufacturing across the globe.

The council membership reflects a balanced cross-section of U.S. manufacturing industry sectors, including entities from various geographic locations and businesses of varying size. Other Ohio representatives on the council include Hiroyuki Fujita, Founder, President & Chief Executive Officer, Quality Electrodynamics, Mayfield Village, and Albert Green, Chief Executive Officer, Kent Displays, Kent. 5/8/2015

## Calling Food Manufacturers!

The annual [OMA Food Manufacturers & Suppliers Meeting](#) is [Tuesday, June 2](#) at 1:30 in the OMA offices.

This forum is for the state's food & beverage manufacturers and their suppliers. Discussion will focus on: state & federal GMO legislation; packaging issues; extended producer responsibility; recycling initiatives; federal, state and local labeling efforts; and water regulations.

Guest presenters include Ohio Agriculture Department Director, David Daniels, EPA Deputy Director for Business Relations, Laurie Stevenson, and JobsOhio Managing Director, Aaron Pitts.

A networking dinner will follow the meeting at the Scioto Country Club, 2196 Riverside Dr., Columbus, OH 43221.

For more information or to register contact [Denise Locke](#), (800) 662-4463, or go to [My OMA](#) to register. 5/13/2015

## OMA President: Get Emerging Workforce to Know Manufacturing

This week OMA president Eric Burkland participated on a panel at the 4th Annual Ohio Appalachian State of the Region Conference.

He [discussed](#) public perceptions of manufacturing as reported in a recent study by Deloitte and the Manufacturing Institute.

The [study](#) indicates that Americans

overwhelmingly support manufacturing in principle, but only one out of three parents would encourage their children to pursue manufacturing careers. However, *those familiar with manufacturing* are two times more likely to recommend manufacturing careers and rank manufacturing in their top three career choices.

In other words, one way to address the workforce shortage is to showcase today's manufacturing. Burkland pointed to these strategies: 1) Get lots more people in our communities familiar with manufacturing; 2) Expand internship, co-op, and apprenticeship programs massively; 3) Get to the schools to get to know the emerging workforce; and 4) Get the emerging workforce into our plants and offices to get to know manufacturing.

Consider showcasing your company in your community; [Manufacturing Day](#) resources can help you change public perception. 5/14/2015

### **Ned Hill Takes Position at OSU**

Ned Hill, economist and long-time advisor to the OMA, this week [announced](#) that he has accepted a position at The Ohio State University, effective September 1 this year. Ned currently is dean of the Maxine Goodman Levin College of Urban Affairs at Cleveland State University.

He will teach economic development policy, public policy and public finance in both the Glenn College and the Department of City and Regional Planning in the College of Engineering's Knowlton School of Architecture.

And, Ned will continue his research on factors that affect the competitive position of the Ohio's manufacturing sector, workforce policy, and business strategy, as well as state and local economic development strategy and urban public policy.

He [told the Plain Dealer](#) that the position is a "dream job." Congratulations, Ned! 5/14/2015

### **Patent Troll Bill Re-Introduced**

This week [Rep. Kristina Roegner](#) (R-Hudson) introduced [House Bill 194](#) to crack down on patent trolls. Patent trolls are business entities that hold an issued patent and derive substantially all their revenue from licensing activities, as opposed to selling products or providing services covered by the patent.

A typical course of action for a troll is to create a list of potential infringers of the patent and send demand

letters to them.

The OMA Government Affairs Committee will be discussing this and lots more at its next meeting on June 3. [Register here](#). 5/14/2015

### **Judge Orders Corps to Dredge**

Donald Nugent, judge for the U.S. District Court for the Northern District of Ohio, Eastern Division, this week [ordered](#) the Army Corps of Engineers to dredge the entire Cleveland Harbor and pay for placement in a confined disposal facility.

"Refusing to dredge possibly the most commercially-significant section of the Cleveland Harbor, after receiving specific congressional approval and funding to do so, violates the corps' duty to expedite operation and maintenance of the channel to authorized project depths, and would fail to support (and in fact could actually destroy) commercial navigation through this channel," said the judge

This is a victory for the Ohio EPA and for manufacturers using the shipping channel. The state of Ohio and the Corps have been fighting over who should foot the bill for the dredging. 5/14/2015

### **Governor Signs Good Legal Transparency Bill**

This week, Governor Kasich signed into law [Senate Bill 38](#), the Transparency in Private Attorney Contract Acts (TiPAC), which sets limits on payment caps when the state attorney general hires private counsel. The OMA supported this legislation, sponsored by Senator [Bill Seitz](#) (R-Cincinnati). 5/14/2015

### **OMA's Annual Food Manufacturers & Supplier Meeting is June 2**

The annual [OMA Food Manufacturers & Suppliers Meeting](#) is [Tuesday, June 2](#) at 1:30 in the OMA offices.

The forum focuses directly on the legislative, regulatory and economic development issues that affect the state's booming food & beverage manufacturing industry and its critical suppliers, including: State & federal GMO legislation; packaging issues; extended producer responsibility; recycling initiatives; federal, state and local labeling efforts; and water regulations.

Guest presenters include Ohio Agriculture Department Director, David Daniels, EPA Deputy

Director for Business Relations, Laurie Stevenson, and JobsOhio Managing Director, Aaron Pitts.

The meeting will be chaired by Derek L. Crawford, Director, U.S. Government Affairs, Kraft Foods Group, Inc.

Reserve your spot for this most important industry gathering! And save the evening of Monday, June 1 for a networking dinner with colleagues and Director Daniels - cocktails at 5:30 p.m., dinner at 6:00 p.m. at the Scioto Country Club, 2196 Riverside Dr., Columbus, OH 43221.

RSVP for June 1 dinner and/or June 2 meeting to [Denise Locke](#) or (800) 662-4463, or go to [My OMA](#) to register. 4/30/2015

### Ohio Statehouse Recreates Repose of President Lincoln



OMA's Rob Brundrett, Director, Public Policy Services, and avid Civil War historian, snapped this image this week of the Repose of President Abraham Lincoln at the Ohio Statehouse.

Marking the 150th anniversary of the Repose of President Abraham Lincoln, the week's events included a Civil War encampment, a replica casket and honor guard.

The Capital Square Review and Advisory Board recreated the memorial decorations the state of Ohio installed in 1865, when Ohioans paid their respects to the slain president. 4/29/2015

### Brown Co-sponsors Manufacturer-Supported Chemical Safety Bill

Recently, U.S. Senator Sherrod Brown added his name to the list of cosponsors of S. 697, the Chemical Safety for the 21<sup>st</sup> Century Act. The bill, championed by manufacturers, is undergoing hearings in the

Senate Environment and Public Works Committee.

OMA members discussed the importance of the legislation at the March meeting of the OMA Government Affairs Committee. The bill results from more than two years of negotiations among senators and stakeholders.

The bill is designed to ensure confidence in safety regulations by basing decisions on a strong scientific framework that uses modern technology, proven safety testing methods and high-quality data. It would comprehensively update the Toxic Substance Control Act (TSCA) for the first time since 1976. The bill is a top priority of the American Chemical Counsel.

Here's a [fact sheet](#) on the issue. 4/17/2015

### JobsOhio Releases 2014 Annual Report

JobsOhio, Governor Kasich's private economic development agency, released its [2014 Annual Report and 2015 Strategic Plan](#) recently.

The agency reports: "In 2014, JobsOhio assisted 276 companies that committed to creating 21,377 new jobs, retaining 52,140 jobs, and adding \$6.1 billion of new capital investment in the state. Our 2014 metrics represented 20 percent growth in job creation and more than 70 percent growth in new capital investment over 2013."

In 2015, JobsOhio president John Minor says: "We are creating a workforce development team at JobsOhio, which will collaborate with the Governor's Office of Workforce Transformation as well as community colleges, technical schools, and other institutions. This customized initiative will be tied directly to the projects that we execute with companies, allowing JobsOhio to compete more effectively with workforce programs provided by other states." 4/24/2015

### State Budget in Final House Stages

This week the Ohio House of Representatives put its stamp on Governor Kasich's proposed state operating budget, HB 64. The House substitute bill contains more than 200 changes to the governor's bill.

Next Monday, the House will make additional revisions to the bill before voting it out of the full House. Leadership is targeting a floor vote for Tuesday, April 22. Then, of course, the Ohio Senate will take its turn with the bill.

Here is a [reference document](#) to compare differences between the current House version and the originally introduced governor's version. 4/16/2015

### **OMA Leader Bill Sopko on Ohio Manufacturing (video)**

OMA chairman, [Bill Sopko, President](#), William Sopko & Sons Co., Inc. recently sat down to talk about Ohio manufacturing and his role with OMA.

[This link](#) will take you to OMA's You Tube channel or you can watch here on our [home page](#). 4/16/2015

### **Strickland Outpolling Portman; Ohioans Pro Marijuana**

A Quinnipiac University "[Swing State Poll](#)" has former governor Ted Strickland leading Senator Rob Portman by 9%, 48% to 39%, in the likely race for the U.S. Senate next year.

Portman has a favorability rating of 38% to 18%; Strickland has a 49 - 29 percent favorability rating. The first term Portman is just not as well known to the state's voters as is Strickland, yet.

The poll also looked at registered voters' attitudes toward marijuana. By 84% to 15%, Ohioans favor the use of "medical marijuana." Ohioans support marijuana legalization by 52% to 44%. 4/7/2015

### **Ohio Ranks 36<sup>th</sup> in Financial Literacy**

Ohio [ranks 36<sup>th</sup>](#) among the states in financial literacy of its citizens, according to WalletHub. Ohio ranked 42nd in financial knowledge and education and 31st in financial planning and daily habits.

According to the 11 metric methodology, New Hampshire is the most literate state and Mississippi is the least literate state. 4/7/2015

### **General Assembly on Spring Break**

State lawmakers are on a two-week "Spring Recess" and will return to the Statehouse on Tuesday, April 14.

When they return, the Ohio House Finance Committee will unveil its revisions to the state budget bill, HB 64. Members can still [engage their lawmakers](#) to express concerns with the originally introduced tax changes.

The Senate will take its turn at the state budget bill in May and then a joint House and Senate conference committee will make further refinements before the June 20 deadline to file the budget.

After April 14, lawmakers are expected to be in Columbus continuously until the beginning of the state fiscal year on July 1. Here's the [session calendar](#). 4/2/2015

### **National Food Labeling Standard Introduced**

A group of [U.S. representatives](#) has introduced the Safe and Accurate Food Labeling Act (H.R. 1599) which would create a national voluntary labeling standard for foods produced using biotechnology and put a stop to the state-by-state patchwork of mandatory labeling laws.

H.R. 1599 will also establish a clear labeling standard—managed by the U.S. Department of Agriculture—for non-GMO foods. The bill has garnered bipartisan support and has 17 cosponsors.

Member manufacturers in the food and food supply sector will review the legislation and discuss advocacy options at OMA's annual food manufacturers' roundtable on June 2. Contact [Ryan Augsburger](#) to learn more or to reserve a seat.

Members can learn more and take action to support the federal standard by visiting the [Coalition for Safe and Affordable Food](#). 4/2/2015

### **Chief Justice Visits OMA Board**

Chief Justice of the Ohio Supreme Court, Maureen O'Connor, visited with the OMA board of directors this week. The Chief Justice discussed the state of the Ohio judiciary and the need to ensure this branch of Ohio government is able to attract highly qualified personnel to the bench.

She noted that Ohio is the seventh most populous state in the nation, and is sixth in the nation in overall caseload, sixth in domestic relations caseload, fifth in criminal caseload and first in juvenile caseload.

Meanwhile, Ohio trial court judges rank 44th in compensation, appellate court judges rank 32nd, and the high court justices rank 39th.

Chief Justice O'Connor asked for, and received, board support for a judicial pay raise proposed in Governor Kasich's budget. 3/26/2015

## Call for Participation in Annual McGladrey Manufacturing Survey

OMA is supporting OMA Connection Partner, McGladrey, in its [2015 McGladrey Manufacturing & Distribution Monitor](#), and we're calling for manufacturer participation.

Now in its tenth year, the Monitor provides an in-depth look at globalization, innovation and information technology with this year's report. [Click here to take the survey.](#)

By participating in the Monitor, you will receive: a customized benchmark report comparing your organization to industry peers across the country and around the world, and key findings, with analysis of global markets, technology and innovation.

Since McGladrey widely distributes the survey results among national media and policymakers, participation gives you a voice with opinion leaders. *3/25/2015*

## Senate Approves ODOT's Division of Freight

The Ohio Senate unanimously approved the state transportation budget, HB 53, but not before making some changes to the bill. In its [substitute version](#) of the bill, the Senate restored the Division of Freight, a proposal the House previously rejected.

In his [testimony](#), ODOT Director Jerry Wray told lawmakers the Division of Freight would encompass the Ohio Rail Development Commission and more effectively coordinate multi-modal investments.

The [Senate also](#) hiked the speed limit to 75 mph on rural freeways, including for trucks.

Next, a joint House and Senate conference committee will negotiate the differences between the House and Senate versions. *3/19/2015*

## Senate Passes Legal Transparency Bill

This week the Ohio Senate passed [SB 38](#), Transparency in Private Attorney Contracts Act (TiPAC), which sets attorney payment caps when the state attorney general hires private counsel. The measure also defines how the attorney general may exceed the established fee caps: only with the approval of the state Controlling Board.

In addition, the bill requires the attorney general to

make a written determination that hiring a private lawyer on a contingency-fee contract is cost-effective and in the public interest, and the bill requires that a copy of a contingency-fee contract be posted online.

The OMA supports this legislation, sponsored by [Bill Seitz](#) (R-Cincinnati). The bill now moves to the House. *3/19/2015*

## President Launches New Textile Manufacturing Innovation Institute

This week President Obama [announced](#) from the Cleveland City Club the creation of a new textiles-focused manufacturing institute. The site of the institute will be chosen via competition managed by the Department of Defense. The competition calls for manufacturers, universities, and non-profits to form a new manufacturing hub focused on revolutionary fibers and textiles technologies. A \$75 million federal investment will be matched by more than \$75 million in private resources. *3/19/2015*

## Dredging Standoff Continues

The standoff between the state and the Army Corps of Engineers over dredging of the navigation channel of the Cuyahoga River continues, in part.

The Corps [says it plans](#) to dredge only the first 5/6 of the navigation channel and leave the most critical area near the head of navigation un-dredged. The [OEPA remains firm](#) that the Corps is required under law to dredge the entire channel and dispose of all sediment in a certified disposal facility at federal expense.

The Ohio Attorney General [insists](#) that the Corps is responsible for all dredging and sediment disposal in confined disposal facilities at federal expense.

Meanwhile, dredging bids are to be submitted to the Corps by March 24. *3/11/2015*

## OMA Supports National GMO Standard

On behalf of Ohio's large, diverse and economically important food manufacturing industry, the OMA this week urged congressional support for a "national standard to provide Ohioans with accurate and consistent information on products containing genetically modified organisms (GMOs)."

OMA president Eric Burkland, in [letters](#) to Senator Sherrod Brown and Congresswoman Marcia Fudge,

wrote: "It is important for our food manufacturers to have certainty in their business, which is why we are supporting federal legislation that will prevent a growing patchwork of state food labeling laws. The legislation will establish a federal labeling standard for products containing GMOs, eliminating the confusing patchwork of various state standards, streamlining regulation and more effectively informing consumers." 3/12/2015

### **TiPAC Bill Advances to Senate Floor**

The Senate Government Oversight and Reform Committee this week approved [SB 38](#), sponsored by Sen. Bill Seitz (R - Cincinnati). This civil justice bill borrows from the model *Transparency in Private Attorney Contracts Act* and establishes uniform standards for Ohio's process of selecting, retaining and reimbursing contingency fee counsel who stand in the place of the state attorney general in certain litigation.

The OMA filed [this letter](#) in support of the bill, which says, "While a bona fide rationale exists for state use of private legal service in certain instances, the lack of uniform policies to govern such arrangements has the potential for abuse and conflict of interest." 3/12/2015

### **OMA Government Affairs Committee Members Lobby Against Tax Proposal**

Members of the OMA Government Affairs Committee met this week with Reps. Barbara Sears, House Majority Floor Leader; Ryan Smith, Chair of the Finance Committee; and Jeff McClain, Chair of the Ways and Means Committee.

With these leaders, OMA members discussed a range of issues impacting manufacturing, particularly the tax provisions included in the state budget, HB 64. Following the meeting, a number of committee members met with state legislators and attended a House Ways and Means Committee hearing on the measure.

Members also heard from Dr. Edward "Ned" Hill, Dean, Cleveland State University, Maxine Goodman Levin College of Urban Affairs, who shared insights on the Ohio economy, tax reforms, and electric utility proposals.

Also, OMA counsel provided members with an updated reference document that lists [contribution limits and lobbyist reporting deadlines](#). 3/12/2015

**Miscellaneous Legislation of Interest to Manufacturers**  
**Prepared by: The Ohio Manufacturers' Association**  
**Report created on June 2, 2015**

- HB3 BUSINESS FILING FEES-JOBS WEBSITE** (DERICKSON T, ROMANCHUK M) To reduce certain business filing fees charged and collected by the Secretary of State and to specify that Ohio-based companies are to have access to appropriate features of the OhioMeansJobs web site.  
**Current Status:** 4/21/2015 - **REPORTED OUT**, Senate State and Local Government, (First Hearing)  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-3>
- HB10 ATTORNEY TRANSPARENCY** (BUTLER, JR. J) To provide transparency in contracts between the state and private attorneys.  
**Current Status:** 3/17/2015 - House Government Accountability and Oversight, (Third Hearing)  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-10>
- HB17 EMERGENCY CIVIL IMMUNITY** (BLESSING III L, LANDIS A) To provide civil immunity for architects, contractors, engineers, surveyors, and tradespersons providing volunteer services during a declared emergency.  
**Current Status:** 4/22/2015 - Senate Civil Justice, (Third Hearing)  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-17>
- HB42 LOCAL GOVERNMENT FUND** (GERBERRY R, CERA J) To require that, for fiscal year 2016 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:** 2/11/2015 - Referred to Committee House Finance  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-42>
- HB46 GOVERNMENT EXPENDITURE DATABASE** (DOVILLA M) To require the Treasurer of State to establish the Ohio State Government Expenditure Database.  
**Current Status:** 4/22/2015 - Referred to Committee Senate Finance  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-46>
- HB49 AIRLINE-AIR FREIGHT COMMISSION** (BARNES, JR. J) To create the Commercial Airline and Air Freight Commission.  
**Current Status:** 4/14/2015 - House Transportation and Infrastructure, (Third Hearing)  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-49>
- HB53 TRANSPORTATION BUDGET** (GROSSMAN C) To make appropriations for programs related to transportation and public safety for the biennium beginning July 1, 2015, and ending June 30, 2017, and to provide authorization and conditions for the operation of those programs.  
**Current Status:** 4/1/2015 - **SIGNED BY GOVERNOR**; effective in 90 days

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-53>

- HB64 OPERATING BUDGET (SMITH R)** To make operating appropriations for the biennium beginning July 1, 2015, and ending June 30, 2017, and to provide authorization and conditions for the operation of state programs.  
**Current Status:** 5/26/2015 - Senate Finance, (Fourth Hearing)  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-64>
- HB68 ALCOHOL-BY-VOLUME (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%.  
**Current Status:** 2/18/2015 - Referred to Committee House Government Accountability and Oversight  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-68>
- HB100 VEHICLE WEIGHT LIMITS (SLABY M, PATMON B)** 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:** 3/24/2015 - House Transportation and Infrastructure, (Second Hearing)  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-100>
- HB109 STATE HEALTH BENEFIT EXCHANGE (STINZIANO M, ANTONIO N)** To create the Ohio Health Benefit Exchange.  
**Current Status:** 4/28/2015 - House Insurance, (First Hearing)  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-109>
- HB130 PUBLIC RECORDS-DATA BOARD (HAGAN C, DUFFEY M)** To create the DataOhio Board, to specify requirements for posting public records online, to require the Auditor of State to adopt rules regarding a uniform accounting system for public offices, to establish an online catalog of public data at data.Ohio.gov, to establish the Local Government Information Exchange Grant Program, and to make an appropriation.  
**Current Status:** 5/27/2015 - House State Government, (Third Hearing)  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-130>
- HB145 STEM PARTNERSHIP PROGRAM (MCCOLLEY R, HOWSE S)** To establish the STEM Public-Private Partnership Pilot Program to provide high school students the opportunity to receive education in a targeted industry while simultaneously earning high school and college credit and to make an appropriation.  
**Current Status:** 4/14/2015 - Referred to Committee House Finance  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-145>

- HB153**      **PRESIDENTIAL PRIMARY DATE** (DOVILLA M) To change the date on which presidential primary elections are held.  
**Current Status:** 5/27/2015 - **PASSED BY SENATE**; Vote 23-10  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-153>
- HB175**      **GLOBAL MARKET PROGRAM** (BARNES, JR. J) To establish the "Access to Global Market Opportunities for Ohio Manufactured Products Program" to be composed of the "Ohio Global Leadership Initiative" and the "Global Initiative on International Relations" to create new, untapped global markets for Ohio businesses and thereby promote job creation.  
**Current Status:** 5/27/2015 - House Economic and Workforce Development, (Third Hearing)  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-175>
- HB189**      **VOTER IDENTIFICATION** (BRENNER A) To revise the law concerning the identification an elector must provide in order to cast absent voter's ballots, to vote in person at a polling place, or to cast a provisional ballot.  
**Current Status:** 5/12/2015 - Referred to Committee House Government Accountability and Oversight  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-189>
- HB194**      **PATENT INFRINGEMENT** (ROEGNER K) To prohibit a person from engaging in the widespread sending of bad faith, objectively baseless communications of patent infringement and to authorize the Attorney General to investigate and institute a civil action if the Attorney General believes a person has made such assertions of patent infringement.  
**Current Status:** 5/26/2015 - House Judiciary, (First Hearing)  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-194>
- HB233**      **REDEVELOPMENT DISTRICTS** (SCHURING K) To authorize municipal corporations to create downtown redevelopment districts and innovation districts for the purposes of promoting the rehabilitation of historic buildings, creating jobs, encouraging economic development in commercial and mixed-use areas, and supporting grants and loans to technology-oriented and other businesses.  
**Current Status:** 6/2/2015 - Referred to Committee House Government Accountability and Oversight  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-233>
- HJR2**      **REDISTRICTING-CONGRESSIONAL DISTRICTS** (CLYDE K, CURTIN M) To revise the redistricting process for congressional districts.  
**Current Status:** 3/3/2015 - Referred to Committee House Government Accountability and Oversight  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HJR-2>
- HR25**      **HONORING THE MIDMARK CORPORATION** (BUCHY J) Honoring the Midmark Corporation on its One Hundredth Anniversary.  
**Current Status:** 2/25/2015 - Introduced

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HR-25>

**SB22 LOCAL GOVERNMENT FUND-ALLOCATION INCREASE (TAVARES C)** To increase monthly allocations to the Local Government Fund from 1.66% to 3.68% of the total tax revenue credited to the GRF each month.

**Current Status:** 2/4/2015 - Referred to Committee Senate Finance

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-22>

**SB26 BUSINESS FILING FEES (OBHOF L)** To reduce certain business filing fees charged and collected by the Secretary of State and to specify that Ohio-based companies are to have access to appropriate features of the OhioMeansJobs web site.

**Current Status:** 4/15/2015 - House Economic and Workforce Development, (First Hearing)

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-26>

**SB38 STATE-ATTORNEY CONTRACTS (SEITZ B)** To provide transparency in contracts between the state and private attorneys.

**Current Status:** 5/12/2015 - **SIGNED BY GOVERNOR**; Eff. 90 days

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-38>

**SB57 TOWNSHIP ROAD REGULATION (EKLUND J)** To authorize counties to adopt resolutions regulating motor vehicle traffic on county and township roads.

**Current Status:** 3/3/2015 - Senate State and Local Government, (First Hearing)

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-57>

**SB79 FELONY-JOB APPLICATION (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:** 3/4/2015 - Referred to Committee Senate Transportation, Commerce and Labor

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-79>

**SB87 MINIMUM WAGE (TAVARES C)** To require that domestic workers be paid the minimum wage, as provided in Section 34a of Article II, Ohio Constitution.

**Current Status:** 3/4/2015 - Referred to Committee Senate Transportation, Commerce and Labor

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-87>

**SCR3 CONGRESSIONAL FAST-TRACK OPPOSITION (SCHIAVONI J, GENTILE L)** To urge the Congress of the United States, and in particular the Ohio Congressional delegation, to vote against Fast Track Legislation.

**Current Status:** 4/22/2015 - Referred to Committee Senate Transportation, Commerce and Labor

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SCR-3>

**SJR1**

**PUBLIC OFFICE COMPENSATION COMMISSION (FABER K)** Proposing to amend Sections 4, 20, and 31 of Article II, Section 19 of Article III, and Section 6 of Article IV and to enact Section 20a of Article II of the Constitution of the State of Ohio to establish the Public Office Compensation Commission.

**Current Status:** 6/2/2015 - House Government Accountability and Oversight, (First Hearing)

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SJR-1>



# Ohio Legislative Service Commission

## Bill Analysis

Aida S. Montano

### H.B. 194

131st General Assembly  
(As Introduced)

**Reps.** Roegner, Brown, Becker, Vitale, Terhar, Hood, Kraus, Romanchuk, Blessing

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### BILL SUMMARY

- Prohibits any person, in connection with the assertion of a United States patent, from engaging in the widespread sending of bad faith, objectively baseless communications stating that the recipients or persons affiliated with them are infringing the patent and bear liability or owe compensation.
- Specifies that a written communication is objectively baseless if the assertions contained in the communication lack a reasonable basis in fact or law due to any of specified circumstances.
- Provides examples of communications made in bad faith.
- Specifies the types of communications that would not constitute an unlawful practice for a person who owns or has the right to license or enforce a patent.
- Prescribes the factors that a court may consider as evidence that a person has not made a bad faith assertion of a patent infringement.
- Permits the Attorney General to investigate whether a person has engaged in sending bad faith, objectively baseless assertions of patent infringement.
- Authorizes the Attorney General to bring a civil action seeking an injunction to restrain or prevent a person from taking actions and making allegations constituting bad faith, objectively baseless assertions of patent infringement.

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## CONTENT AND OPERATION

### Prohibition against bad faith patent infringement claims

The bill prohibits any person, in connection with the assertion of a United States patent, from engaging in the widespread sending of bad faith, objectively baseless written or electronic communications to intended recipients stating that those recipients or persons affiliated with them are infringing or have infringed the patent and bear liability or owe compensation for that infringement.<sup>1</sup> An "**intended recipient**" is a person who purchases, rents, leases, or otherwise obtains a product, service, or technology in the commercial market and that is, or later becomes, the subject of a patent infringement allegation.<sup>2</sup>

#### Objectively baseless communication

Under the bill, a written communication is objectively baseless if the assertions contained in the communication lack a reasonable basis in fact or law due to any of the following:<sup>3</sup>

- The person asserting the patent is not a person, or does not represent a person, with the current right to license the patent to, or to enforce the patent against, the intended recipients or persons affiliated with them.
- The communication seeks compensation for a patent that has been held to be invalid or unenforceable in a final, unappealable or unappealed, judicial or administrative decision.
- The communication seeks compensation on account of activities undertaken after the patent has expired.

#### Bad faith communications

The bill lists the following examples of communications made in bad faith:<sup>4</sup>

- A communication with content likely to materially mislead a reasonable recipient because the content fails to include facts reasonably necessary to inform the intended recipient of all of the following: (1) the identity of the

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<sup>1</sup> R.C. 2307.66(A).

<sup>2</sup> R.C. 2307.66(F)(1).

<sup>3</sup> R.C. 2307.66(B).

<sup>4</sup> R.C. 2307.66(C).

person asserting a right to license the patent to, or enforce the patent against, the recipient or affiliated persons, (2) the patent or patents issued by the United States Patent and Trademark Office alleged to have been infringed, and (3) an identification of at least one product, service, or technology of the intended recipient that is alleged to infringe the identified patent or patents.

- A communication that falsely states that litigation has been filed against the intended recipient or falsely threatens that administrative or judicial relief will be sought if compensation is not paid or the infringement issue is not otherwise resolved.

## Exceptions

Nothing in the bill is to be construed to deem it an unlawful practice for any person who owns or has the right to license or enforce a patent to do any of the following:<sup>5</sup>

- Advise another person of that ownership or right of license enforcement;
- Communicate to another person that the patent is available for license or sale;
- Notify another person of the infringement of the patent;
- Seek compensation on account of a past or present infringement or for a license to the patent.

## Evidence that there is no bad faith assertion of patent infringement

The bill permits a court to consider the following factors as evidence that a person has not made a bad faith assertion of patent infringement:<sup>6</sup>

(1) The person's written communication contains the required information.

(2) The person makes or has made a substantial investment in the use of patents in the production or sale of a product, service, or technology covered by the patent.

(3) The person is the inventor or joint inventor of the patent or, in the case of a patent filed by and awarded to an assignee of the original inventor or joint inventor, is

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<sup>5</sup> R.C. 2307.66(D).

<sup>6</sup> R.C. 2307.66(E).

the original assignee; an institution of higher education; or a technology transfer organization owned or affiliated with an institution of higher education.<sup>7</sup>

(4) The person has either demonstrated good faith business practices in previous efforts to enforce the patent or a substantially similar patent or successfully enforced the patent or a substantially similar patent through a patent infringement action.

(5) Any other factor that the court finds relevant.

### **Attorney General's investigation and civil action**

The Attorney General (AG) may investigate allegations that a person has engaged in the sending of bad faith, objectively baseless written or electronic assertions of patent infringement. The AG may investigate based on the AG's own inquiries or as a result of complaints. For this purpose, the AG may administer oaths, subpoena witnesses, adduce evidence, and require the production of relevant matter. If the relevant matter is located outside of Ohio, the AG may designate representatives, including officials of the state in which the matter is located, to inspect the matter on the AG's behalf.<sup>8</sup>

The AG may institute a civil action seeking a preliminary or permanent injunction to restrain or prevent a person from taking actions and making bad faith assertions of patent infringement if the AG believes that the action would be in the public interest. The court may issue an order granting the injunction, whether individually or in concert with another corporation, association, partnership, or other person or legal entity. The injunction order must be binding on the person against whom it is directed and all officers, agents, servants, employees, attorneys, and those persons in active concert or participation with the person against whom it is directed who receive actual notice of the order whether by personal service or otherwise.<sup>9</sup>

The bill provides that the above provisions do not limit or affect other rights, duties, privileges, and powers conferred by law upon the courts and the Attorney General.<sup>10</sup>

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<sup>7</sup> As used in this provision, "institution of higher education" has the same meaning as in the law governing the right of publicity in an individual's persona. R.C. 2741.01, which is not in the bill.

<sup>8</sup> R.C. 2307.67(A).

<sup>9</sup> R.C. 2307.67(B).

<sup>10</sup> R.C. 2307.67(C).



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## HISTORY

ACTION

DATE

Introduced

05-11-15

H0194-I-131.docx/emr



# Ohio Senate

Senate Building | Capitol Square | Columbus OH 43215

## Republicans (23) - Democrats (10)

President:	Keith Faber	466-7584
President Pro Tempore:	Chris Widener	466-3780
Majority Floor Leader:	Tom Patton	466-8056
Majority Whip:	Larry Obhof	466-7505
Majority Chief of Staff:	Jason Mauk	466-2510
Senate Clerk:	Vincent Keeran	466-4900
Minority Leader:	Joe Schiavoni	466-8285
Asst. Minority Leader:	Charleta Tavares	466-5131
Minority Whip:	Edna Brown	466-5204
Asst. Minority Whip:	Lou Gentile	466-6508
Minority Chief of Staff:	Erin Davis	466-4371

<b>Bacon, Kevin</b> (R-03) Rm 035 5325 Ponderosa Dr., Columbus 43231	614.466.8064 614.890.1285	<b>Lehner, Peggy</b> (R-06) Rm 042 553 Lockerbie Ln., Kettering 45429	614.466.4538 937.293.3346
<b>Balderson, Troy</b> (R-20) Rm 040 2945 Dresden Rd., Zanesville 43701	614.466.8076 740.819.2580	<b>Manning, Gayle</b> (R-13) Rm 137 5380 Barton Rd., N. Ridgeville 44039	614.644.7613 440.327.1799
<b>Beagle, Bill</b> (R-05) Rm 132 P.O. Box 342, Tipp City 45371	614.466.6247 937.669.0901	<b>Obhof, Larry</b> (R-22) Rm 220 5206 Crown Pointe Dr., Medina 44256	614.466.7505
<b>Brown, Edna</b> (D-11) Rm 051 2461 Warren St., Toledo 43620	614.466.5204 419.243.5691	<b>Oelslager, Scott</b> (R-29) Rm 127 1585 Yorkshire Trce SE, Canton 44709	614.466.0626 330.433.9394
<b>Burke, Dave</b> (R-26) Rm 034 860 Wedgewood Dr., Marysville 43040	614.466.8049 937.243.4333	<b>Patton, Thomas</b> (R-24) Rm 129 17157 Rabbit Run, Strongsville 44136	614.466.8056 440.238.7132
<b>Cafaro, Capri</b> (D-32) Rm 048 644 Warner Rd., Hubbard 44425	614.466.7182 330.372.2222	<b>Peterson, Bob</b> (R-17) Rm 041 5564 Grassy Branch Rd., Sabina 45169	614.466.8156 740.948.2191
<b>Coley, Bill</b> (R-04) Rm 140 8265 Cherry Laurel, West Chester 45044	614.466.8072 513.874.2747	<b>Sawyer, Tom</b> (D-28) Rm 049 1298 N. Howard St., Akron 44310	614.466.7041 330.923.7699
<b>Eklund, John</b> (R-18) Rm 128 12040 Burlington Glen Dr., Chardon 44024	614.644.7718 216.622.8211	<b>Schiavoni, Joe</b> (D-33) Rm 303 87 Westchester, Austintown 44515	614.466.8285 330.799.5940
<b>Faber, Keith</b> (R-12) Rm 201 7025 Dibble Rd., Celina 45822	614.466.7584 419.586.8686	<b>Seitz, Bill</b> (R-08) Rm 143 2097 Beech Grove Dr., Cincinnati 45233	614.466.8068 513.451.3921
<b>Gardner, Randy</b> (R-02) Rm 226 409 S. Mitchell Rd., Bowling Green 43402	614.466.8060 419.531.0487	<b>Skindell, Michael</b> (D-23) Rm 056 16800 Delaware Ave., Lakewood 44107	614.466.5123 216.521.9919
<b>Gentile, Lou</b> (D-30) Rm 050 399 Terri Ave., Steubenville 43952	614.466.6508 614.551.6411	<b>Tavares, Charleta</b> (D-15) Rm 228 1237 Medford Rd., Columbus 43209	614.466.5131 614.236.1124
<b>Hite, Cliff</b> (R-01) Rm 142 2147 Westmoor Rd., Findlay 45840	614.466.8150 419.425.4483	<b>Thomas, Cecil</b> (D-09) Rm 056 515 Clinton Springs Ave., Cincinnati 45217	614.466.1896 513.604.6265
<b>Hottinger, Jay</b> (R-31) Rm 038 894 Jonathan Ln., Newark 43055	614.466.1896 740.349.7784	<b>Uecker, Joe</b> (R-14) Rm 134 298 Indianview Dr., Loveland 45140	614.466.8082 513.248.2565
<b>Hughes, Jim</b> (R-16) Rm 125 4319 Fairoaks Dr., Columbus 43214	614.466.5981 614.267.0371	<b>Widener, Chris</b> (R-10) Rm 138 4887 Peacock Rd., Springfield 45502	614.466.3780 937.325.9991
<b>Jones, Shannon</b> (R-07) Rm 222 800 Valley View Pt., Springboro 45056	614.466.9737 937.748.6788	<b>Williams, Sandra</b> (D-21) Rm 052 12518 Fairhill Rd., Cleveland 44120	216.295.1195 44120
<b>Jordan, Kris</b> (R-19) Rm 039 265 Ravine Ridge Dr. N., Powell 43065	614.466.8086 740.548.0996	<b>Yuko, Kenny</b> (D-25) Rm 057 479 Pierson Dr., Richmond Hts. 44143	614.466.1896 440.442.0946
<b>LaRose, Frank</b> (R-27) Rm 221 553 Royal Crest, Copley 44321	614.466.4823 330.461.6446		

# Senate Committees

## \*Ranking Minority

<b>Agriculture</b> 466-8150 Hite (R)-Chair; Uecker (R)-Vice-Chair (R) Beagle, Burke, Gardner, Manning, Peterson (D) *Gentile, Cafaro, Skindell	<b>Financial Institutions</b> 466-5981 Hughes (R)-Chair; Eklund (R)-Vice-Chair (R) Bacon, Beagle, Burke, Hottinger, LaRose, Obhof (D) *Yuko, Gentile, Thomas	<b>Government Oversight and Reform</b> 466-8072 Coley (R)-Chair; Seitz (R)-Vice-Chair (R) Balderson, Burke, Jordan, LaRose, Obhof, Patton, Widener (D) *Yuko, Brown, Skindell	<b>Health and Human Services</b> 466-9737 Jones (R)-Chair; Lehner (R)-Vice-Chair (R) Beagle, Gardner, Hite, Hottinger, Manning, Oelslager (D) *Tavares, Brown, Cafaro
<b>Civil Justice</b> 466-8064 Bacon (R)-Chair; Oelslager (R)-Vice-Chair (R) Coley, Eklund, Hughes, Obhof, Seitz (D) *Skindell, Brown, Thomas	<b>Education</b> 466-4538 Lehner (R)-Chair; Hite (R)-Vice-Chair (R) Balderson, Coley, Gardner, Jordan, Manning, Peterson, Widener (D) *Sawyer, Thomas, Williams, Yuko	<b>Insurance</b> 466-5838 Hottinger (R)-Chair; Bacon (R)-Vice-Chair (R) Balderson, Beagle, Hughes, Jones, LaRose, Manning, Peterson (D) *Brown, Tavares, Thomas, Williams	<b>Public Utilities</b> 466-8068 Seitz (R)-Chair; Balderson (R)-Vice-Chair (R) Bacon, Eklund, Hite, Patton, Peterson, Uecker (D) *Williams, Gentile, Sawyer
<b>Criminal Justice</b> 644-7718 Eklund (R)-Chair; Obhof (R)-Vice-Chair (R) Bacon, Hughes, Lehner, Seitz, Uecker (D) *Thomas, Skindell, Williams	<b>Energy &amp; Natural Resources</b> 466-8076 Balderson (R)-Chair; Jones (R)-Vice-Chair (R) Gardner, Hite, Hottinger, Patton, Seitz, Uecker (D) *Gentile, Cafaro, Williams	<b>Medicaid</b> 466-8049 Burke (R)-Chair; Manning (R)-Vice-Chair (R) Coley, Jones, Jordan, Lehner, Widener (D) *Cafaro, Tavares, Williams	<b>Rules and Reference</b> 466-7584 Faber (R)-Chair; Widener (R)-Vice-Chair (R) Burke, Coley, Hite, Hughes, Manning, Obhof, Oelslager, Patton (D) *Schiavoni, Brown, Gentile, Tavares
	<b>Finance</b> 466-2626 Oelslager (R)-Chair; Coley (R)-Vice-Chair (R) Beagle, Burke, Gardner, Hughes, LaRose, Patton, Peterson (D) *Skindell, Gentile, Sawyer, Tavares		<b>State and Local Government</b> 466-4823 LaRose (R)-Chair; Hottinger (R)-Vice-Chair (R) Hughes, Jones, Jordan, Peterson, Seitz, Uecker (D) *Thomas, Brown, Yuko
	<b>Education Subcommittee</b> 644-8150 Hite (R)-Chair; Sawyer (D)-Vice Chair (R) Balderson, Burke, Coley, Lehner (D) Thomas, Yuko		<b>Transportation, Commerce and Labor</b> 644-7613 Manning (R)-Chair; Patton (R)-Vice-Chair (R) Bacon, Eklund, Hottinger, LaRose, Uecker (D) *Cafaro, Brown, Gentile, Yuko
	<b>Corrections Subcommittee</b> 466-8082 Uecker (R)-Chair; Brown (D)-Vice Chair (R) Obhof, Patton, Seitz (D) Tavares		<b>Ways and Means</b> 466-8156 Peterson (R)-Chair; Beagle (R)-Vice-Chair (R) Eklund, Hite, Jordan, Obhof, Widener (D) *Tavares, Cafaro, Williams
	<b>General Government Subcommittee</b> 466-8086 Jordan (R)-Chair; Gentile (D)-Vice Chair (R) Eklund, Jones, Peterson (D) Skindell		
	<b>Higher Education Subcommittee</b> 466-8060 Gardner(R)-Chair; Cafaro (D)-Vice Chair (R) Bacon, Hughes, Manning (D) Thomas		
	<b>Workforce Subcommittee</b> 466-6247 Beagle (R)-Chair; Williams (D)-Vice Chair (R) Hottinger, LaRose, Widener (D) Yuko		

# Ohio Supreme Court

Moyer Judicial Center | 65 S. Front St. | Columbus OH 43215

## Chief Justice - Maureen O'Connor

<b>Paul E. Pfeifer</b>	<b>Sharon L. Kennedy</b>
<b>Terrence O'Donnell</b>	<b>Judith L. French</b>
<b>Judith Ann Lanzinger</b>	<b>William M. O'Neill</b>

# Joint Legislative Committees

<b>State Controlling Board</b> 752.6392 Republicans: Reps. McClain, Smith R., Sens. Coley, Widener Democrats: Rep. Boyce, Sen. Sawyer	<b>Joint Medicatid Oversight Committee (JMOC)</b> 644.2016 Susan Ackerman - Executive Director Rep. Sears (R)-Chair Sen. Burke (R)-Vice-Chair Republicans: Reps. Johnson T., Sprague, Sens. Coley, Widener Democrats: Reps. Antonio, Sykes, Sens. Cafaro, Tavares
<b>Joint Committee on Agency Rule Review (JCARR)</b> 466.4086 Larry Wolpert - Executive Director Rep. Duffey (R)-Chair Sen. Uecker (R)-Vice-Chair Republicans: Reps. Grossman, Hayes, Sens. Balderson, LaRose Democrats: Reps. Johnson G., Phillips, Sens. Tavares, Yuko	<b>Legislative Service Commission (LSC)</b> 466.7584 Sen. Faber (R)-Chair Rep. Rosenberger (R)-Vice Chair Republicans: Reps. Amstutz, Buchy, Dovilla, Rosenberger, Sears; Sens. Hite, Obhof, Patton, Widener Democrats: Reps. ; Sens. Brown, Schiavoni
<b>Joint Legislative Ethics Committee (JLEC)</b> 466.8140 Rep. Rosenberger (R)-Chair Sen. Faber (R)-Vice-Chair Republicans: Reps. Amstutz, Pelanda, Sens. Obhof, Oelslager Democrats: Reps. Boyce, Celebrezze, Strahom, Sens. Cafaro, Gentile, Schiavoni	

## U.S. Senate

Senate Office Building | Washington D.C | 20515

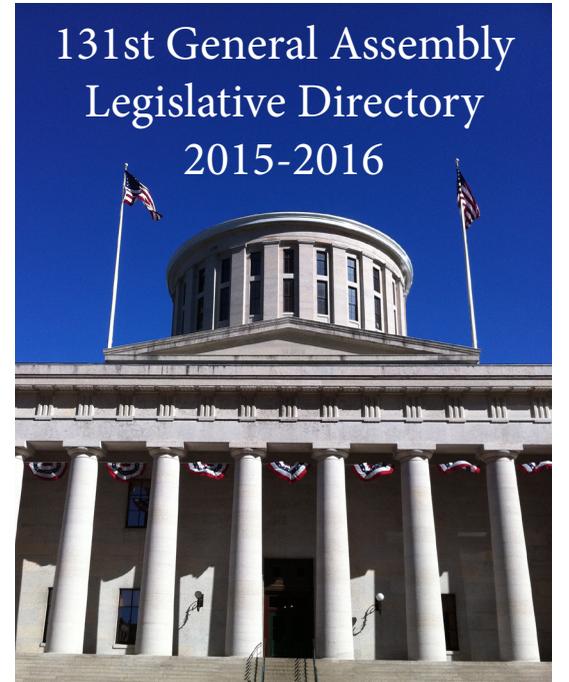
<b>Brown, Sherrod</b> 713 Hart SOB District: 200 N. High St., room 614 Columbus, OH 43215	202.224.2315	<b>Portman, Rob</b> 448 Russell SOB District: 37 W. Broad St., room 300 Columbus, OH 43215	202.224.3353 614.469.2083 614.469.6774
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## U.S. House

House Office Building | Washington D.C | 20515

<b>Beatty, Joyce</b> 133 Cannon HOB District: 471 E. Broad St., ste 1100 Columbus, OH 43215	202.225.4231 614.220.0003	<b>Kaptur, Marcy</b> 2186 Rayburn HOB District: One Maritime Plaza, room 600 Toledo, OH 43604	202.225.4146 419.259.7500 43604
<b>Boehner, John</b> 1011 Longworth HOB District: 7969 Cincinnati-Dayton Rd., ste B West Chester, OH 45069	202.225.6205 513.779.5400 45069	<b>Latta, Bob</b> 2448 Rayburn HOB District: 1045 N. Main St., ste 6 Bowling Green, OH 43402	202.225.6405 419.354.8700 43402
<b>Chabot, Steve</b> 2371 Rayburn HOB District: 441 Vine St., room 3003 Cincinnati, OH 45202	202.225.2216 513.684.2723	<b>Renacci, Jim</b> 130 Cannon HOB District: 1 Park Center Dr., ste 302 Wadsworth, OH 44281	202.225.3876 330.334.0061 44281
<b>Fudge, Marcia</b> 2344 Rayburn HOB District: 471 E. Broad St., ste 1100 4834 Richmond Rd., ste 150 Warrensview Heights, OH 44128	202.225.7032 216.522.4900 44128	<b>Ryan, Tim</b> 1421 Longworth HOB District: 241 W. Federal St. Youngstown, OH 44503	202.225.5261 330.740.0193 44503
<b>Gibbs, Bob</b> 329 Cannon HOB District: 110 Cottage St. Ashland, OH 44805	202.225.6265 419.207.0650	<b>Stivers, Steve</b> 1022 Longworth HOB District: 3790 Municipal Way Hilliard, OH 43026	202.225.2015 614.771.4968 43026
<b>Johnson, Bill</b> 1710 Longworth HOB District: 246 Front St. Marietta, OH 45750	202.225.5705 740.376.0868	<b>Tiberi, Pat</b> 1023 Longworth HOB District: 3000 Corporate Exchange Dr., ste 310 Columbus, OH 43231	202.226.4523 614.523.2555 43231
<b>Jordan, Jim</b> 1524 Longworth HOB District: 471 E. Broad St., ste 1100 3121 W. Elm Plaza Lima, OH 45805	202.225.2676 419.999.6455	<b>Turner, Mike</b> 2239 Rayburn HOB District: 120 W. 3rd St., ste 305 Dayton, OH 45402	202.225.6465 937.225.2843 45402
<b>Joyce, David</b> 1124 Longworth HOB District: 10075 Ravenna Rd. Twinsburg, OH 44087	220.225.5731 330.425.9291	<b>Wenstrup, Brad</b> 1318 Longworth HOB District: 7954 Beechmont Ave., ste 200 Cincinnati, OH 45255	202.225.3164 513.474.7777 45255

# Hannah NEWS SERVICE



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# Elected State Officials

<b>GOVERNOR</b>	<b>614.466.3555</b>	<b>TREASURER OF STATE</b>	<b>614.466.2160</b>
<b>John R. Kasich (R)</b> Vern Riffe Center 77 S. High St., 30th Floor Columbus, OH 43215		<b>Josh Mandel (R)</b> Rhodes Office Tower 30 E. Broad St., 9th Floor Columbus, OH 43215	
<b>LT. GOVERNOR</b>	<b>614.466.3379</b>	<b>SECRETARY OF STATE</b>	<b>614.466.2655</b>
<b>Mary Taylor (R)</b> Vern Riffe Center 77 S. High St., 30th Floor Columbus, OH 43215		<b>Jon Husted (R)</b> 180 E. Broad St., 16th Floor Columbus, OH 43215	
<b>ATTORNEY GENERAL</b>	<b>614.466.4986</b>	<b>AUDITOR OF STATE</b>	<b>614.466.4514</b>
<b>Mike DeWine (R)</b> Rhodes Office Tower 30 E. Broad St., 17th Floor Columbus, OH 43215		<b>Dave Yost (R)</b> 88 E. Broad St., 5th Floor Columbus, OH 43215	

# Ohio House of Representatives

Vern Riffe Center | 77 S. High St. | Columbus OH 43215

## Republicans (65) - Democrats (34)

Speaker	Cliff Rosenberger	466.8140
Speaker Pro Tempore	Ron Amstutz	466.1474
Majority Floor Leader	Barbara Sears	466.1731
Assistant Majority Floor Leader	Jim Buchy	466.6344
Majority Whip	Mike Dovilla	466.4895
Assistant Majority Whip	Dorothy Pelanda	466.8147
Minority Leader	Fred Strahorn	466.1607
Assistant Minority Leader	Nicholas Celebrezze	466.3485
Minority Whip	Kevin Boyce	466.5343
Assistant Minority Whip	Nickie Antonio	466.5921
House Clerk	Brad Young	466.3357
<b>Amstutz, Ron</b> (R-01) 14th Floor 4456 Wood Lake Trail, Wooster 44691	614.466.1474 330.262.7371	
<b>Anielski, Marlene</b> (R-06) 12th Floor 17150 Alexander Rd., Walton Hills 44146	614.644.6041 440.786.8008	
<b>Antani, Niraj</b> (R-42) 11th Floor 8545 Tree Top Ct. S., Apt. 128 Miamisburg 45342	614.466.6504 937.838.6517	
<b>Antonio, Nickie</b> (D-13) 14th Floor 1305 Belle Ave., Lakewood 44107	614.466.5921 216.221.4421	
<b>Ashford, Michael</b> (D-44) 10th Floor 2910 Collingwood Ave., Toledo 43610	614.466.1401 419.246.9512	
<b>Baker, Nan</b> (R-16) 12th Floor 4477 Mallard Circle, Westlake 44145	614.466.0961 440.892.9101	
<b>Barnes Jr., John</b> (D-12) 11th Floor 4467 Lee Rd., Cleveland 44128	614.466.1408 216.650.6683	
<b>Becker, John</b> (R-65) 12th Floor 925 Locust Ln., Cincinnati 45245	614.466.8134 13.753.6440	
<b>Bishop, Heather</b> (D-20) 10th Floor 2902 Braden Way, Blacklick 43004	614.644.6002 614.471.4811	
<b>Blessing III, Lou</b> (R-29) 13th Floor 3153 McGil Lane, Cincinnati 45251	614.466.9091 513.477.8103	
<b>Boose, Terry</b> (R-57) 12th Floor 5054 SR 601, Norwalk 44857	614.466.9628 419.668.6669	
<b>Boyce, Kevin</b> (D-25) 14th Floor 3184 Sophie St., Columbus 43219	614.466.5343 614.466.5343	
<b>Boyd, Janine</b> (D-09) 10th Floor 4022 Monticello Blvd. Cleveland Heights 44121	614.644.5079 216.862.6336	
<b>Brenner, Andrew</b> (R-67) 13th Floor 8824 Clearview Lake Ct., Powell 43065	614.644.6711 740.203.9273	
<b>Brinkman Jr., Tom</b> (R-27) 11th Floor 3215 Hardisty Ave., Cincinnati 45208	614.644.6886 513.321.6591	
<b>Brown, Tim</b> (R-03) 13th Floor 322 W. Merry Ave., Bowling Green 43402	614.466.8104 419.353.3805	
<b>Buchy, Jim</b> (R-84) 14th Floor 281 Dogwood Dr, Greenville 45331	614.466.6344 937.548.6239	
<b>Burkley, Tony</b> (R-82) 13th Floor 6306 Rd. 55, Payne 45880	614.644.5091 419.263.2756	
<b>Butler, Jim</b> (R-41) 13th Floor 1401 Devereux Dr, Dayton 45419	614.644.6008 937.293.4275	
<b>Celebrezze, Nicholas</b> (D-15) 14th Floor 4703 Snow Rd., Parma 44134	614.466.3485 440.842.4530	
<b>Cera, Jack</b> (D-96) 10th Floor 63899 Violet Lane, Bellaire 43906	614.466.3735 740.676.7087	
<b>Clyde, Kathleen</b> (D-75) 10th Floor 646 Ada St., Kent 44240	614.466.2004 330.527.4595	
<b>Conditt, Margaret</b> (R-52) 11th Floor 6959 Rock Springs Rd., Hamilton 45011	614.466.8550 513.779.6508	
<b>Craig, Hearcel</b> (D-26) 10th Floor 1026 Linwood Ave., Columbus 43206	614.466.8010 614.315.5815	
<b>Cupp, Bob</b> (R-04) 13th Floor 8824 Clearview Lake Ct., Powell 43065	614.466.9624 740.203.9273	
<b>Curtin, Mike</b> (D-17) 10th Floor 1370 Cambridge Blvd., Columbus 43212	614.644.6005 614.488.8542	
<b>Derickson, Timothy</b> (R-53) 12th Floor 2700 Oxford Millville Rd., Oxford 45056	614.644.5094 513.523.2026	
<b>Dever, Jonathan</b> (R-28) 11th Floor 5525 Maple Ridge Dr, Cincinnati 44870	614.466.8120 513.342.6872	
<b>DeVitis, Anthony</b> (R-36) 11th Floor 3946 Golden Wood Way, Uniontown 44685	614.466.1790 330.896.4860	
<b>Dovilla, Mike</b> (R-07) 14th Floor 62 Harnagy St., Berea 44017	614.466.4895 440.973.7111	
<b>Driehaus, Denise</b> (D-31) 10th Floor 300 Klotter Ave., Cincinnati 45219	614.466.5786 513.921.1423	
<b>Duffey, Mike</b> (R-21) 13th Floor 645 Farrington Dr., Worthington 43085	614.644.6030 614.505.7700	
<b>Fedor, Teresa</b> (D-45) 10th Floor 242 Willard, Toledo 43614	614.644.6017 419.385.8803	
<b>Gerberry, Ronald</b> (D-59) 10th Floor 2940 Whispering Pines, Canfield 44406	614.466.6107 330.799.2674	
<b>Ginter, Tim</b> (R-05) 13th Floor 748 S. Lincoln Ave., Salem 44460	614.466.8022 614.466.8022	
<b>Gonzales, Anne</b> (R-19) 13th Floor 335 Wildwood Dr, Westerville 43081	614.466.4847 614.354.4034	
<b>Green, Doug</b> (R-66) 13th Floor 708 S. High St., Mt. Orab 45154	614.644.6034 937.444.3306	
<b>Grossman, Cheryl</b> (R-23) 13th Floor 3143 Park St., Grove City 43123	614.466.9690 614.466.9690	
<b>Hackett, Robert</b> (R-74) 11th Floor 2050 Palouse Dr, London 43140	614.466.1470 740.852.0437	
<b>Hagan, Christina</b> (R-50) 13th Floor 11787 Marlboro Ave., NE Alliance 44601	614.466.9078 330.227.1988	
<b>Hall, Dave</b> (R-70) 11th Floor 358 E. Jackson St., Millersburg 44654	614.466.2994 330.287.3352	
<b>Hambley, Steve</b> (R-69) 11th Floor 2820 Grafton Rd., Brunswick 44212	614.466.8140 330.225.0436	
<b>Hayes, Bill</b> (R-72) 12th Floor 58 Corbin Dr, Granville 43023	614.466.2500 740.927.4285	
<b>Henne, Michael</b> (R-40) 13th Floor 8447 Diamond Mill Rd., Clayton 45315	614.644.8051 937.832.7475	
<b>Hill, Brian</b> (R-97) 11th Floor 2585 AsburyChapelRd., Zanesville 43701	614.644.6014 740.787.2585	
<b>Hood, Ron</b> (D-56) 10th Floor 14553 Walnut Creek Pike, Ashville 43103	614.466.1464 740.983.6191	
<b>Howse, Stephanie</b> (D-11) 10th Floor 1804 E. 93rd St., Cleveland 44106	614.466.1414 216.791.8047	
<b>Huffman, Stephen</b> (R-80) 11th Floor 862 Buckeye Ct., Tipp City 45371	614.466.8114 937-667-1877	
<b>Johnson, Greta</b> (D-35) 10th Floor 2220 Cambridge Ct., Akron 44319	614.644.6037 330.784.2466	
<b>Johnson, Terry</b> (R-90) 11th Floor 74A McDaniel Rd., McDermott 45652	614.466.2124 740.259.3630	
<b>Koehler, Kyle</b> (R-79) 11th Floor 4674 Horniny Ridge Rd., Springfield 45502	614.466.2038 937.969.9192	
<b>Kraus, Stephen</b> (R-89) 11th Floor 1402 McDonough St., Sandusky 44870	614.644.6011 419.626.0028	
<b>Kuhns, Christie Bryant</b> (D-32) 10th Floor 1620 Otte Ave., Cincinnati 45223	614.466.1645 614.466.1645	
<b>Kunze, Stephanie</b> (R-24) 11th Floor 5994 Farm Creek Ct., Hilliard 43026	614.466.8012 440.858.2998	
<b>Landis, Al</b> (R-98) 11th Floor 4570 Harold St. NW, Dover 44622	614.466.8035 330.365.0533	
<b>LaTourette, Sarah</b> (R-76) 11th Floor 7082 Oak St., Bainbridge 44022	614.644.5088 440.600.4006	
<b>Leland, David</b> (D-22) 10th Floor 361 Walhalla Rd., Columbus 43202	614.466.2473 614.262.5896	
<b>Lepore-Hagan, Michele</b> (D-58) 10th Floor 562 Madera Ave., Youngstown 44504	614.466.9435 330.746.8091	
<b>Maag, Ron</b> (R-62) 13th Floor 2075 South SR 123, Lebanon 45036	614.644.6023 513.932.4646	
<b>Manning, Nathan</b> (R-55) 11th Floor 38179 Terrell Dr, N. Ridgeville 44039	614.644.5076 440.327.1799	
<b>McClain, Jeffrey</b> (R-87) 12th Floor 555 Sunset Dr, Upper Sandusky 43351	614.644.6265 419.294.2181	
<b>McColley, Robert</b> (R-81) 11th Floor 15 Lemans Dr, Napoleon 43545	614.466.3760 419.592.9289	
<b>O'Brien, Michael</b> (D-64) 10th Floor 1849 Edgewood St. NE, Warren 44483	614.466.5358 330.372.4363	
<b>O'Brien, Sean</b> (D-63) 10th Floor 7307 Stewart Sharon Rd., Hubbard 44425	614.466.3488 330.448.6818	
<b>Patmon, Bill</b> (D-10) 11th Floor 867 East Blvd., Cleveland 44108	614.466.7954 216.681.8393	
<b>Patterson, John</b> (D-99) 10th Floor 78 E. Beech St., Jefferson 44047	614.466.1405 440.576.9863	
<b>Pelanda, Dorothy</b> (R-86) 14th Floor 745 W. 7th St., Marysville 43040	614.466.8147 937.644.0550	
<b>Perales, Rick</b> (R-73) 13th Floor 2766 Chatham Ct., Beavercreek 45431	614.644.6020 937.426.2787	
<b>Phillips, Debbie</b> (D-94) 10th Floor 48 Hudson Ave., Athens 45701	614.466.2158 740.592.2008	
<b>Ramos, Dan</b> (D-56) 10th Floor 2004 E. Serenity Lane, Lorain 44053	614.466.5141 440.282.2074	
<b>Reece, Alicia</b> (D-33) 10th Floor 2081 Seymour Ave., Apt. A, Cincinnati 45237	614.466.1308 513.227.0892	
<b>Reineke Jr., William</b> (R-88) 13th Floor 5209 S. SR 213, Tiffin 44883	614.466.1374 419.447.8607	
<b>Retherford, Wes</b> (R-51) 13th Floor 350 AshleyBrook Dr, Hamilton 45013	614.644.6721 513.686.0245	
<b>Rezabek, Jeffrey</b> (R-43) 11th Floor 3865 Old Salem Rd., Dayton 45415	614.466.2960 937.836.1366	
<b>Roegner, Kristina</b> (R-37) 11th Floor 2222 E. Streetsboro Rd., Hudson 44236	614.466.1177 330.656.1935	
<b>Rogers, John</b> (D-60) 10th Floor 5428 Pinehill Dr, Mentor-On-The-Lake 44060	614.466.7251 440.257.4866	
<b>Romanchuk, Mark</b> (R-02) 11th Floor 3306 Oakstone Dr, Mansfield 44903	614.466.5802 419.612.5610	
<b>Rosenberger, Cliff</b> (R-91) 14th Floor 7027 SR 350 W., Clarksville 45113	614.466.3506 937.716.9869	
<b>Ruhl, Margaret Ann</b> (R-68) 11th Floor 3 Swingle Ave., Mt. Vernon 43050	614.466.1431 740.393.1889	
<b>Ryan, Scott</b> (R-71) 11th Floor 3216 Sharon Valley Rd. NE, Newark 43055	614.466.1482 740.366.3431	
<b>Schaffer, Tim</b> (R-77) 13th Floor 1173 Stone Run Ct., Lancaster 43130	614.466.8100 740.654.0007	
<b>Scherer, Gary</b> (R-92) 13th Floor 19920 Commercial Pt. Rd., Circleville 43113	614.644.7928 740.474.8712	
<b>Schuring, Kirk</b> (R-48) 11th Floor 1817 Devonshire NW., Canton 44708	614.752.2438 330.478.2900	
<b>Sears, Barbara</b> (R-47) 14th Floor PO Box 409, Sylvania 43560	614.466.1731 419.882.2150	
<b>Sheehy, Michael</b> (D-46) 10th Floor 1129 Schmidlin Rd., Oregon 43616	614.466.1418 419.698.3095	
<b>Slaby, Marilyn</b> (R-38) 11th Floor 527 Cheswyck Ct., Copley 44321	614.644.5085 330.665.5445	
<b>Slesnick, Stephen</b> (R-49) 10th Floor 4725 Greenbrier Sq. NE, Canton 44714	614.466.8030 330.353.0373	
<b>Smith, Kent</b> (D-08) 10th Floor 24450 Devoe Ave., Euclid 44123	614.466.5441 216.862.5425	
<b>Smith, Ryan</b> (R-93) 13th Floor 515 Arbuckle Rd., Gallipolis 45631	614.466.1366 740.446.3653	
<b>Sprague, Robert</b> (R-83) 13th Floor 830 S. Main St., Findlay 48840	614.466.3819 419.421.0543	
<b>Stinziano, Michael</b> (D-18) 10th Floor 1128 Highland St., Columbus 43201	614.466.1896 614.725.0420	
<b>Strahorn, Fred</b> (D-39) 14th Floor 531 Belmonte Park N., Dayton 45405	614.466.1607 937-227-3207	
<b>Sweeney, Martin</b> (D-14) 11th Floor 3632 W. 133rd St., Cleveland 44111	614.466.3350 216.252.0986	
<b>Sykes, Emilia</b> (D-34) 10th Floor 109 N. Howard St., Apt A, Akron 44308	614.466.3100 330.376.2922	
<b>Terhar, Louis</b> (R-30) 13th Floor 5995 Boomer Rd., Cincinnati 45247	614.466.8258 513.574.2574	
<b>Thompson, Andrew</b> (R-95) 11th Floor 729 Sixth St., Marietta 45750	614.644.8728 740.373.1764	
<b>Vitale, Nino</b> (R-85) 11th Floor 4940 Benson Rd., Urbana 43078	614.466.1507 937.834.1961	
<b>Young, Ron</b> (R-61) 13th Floor 6893 Mildon Dr, Leroy 44077	614.644.6074 440.266.0022	
<b>Zeltwanger, Paul</b> (R-54) 12th Floor 4607 White Blossom Blvd., Mason 45040	614.644.6027 513.850.3476	

# House Committees

## \*Ranking Minority

<b>Agriculture and Rural Development</b> 644.6014 Hill (R)-Chair; Burkley (R)-Vice-Chair (R) Boose, Buchy, Hagan, Kraus, LaTourette, Retherford, Rezabek, Ruhl, Schaffer, Thompson, Vitale, Zeltwanger (D) *Patterson, Cera, O'Brien M., O'Brien S., Patmon, Phillips, Sheehy	<b>Community and Family Advancement</b> 644.5094 Derickson (R)-Chair; Ginter (R)-Vice-Chair (R) Antani, Conditt, Dever, Hagan, Hayes, Hood, McClain, Young (D) *Howse, Boyce, Boyd, Lepore-Hagan, Patmon
<b>Armed Services, Veterans Affairs, and Public Safety</b> 466.2124 Johnson T. (R)-Chair Perales (R)-Vice-Chair (R) Anielski, Kraus, Landis, Retherford, Terhar, Vitale (D) *Craig, Bishoff, Fedor, Johnson G., O'Brien M., Young, Zeltwanger	<b>Community and Family Advancement Subcommittee on Minority Affairs</b> 466.5343 Boyce (D)-Chair; (R) Antani, Conditt, Dever (D) Patmon
<b>Economic and Workforce Development</b> 466.0961 Baker (R)-Chair Romanchuk (R)-Vice-Chair (R) Antani, Koehler, Kraus, Perales, Ryan, Young, Zeltwanger (D) *Smith K., Barnes, Craig, Driehaus	<b>Financial Institutions, Housing, and Urban Development</b> 466.8258 Terhar (R)-Chair Hambley (R)-Vice-Chair (R) Brenner, Brown, Dovilla, Hackett, Reineke, Scherer, Sprague (D) *Smith K., Bishoff, Craig, Leland
<b>Commerce and Labor</b> 644.6074 Young (R)-Chair; DeVitis (R)-Vice-Chair (R) Blessing, Brinkman, Duffey, Hood, Koehler, Landis, Pelanda, Roegner (D) *Lepore-Hagan, Fedor, Reece, Slesnick, Sweeney	<b>Government Accountability and Oversight</b> 466.8104 McClain (R)-Chair Scherer (R)-Vice-Chair (R) Amstutz, Baker, Boose, Burkley, Dever, Hambley, Henne, McColley, Reineke, Ryan, Schaffer, Slaby (D) *Cera, Barnes, Curtin, Driehaus, Rogers, Sheehy, Sykes

<b>Education</b> 466.2500 Hayes (R)-Chair; Brenner (R)-Vice-Chair (R) Blessing, Cupp, Derickson, Henne, Huffman, Koehler, Manning, Roegner, Slaby, Smith R. (D) *Fedor, Boyd, Patmon, Patterson, Phillips, Ramos, Smith K.	<b>Energy and Natural Resources</b> 466.8035 Landis (R)-Chair; Hagan (R)-Vice-Chair (R) Grossman, Hall, Hill, Maag, Slaby, Terhar, Thompson (D) *O'Brien S., Cera, Howse, Leland
<b>Finance</b> 466.1366 Smith R. (R)-Chair Schuring (R)-Vice-Chair (R) Anielski, Burkley, Cupp, Derickson, Dovilla, Duffey, Green, Grossman, Hall, Kunze, Maag, McClain, Perales, Reineke, Romanchuk, Scherer, Sears, Sprague, Thompson (D) *Driehaus, Antonio, Boyce, Cera, Clyde, O'Brien M., Patterson, Phillips, Ramos, Reece, Sykes	<b>Health and Human Services Subcommittee</b> 466.3819 Sprague (R)-Chair Roegner (R)-Vice-Chair (R) Romanchuk, Sears (D) *Sykes, Antonio
<b>Agriculture, Development, and Natural Resources Subcommittee</b> 644.8728 Thompson (R)-Chair (R) Burkley, Hall (D) *O'Brien M., Cera	<b>Health and Human Services Subcommittee</b> 466.3819 Schaffer (R)-Chair Roegner (R)-Vice-Chair (R) Amstutz, Brinkman, Buchy, Conditt, Cupp, Dovilla, Ginter, Hagan, Hall, Hill, Manning, Romanchuk, Ryan (D) *Ashford, Clyde, O'Brien S., Rogers, Sheehy, Slesnick, Smith K., Stinziano
<b>Public Utilities</b> 466.8100 Schaffer (R)-Chair Roegner (R)-Vice-Chair (R) Amstutz, Brinkman, Buchy, Conditt, Cupp, Dovilla, Ginter, Hagan, Hall, Hill, Manning, Romanchuk, Ryan (D) *Ashford, Clyde, O'Brien S., Rogers, Sheehy, Slesnick, Smith K., Stinziano	<b>Rules and Reference</b> 466.1474 Amstutz (R)-Chair Rosenberger (R)-Vice-Chair (R) Brenner, Grossman, Hayes, Hood, Pelanda, Kunze (D) *Gerberry, Curtin, Slesnick, Sweeney
<b>Health and Aging</b> 466.4847 Gonzales (R)-Chair Huffman (R)-Vice-Chair (R) Brown, Butler, Duffey, Ginter, Johnson T., LaTourette, Maag, Schuring, Sears, Sprague (D) *Antonio, Barnes, Bishoff, Celebrezze, Lepore-Hagan, Ramos, Sykes	<b>State Government</b> 644.6023 Maag (R)-Chair; Kunze (R)-Vice-Chair (R) Becker, Grossman, Hackett, Hood, Huffman, LaTourette, Perales (D) *Gerberry, Curtin, Slesnick, Sweeney
<b>Insurance</b> 466.1470 Hackett (R)-Chair Henne (R)-Vice-Chair (R) Brinkman, DeVitis, Gonzales, Kunze, LaTourette, Retherford, Sears (D) *Bishoff, Ashford, Leland, Stinziano	<b>Transportation and Infrastructure</b> 466.9628 Boose (R)-Chair; Green (R)-Vice-Chair (R) Antani, Becker, Dever, DeVitis, Dovilla, Johnson T., Ruhl, Vitale (D) *Sheehy, Howse, Johnson G., Lepore-Hagan, Sweeney

Poll	Date	Bush	Walker	Rubio	Huckabee	Carson	Paul	Cruz	Christie	Trump	Perry	Kasich	Santorum	Fiorina	Jindal	Spread
<b>RCP Average</b>	<b>4/16 - 5/26</b>	<b>14.8</b>	<b>13.0</b>	<b>12.2</b>	<b>9.2</b>	<b>9.2</b>	<b>9.0</b>	<b>8.0</b>	<b>4.8</b>	<b>4.5</b>	<b>2.0</b>	<b>2.0</b>	<b>1.7</b>	<b>1.5</b>	<b>1.3</b>	<b>Bush +1.8</b>
Quinnipiac	5/19 - 5/26	10	10	10	10	10	7	6	4	5	1	2	0	2	1	Tie
FOX News	5/9 - 5/12	13	11	9	10	13	7	6	6	4	2	2	2	1	1	Tie
PPP (D)	5/7 - 5/10	11	18	13	12	12	9	10	5	--	2	--	--	--	--	Walker +5
NBC/W SJ	4/26 - 4/30	23	14	18	5	7	11	11	5	--	2	--	--	1	--	Bush +5
CNN/ORC	4/16 - 4/19	17	12	11	9	4	11	7	4	--	3	2	3	2	2	Bush +5

## Polling Data

All 2016 Republican Presidential Nomination Polling Data

# LEGAL MARIJUANA

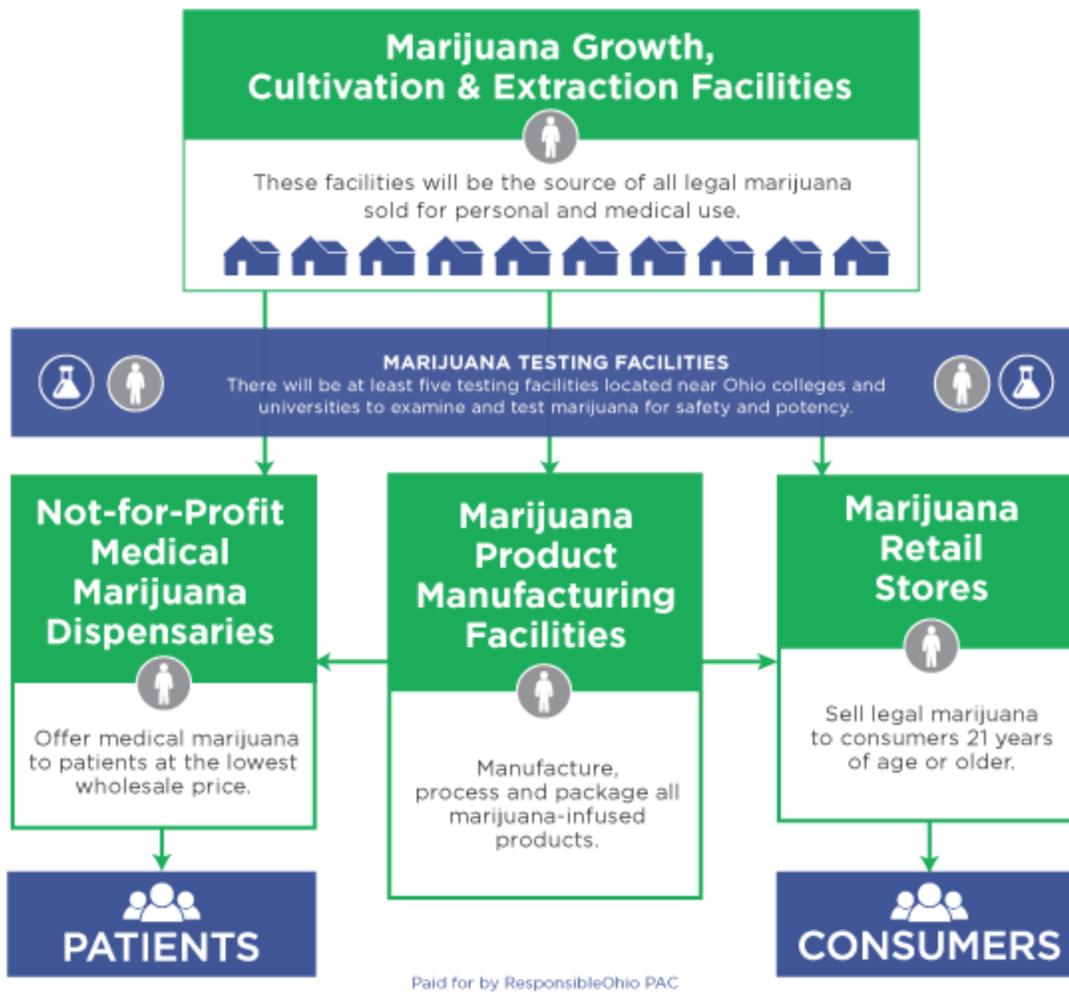
## OPPORTUNITIES FOR OHIOANS



Ohioans will have many opportunities to take part in this new industry. For example, they can own and operate retail stores; make marijuana-infused products like sprays, drinks and baked goods; design product packaging; and transport products between facilities. This open market will **create new businesses and thousands of new jobs**. The possibilities will be limited only by Ohioans' creativity.



Indicates new jobs and opportunities for entrepreneurs.



The first major overhaul to Ohio's process of drawing state legislative districts in over 40 years, this measure brings reforms to several key areas:

### ***BIPARTISAN***

- Creates a new seven-member bipartisan panel called the "Ohio Redistricting Commission."
- The commission must have at least two members from the minority party.
- Requires the commission to be co-chaired by two members, one chosen by each party.
- Requires at least two votes from each party in order to approve a district plan, otherwise a temporary plan is put in place and the commission must reconvene to redraw it.

### ***TRANSPARENT***

- Requires all commission meetings be open to the public and broadcast by electronic means of transmission using a medium readily accessible by the general public.
- The commission must hold a minimum of three public hearings.
- Before voting on a district plan, the commission is required to present the proposal to the public and to seek public input.
- Requires the commission to submit a statement to the public explaining their process.

### ***FAIRNESS***

- Protects against gerrymandering by prohibiting any plan from primarily favoring one political party.
- Requires districts to closely follow the statewide preferences of the voters.

### ***ACCOUNTABLE***

- Creates a process for the Ohio Supreme court to order the commission to redraw the map if the plan favors one political party.

## ***PROTECTS COMMUNITIES***

- Keeps our communities together by requiring a district plan to split as few counties, municipal corporations, and townships as possible.”

“Fair Districts for Ohio is a bipartisan coalition seeking to improve the process of drawing state legislative districts in Ohio. Co-Chairmen [Matt Huffman](#) and [Vernon Sykes](#) began building the coalition after a near unanimous vote by state lawmakers from both parties to place a constitutional amendment before the voters of Ohio to reform the process of drawing districts. With overwhelming support from both Republican and Democratic lawmakers, the issue will appear on the ballot this November giving Ohioans the opportunity to ensure state legislative districts are fair for everyone.”



# Ohio Legislative Service Commission

## Final Analysis

Emily E. Wendel

### **Am. Sub. H.J.R. 12** 130th General Assembly (As Adopted by the General Assembly)

**Reps.** Huffman and Sykes, Amstutz, Anielski, Ashford, Baker, Brown, Burkley, Clyde, Duffey, Grossman, Hackett, C. Hagan, Hayes, Kunze, Letson, McClain, McGregor, Patmon, Scherer, Schuring, Stebelton, Wachtmann, Batchelder

**Sens.** Faber, Coley, Bacon, Balderson, Beagle, Burke, Eklund, Gardner, Gentile, Hite, LaRose, Lehner, Peterson, Sawyer, Schiavoni, Turner, Widener

**Adopted:** December 17, 2014; to be submitted to voters at the election held on November 3, 2015; if approved, effective January 1, 2021

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## RESOLUTION SUMMARY

### Ohio Redistricting Commission

- Replaces the Apportionment Board with the Ohio Redistricting Commission, and makes the Commission responsible for redistricting the state for the General Assembly.
- Specifies that the Commission consists of the Governor, the Auditor of State, the Secretary of State, and four persons appointed by majority and minority leaders in the General Assembly.
- Requires the legislative leaders in the Senate and the House of Representatives of each of the two largest political parties represented in the General Assembly, acting jointly by political party, to appoint a co-chairperson of the Commission.
- Requires the Governor to convene the Commission only in years ending in the numeral one, unless the Commission is convened by a court to draw judicially invalidated districts or the Commission must draw new districts following the expiration of a plan adopted under the proposal's impasse procedure.
- Prescribes procedural requirements for meetings of the Commission.

- Requires the General Assembly to make the appropriations it determines are necessary in order for the Commission to perform its duties.

### **Method of selecting a district plan**

- Requires the Commission to adopt a district plan by a specified bipartisan vote of four members.
- Specifies that, if the Commission fails to adopt a final district plan not later than September 1, the Commission must introduce a district plan by a simple majority vote and must hold a public hearing on the plan.
- Requires the Commission, not later than September 15, to adopt a final district plan, either by the bipartisan vote described above or by a simple majority vote.
- Specifies that if the Commission adopts a plan by that bipartisan vote, the plan remains effective until the next year ending in the numeral one, unless a court convenes the Commission to redraw judicially invalidated districts.
- Provides generally that if the Commission adopts a plan by a simple majority vote, the plan remains effective until two general elections for the House of Representatives have occurred under the plan.
- Specifies that if, before a year ending in the numeral one, the Commission adopts another plan by a simple majority vote to replace a plan adopted under the impasse procedure, the newly adopted plan remains effective until a year ending in the numeral one, unless the Commission is reconstituted and convened by a court to draw judicially invalidated districts.
- Requires a plan adopted by a simple majority vote to include a statement explaining what the Commission determined to be the statewide preferences of the voters of Ohio and the manner in which the statewide proportion of districts in the plan whose voters, based on statewide state and federal partisan general election results during the last ten years, favor each political party corresponds closely to those preferences.
- Allows a member of the Commission who does not vote in favor of the plan to submit a declaration of the member's opinion concerning that statement.
- Requires, after a plan adopted by a simple majority vote ceases to be effective after two general elections for the House of Representatives, that the Commission convene not earlier than July 1 of the following year to adopt a new General



Assembly district plan using the same population and political subdivision boundary data as were used to draw the previous plan.

### **District standards**

- Establishes new constitutional standards for the drawing of General Assembly districts.

### **Legal challenges**

- Specifies that, if any section of the Constitution relating to redistricting, any General Assembly district plan, or any district is determined to be invalid by an unappealed final order of a court of competent jurisdiction, then the Commission must be reconstituted and convene to adopt a district plan that conforms with the provisions of the Constitution that are then valid.
- Prohibits a court, in any circumstance, from ordering the implementation or enforcement of any plan that has not been approved by the Commission.
- Prohibits a court from ordering the Commission to adopt a particular General Assembly district plan or to draw a particular district.
- Prescribes the available remedies in the event that the Ohio Supreme Court determines that a General Assembly district plan adopted by the Commission does not comply with the constitutional district standards.

### **Miscellaneous**

- Repeals the current constitutional provision describing the district plans in effect until January 1, 1973.

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## CONTENT AND OPERATION

### Ohio Redistricting Commission

The joint resolution proposes an amendment to the Ohio Constitution to create the Ohio Redistricting Commission to replace the Apportionment Board as the body responsible for drawing General Assembly districts.

#### Composition

Under the resolution, the Ohio Redistricting Commission consists of the following seven members:<sup>1</sup>

- The Governor;
- The Auditor of State;
- The Secretary of State;
- One person appointed by the Speaker of the House of Representatives;
- One person appointed by the President of the Senate;
- One person appointed by the Minority Leader of the House;
- One person appointed by the Minority Leader of the Senate.

The legislative leaders in the Senate and the House of each of the two largest political parties represented in the General Assembly, acting jointly by political party, must appoint one member of the Commission to serve as a co-chairperson.

Currently, the Apportionment Board is responsible for drawing General Assembly districts. The Apportionment Board consists of the Governor, the Auditor of State, the Secretary of State, one person chosen by the Speaker of the House and the leader in the Senate of the political party of which the Speaker is a member, and one person chosen by the legislative leaders in the two houses of the political party of which the Speaker is not a member.<sup>2</sup>

#### Organizational procedures

The resolution requires the Governor to convene the Ohio Redistricting Commission only in a year ending in the numeral one, unless the Commission is convened by a court to draw judicially invalidated districts or the Commission must draw new districts following the expiration of a plan adopted under the proposal's



impasse procedure (see "**Method of selecting a district plan**," below). Under the resolution, district boundaries must not be changed at any other time.

The Constitution currently requires the Governor to convene the Apportionment Board between August 1 and October 1 of a year ending in the numeral one, and to give the Board two weeks advance notice of the date, time, and place of the meeting.

At the Commission's first meeting, the proposal requires the Commission to set a schedule for the adoption of procedural rules for the operation of the Commission.

Under the resolution, a simple majority of the Commission generally is required for any organizational action by the Commission. A majority vote of the Commission, including at least one member of the Commission who is a member of each of the two largest political parties represented in the General Assembly, is required to adopt rules of the Commission, to hire staff for the Commission, or to expend funds. However, if the Commission is unable to agree by that vote on the manner in which funds should be expended, each co-chairperson of the Commission has the authority to expend ½ of the funds that have been appropriated to the Commission. Finally, a specified bipartisan vote generally is required to adopt a district plan (see "**Method of selecting a district plan**," below).

The Commission must release a proposed district plan to the public. The proposed plan must be drafted according to the constitutional requirements. After introducing a General Assembly district plan but before adopting a final plan, the Commission must conduct a minimum of three public hearings across the state to present the proposed plan and to seek public input regarding the proposed plan. All meetings of the Ohio Redistricting Commission must be open to the public. Meetings must be broadcast by electronic means of transmission using a medium readily accessible to the general public.

Four weeks after the adoption of a General Assembly district plan, the Commission is automatically dissolved.

Finally, under the resolution, the General Assembly must make the appropriations it determines are necessary in order for the Commission to perform its duties.<sup>3</sup>

### **Method of selecting a district plan**

In order to adopt a final district plan, the resolution requires the affirmative vote of four members of the Commission, including at least two members of the Commission who represent each of the two largest political parties represented in the General Assembly. A member of the Commission is considered to represent a political party if



the member was appointed to the Commission by a member of that party or if, in the case of the Governor, the Auditor, or the Secretary of State, the person is a member of that party.

The Commission must adopt a final General Assembly district plan not later than September 1 of a year ending in the numeral one. The plan becomes effective upon filing with the Secretary of State, which the Commission must do promptly.<sup>4</sup>

If the Commission fails to adopt a final district plan by that deadline, the Commission must introduce a district plan by a simple majority vote of the Commission. Then, the Commission must hold a public hearing concerning the introduced plan. Members of the Commission should attend the hearing; however, only a quorum of the members of the Commission is required to conduct the hearing. At the hearing, the public may offer testimony, and the Commission may adopt amendments to the introduced plan.

After that hearing is held, and not later than September 15 of that year, the Commission must adopt a final district plan, either by the bipartisan vote described above or by a simple majority vote. If the Commission adopts a plan by that bipartisan vote, the plan remains effective until the next year ending in the numeral one, unless a court convenes the Commission to redraw judicially invalidated districts.

If the Commission adopts a plan by a simple majority vote, the plan remains effective until two general elections for the House of Representatives have occurred under the plan. However, if, before a year ending in the numeral one, the Commission adopts another plan by a simple majority vote to replace a plan adopted under the impasse procedure, the newly adopted plan remains effective until a year ending in the numeral one, unless the Commission is reconstituted and convened by a court to draw judicially invalidated districts.

A plan adopted by a simple majority vote must include a statement explaining what the Commission determined to be the statewide preferences of the voters of Ohio and the manner in which the statewide proportion of districts in the plan whose voters, based on statewide state and federal partisan general election results during the last ten years, favor each political party corresponds closely to those preferences, as described in the procedure for drawing districts (see "**District standards**," below). At the time the plan is adopted, a member of the Commission who does not vote in favor of the plan may submit a declaration of the member's opinion concerning that statement.

When a plan adopted by a simple majority vote ceases to be effective before a year ending in the numeral one, not earlier than July 1 of the year following the year in which the plan ceased to be effective, the Commission must be reconstituted, convene,



and adopt a new General Assembly district plan. The Commission must draw the new plan using the same population and political subdivision boundary data as were used to draw the previous plan.<sup>5</sup>

Existing law requires a majority vote of the Apportionment Board to adopt a district plan, and requires the Governor to cause a district plan to be published no later than October 5 of the year in which it is made.<sup>6</sup>

### District standards

The table below compares the Ohio Constitution's current requirements for drawing General Assembly districts with the requirements proposed by the resolution.

Topic	Article XI, Ohio Constitution	Am. Sub. H.J.R. 12
<b>District population requirements</b>	<p>Permits the General Assembly to designate a method for determining the population of the state for purposes of calculating the ratios of representation in the General Assembly, if the federal decennial census is unavailable.</p> <p>Requires the population of each House of Representatives district to be substantially equal to the ratio of representation in the House of Representatives, and generally prohibits a House of Representatives district from containing a population of less than 95% nor more than 105% of the ratio of representation.</p> <p>Specifies that a reasonable effort must be made to draw a county that has between 90% and 95% or 105% and 110% of the ratio of representation in the House of Representatives as a single district.<sup>7</sup></p> <p>Requires the population of each Senate district to be substantially equal to the ratio of representation in the Senate, and prohibits any Senate district from containing a population of less than 95% nor more than 105% of the ratio of representation.<sup>8</sup></p>	<p>Same as the current Constitution, but eliminates the option to draw a county that has a population of between 90% and 95% or 105% and 110% of the ratio of representation in the House of Representatives as a single district.<sup>10</sup></p>



Topic	Article XI, Ohio Constitution	Am. Sub. H.J.R. 12
	Specifies that each House of Representatives district is entitled to a single representative in each General Assembly and that each Senate district is entitled to a single senator in each General Assembly. <sup>9</sup>	
<b>Legal requirements for districts</b>	No provision.	Requires any plan adopted by the Commission to comply with all applicable provisions of the constitutions of Ohio and the United States and of federal law. <sup>11</sup>
<b>General requirements for House districts</b>	Requires every House of Representatives district to be compact and composed of contiguous territory, and the boundary of each district to be a single nonintersecting continuous line. <sup>12</sup>	Requires every House of Representatives district to be composed of contiguous territory, and the boundary of each district to be a single nonintersecting continuous line. <sup>13</sup>
<b>Procedure for drawing House districts</b>	<p>Specifies that, to the extent consistent with population requirements, the boundary lines of districts must be so drawn so as to delineate an area containing one or more whole counties.</p> <p>Specifies that, where population requirements cannot feasibly be attained by forming a district from a whole county or counties, the district must be formed by combining the areas of governmental units giving preference, in the order named, to counties, townships, municipalities, and city wards.</p> <p>Specifies that, where governmental units must be divided to meet population requirements, only one such unit may be divided between two districts, giving preference in the selection of a unit for division to a township, a city ward, a city, and a village in the order named.<sup>14</sup></p> <p>Requires a county having at least one House of Representatives ratio of</p>	<p>Requires House of Representatives districts to be created and numbered in the following order of priority, to the extent that such order is consistent with the foregoing standards:<sup>19</sup></p> <p>(1) Proceeding in succession from the largest to the smallest, each county containing population greater than 105% of the ratio of representation in the House must be divided into as many House districts as it has whole ratios of representation. Any fraction of the population in excess of a whole ratio must be a part of only one adjoining House district.</p> <p>(2) Each county containing population of not less than 95% nor more than 105% of the ratio of representation in the House must be designated a House district.</p> <p>(3) The remaining territory of the state must be divided into House districts by combining the areas of</p>



Topic	Article XI, Ohio Constitution	Am. Sub. H.J.R. 12
	<p>representation to have as many House of Representatives districts wholly within the boundaries of the county as it has whole ratios of representation, and requires any fraction of the population in excess of a whole ratio to be a part of only one adjoining House of Representatives district.<sup>15</sup></p> <p>Requires each county containing population substantially equal to one ratio of representation in the House of Representatives, but in no event less than 95% of the ratio nor more than 105% of the ratio to be designated a representative district.<sup>16</sup></p> <p>Requires a reasonable effort to be made to create a House of Representatives district consisting of a whole county, when the county has a population of between 90% and 110% of the ratio of representation.<sup>17</sup></p> <p>Proceeding in succession from the largest to the smallest, requires each remaining county containing more than one whole ratio of representation to be divided into House of Representatives districts, with the remaining territory within such county containing a fraction of one whole ratio of representation included in one representative district by combining it with adjoining territory outside the county.<sup>18</sup></p>	<p>counties, municipal corporations, and townships. Where feasible, no county may be split more than once.</p> <p>Provides that in general, a county, municipal corporation, or township is considered to be split if any contiguous portion of its territory is not contained entirely within one district.</p> <p>Specifies that if a municipal corporation or township has territory in more than one county, the contiguous portion of that municipal corporation or township that lies in each county must be considered to be a separate municipal corporation or township for the purposes of drawing House districts.</p> <p>Provides that if a municipal corporation or township that is located in a county that contains a municipal corporation or township that has a population of more than one ratio of representation is split because it is not possible for the Commission to comply with all of the requirements for drawing House districts, the municipal corporation or township must be considered to be a separate municipal corporation or township for the purposes of drawing House districts.</p> <p>Requires House districts to be drawn so as to split the smallest possible number of municipal corporations and townships whose contiguous portions contain a population of more than 50%, but less than 100%, of one ratio of representation.</p> <p>Specifies that where the above requirements cannot feasibly be attained by forming a House district</p>



Topic	Article XI, Ohio Constitution	Am. Sub. H.J.R. 12
		<p>from whole municipal corporations and townships, not more than one municipal corporation or township may be split per House district.<sup>20</sup></p> <p>Requires the Commission, if it is not possible for the Commission to comply with all of the requirements for drawing House districts in drawing a particular district, to take the first action listed below that makes it possible for the Commission to draw that district:</p> <p>(1) The Commission must create the district by splitting two municipal corporations or townships whose contiguous portions do not contain a population of more than 50%, but less than 100%, of one ratio of representation.</p> <p>(2) The Commission must create the district by splitting a municipal corporation or township whose contiguous portions contain a population of more than 50%, but less than 100%, of one ratio of representation.</p> <p>(3) The Commission must create the district by splitting, once, a single county that contains a population of not less than 95%, but not more than 105%, of the ratio of representation.</p> <p>(4) The Commission must create the district by including in two districts portions of the territory that remains after a county that contains a population of more than 105% of the ratio of representation has been divided into as many House districts as it has whole ratios of representation.</p>



Topic	Article XI, Ohio Constitution	Am. Sub. H.J.R. 12
		<p>Specifies that if the Commission takes an action listed immediately above, the Commission must include in the district plan a statement explaining which action the Commission took and the reason the Commission took that action.</p> <p>Specifies that if the Commission takes an action listed immediately above in drawing a district and includes the required statement in the district plan, the Commission must not be considered to have violated the applicable requirement for that district, for the purpose of a court's analysis.<sup>21</sup></p> <p>Requires the Commission to attempt to draw a General Assembly district plan that meets all of the following standards:</p> <ul style="list-style-type: none"> <li>• No district plan shall be drawn primarily to favor or disfavor a political party.</li> <li>• The statewide proportion of districts whose voters, based on statewide state and federal partisan general election results during the last ten years, favor each political party must correspond closely to the statewide preferences of the voters of Ohio.</li> <li>• General Assembly districts must be compact.</li> </ul> <p>Specifies that nothing in those provisions permits the Commission to violate the other General Assembly district standards described in the resolution.<sup>22</sup></p>



Topic	Article XI, Ohio Constitution	Am. Sub. H.J.R. 12
<b>General requirements for Senate districts</b>	Requires Senate districts to be composed of three contiguous House of Representatives districts. <sup>23</sup>	Requires Senate districts to be composed of three contiguous House of Representatives districts. <sup>24</sup>  Requires every Senate district to be composed of contiguous territory, and the boundary of each district to be a single nonintersecting continuous line. <sup>25</sup>
<b>Procedure for drawing Senate districts</b>	Requires a county having at least one whole Senate ratio of representation to have as many Senate districts wholly within the boundaries of the county as it has whole Senate ratios of representation, and requires any fraction of the population in excess of a whole ratio to be a part of only one adjoining Senate district.  Specifies that counties having less than one Senate ratio of representation, but at least one House of Representatives ratio of representation, must be part of only one Senate district. <sup>26</sup>	Same as the current Constitution, but specifies that if it is not possible for the Commission to draw House districts that comply with all of the requirements of Article XI and that make it possible for the Commission to comply with those requirements, the Commission must draw Senate districts so as to commit the fewest possible violations of those requirements.  Specifies that if the Commission complies with the above procedure in drawing Senate districts, the Commission must not be considered to have violated the applicable requirement in drawing those districts, for the purpose of a court's analysis. <sup>27</sup>
<b>Senators whose terms will not expire</b>	Specifies that, when district boundaries are changed, a senator whose term will not expire within two years of the time the plan of apportionment is made must represent, for the remainder of the term for which the senator was elected, the Senate district that contains the largest portion of the population of the district from which the senator was elected, and requires the district to be given the number of the district from which the senator was elected.  Specifies that, if more than one senator whose term will not so expire	Generally retains the current constitutional provision for numbering a Senate district when the term of the senator who represents the district does not immediately expire.  Requires the district plan itself to designate which senator will represent a district if more than one senator would represent that district. <sup>29</sup>



Topic	Article XI, Ohio Constitution	Am. Sub. H.J.R. 12
	would represent the same district by following these provisions, the persons responsible for apportionment, by a majority vote, must designate which senator will represent the district and designate which district the other senator or senators will represent for the balance of their term or terms. <sup>28</sup>	
<b>Preservation of previous district boundaries</b>	Requires district boundaries established by the preceding apportionment to be adopted to the extent reasonably consistent with the population requirements. <sup>30</sup>	No provision.
<b>Political subdivision boundaries to be used</b>	Notwithstanding the fact that the boundaries of political subdivisions within a district may be changed, requires the Commission to create district boundaries by using the boundaries of political subdivisions as they exist at the time of the federal decennial census on which the redistricting is based, or if the census is unavailable, on a basis the General Assembly specifies. <sup>31</sup>	Same as the current Constitution. <sup>32</sup>

## Legal challenges

Under the resolution, if any section of the Constitution relating to redistricting, any General Assembly district plan, or any district is determined to be invalid by an unappealed final order of a court of competent jurisdiction, then the Commission must be reconstituted and convene to adopt a district plan that conforms with the provisions of the Constitution that are then valid. Currently, the Constitution requires new districts to be drawn if provisions of the Constitution or a district plan are determined to be invalid by either the Ohio Supreme Court or the U.S. Supreme Court.

The proposal prohibits a court, in any circumstance, from ordering the implementation or enforcement of any plan that has not been approved by the Commission. And, the resolution prohibits a court from ordering the Commission to adopt a particular General Assembly district plan or to draw a particular district.

The resolution also prescribes the available remedies in the event that the Ohio Supreme Court determines that a General Assembly district plan adopted by the



Commission does not comply with the constitutional district standards, other than the standards concerning political parties, party preferences, and compactness.

First, if the Court determines that a district plan contains one or more isolated violations of those standards, the court must order the Commission to amend the plan to correct the violations.

Further, the proposal specifies that if the court finds that it is necessary to amend not fewer than six House districts to correct violations of those requirements, to amend not fewer than two Senate districts to correct violations of those requirements, or both, the court must declare the plan invalid and order the Commission to adopt a new plan.

Third, if, in considering a district plan adopted by a simple majority of the Commission under the proposal's impasse procedure (see "**Method of selecting district plans**," above), the Court determines that both of the following are true, the Court must order the Commission to adopt a new district plan:<sup>33</sup>

- The plan significantly violates those standards in a manner that materially affects the ability of the plan to contain districts whose voters favor political parties in an overall proportion that corresponds closely to the statewide political party preferences of the voters of Ohio, as described in the procedure for drawing districts (see "**District standards**," above).
- The statewide proportion of districts in the plan whose voters, based on statewide state and federal partisan general election results during the last ten years, favor each political party does not correspond closely to the statewide preferences of the voters of Ohio.

The resolution relocates but otherwise retains provisions specifying that the Ohio Supreme Court has exclusive, original jurisdiction in all cases arising under Article XI and that a new redistricting plan made as a result of a legal challenge must allow 30 days for persons to change residence in order to be eligible for election. Relocated but otherwise continuing law also specifies that the various provisions of Article XI are intended to be severable, and that the invalidity of one or more of the provisions does not affect the validity of the remaining provisions.<sup>34</sup>

Finally, the resolution eliminates a requirement that the Governor give the Apportionment Board two weeks advance written notice of the date, time, and place of any meeting held pursuant to a court order invalidating a district plan.<sup>35</sup>



## Miscellaneous

The resolution repeals the current constitutional provision that describes the district plans that were in effect until January 1, 1973.<sup>36</sup>

### Effective date

The resolution places the proposal on the ballot on November 3, 2015. If adopted by a majority of electors voting on it, the proposal takes effect January 1, 2021.

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## HISTORY

ACTION	DATE
Introduced	11-13-14
Reported, H. Policy & Legislative Oversight	12-04-14
Adopted House (80-4)	12-04-14
Reported, S. Rules	12-11-14
Adopted Senate (28-1)	12-11-14
House concurred in Senate amendments (82-8)	12-17-14
House concurred in Senate amendments upon reconsideration (81-7)	12-17-14

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<sup>1</sup> Ohio Const. Art. XI, Sec. 1(A).

<sup>2</sup> Ohio Const. Art. XI, Sec. 1(A).

<sup>3</sup> Ohio Const. Art. XI, Sec. 1.

<sup>4</sup> Ohio Const. Art. XI, Sec. 1.

<sup>5</sup> Ohio Const. Art. XI, Sec. 8.

<sup>6</sup> Ohio Const. Art. XI, Sec. 1.

<sup>7</sup> Ohio Const. Art. XI, Sec. 3 and 9.

<sup>8</sup> Ohio Const. Art. XI, Sec. 4.

<sup>9</sup> Ohio Const. Art. XI, Sec. 5.

<sup>10</sup> Ohio Const. Art. XI, Sec. 3(A) and (B).

<sup>11</sup> Ohio Const. Art. XI, Sec. 3(B).

<sup>12</sup> Ohio Const. Art. XI, Sec. 7.

<sup>13</sup> Ohio Const. Art. XI, Sec. 3(B).

<sup>14</sup> Ohio Const. Art. XI, Sec. 7.

<sup>15</sup> Ohio Const. Art. XI, Sec. 8.

<sup>16</sup> Ohio Const. Art. XI, Sec. 10.

<sup>17</sup> Ohio Const. Art. XI, Sec. 9.

<sup>18</sup> Ohio Const. Art. XI, Sec. 10.

<sup>19</sup> Ohio Const. Art. XI, Sec. 3(C).

<sup>20</sup> Ohio Const. Art. XI, Sec. 3(D).



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- <sup>21</sup> Ohio Const. Art. XI, Sec. 3(E).  
<sup>22</sup> Ohio Const. Art. XI, Sec. 6.  
<sup>23</sup> Ohio Const. Art. XI, Sec. 11.  
<sup>24</sup> Ohio Const. Art. XI, Sec. 4.  
<sup>25</sup> Ohio Const. Art. XI, Sec. 3.  
<sup>26</sup> Ohio Const. Art. XI, Sec. 11.  
<sup>27</sup> Ohio Const. Art. XI, Sec. 4(B)(3).  
<sup>28</sup> Ohio Const. Art. XI, Sec. 12.  
<sup>29</sup> Ohio Const. Art. XI, Sec. 5.  
<sup>30</sup> Ohio Const. Art. XI, Sec. 7.  
<sup>31</sup> Ohio Const. Art. XI, Sec. 6.  
<sup>32</sup> Ohio Const. Art. XI, Sec. 7.  
<sup>33</sup> Ohio Const. Art. XI, Sec. 9.  
<sup>34</sup> Ohio Const. Art. XI, Secs. 9 and 10. (Relocated from Secs. 13 and 15.)  
<sup>35</sup> Ohio Const. Art. XI, Sec. 14.  
<sup>36</sup> Repeal of existing Ohio Const. Art. XI, Sec. 14.



**To: OMA Government Affairs Committee**  
**From: Ryan Augsburger / Rob Brundrett**  
**Re: Energy Public Policy Report**  
**Date: June 3, 2015**

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### **Overview**

The two-year session of the General Assembly began in early January 2015. Only a few bills and resolutions have advanced this session. Representative Tim Schaffer (R-Lancaster) chairs of the House Public Utilities Committee. Senator Bill Seitz (R-Cincinnati) chairs the Senate Public Utilities Committee. So far legislative activity has been eclipsed by the state budget which will be the focus until later in June. Outside of standing legislative committees, a panel of lawmakers holds hearings to study the now-frozen alternative energy standards. A significant caseload is pending at the PUCO.

### **Governor Kasich Appoints Porter**

In February, Governor John Kasich appointed Andre Porter to a seat on the Public Utilities Commission. Porter took office in early April and was elevated by the Governor as Chair of the PUCO.

### **Electricity Rates and Regulation**

Significant utility rate cases are pending at PUCO. Distribution utilities have filed cases proposing power purchase agreements. The cases are highly controversial and have been reported in the press. A ruling by the PUCO on the AEP case rejected some of the utility's request in the short term, but may leave the possibility open in the longer term. See OMA white paper or OMA Energy Group testimony for more information.

### **Federal Greenhouse Gas Regulations GHG and 111(d)**

Comment period closed December 1 on proposed USEPA regulations of GHG emissions under the existing Clean Air Act. The OMA filed comment together with the NAM and individually.

Ohio EPA and the PUCO filed comment on behalf of the state as did the Ohio attorney general. The gist of the testimony: as proposed, 111(d) revisions are unworkable. A final rule from US EPA is expected this summer, perhaps as late as August.

### **Natural Gas Infrastructure**

The OMA has expressed support for Keystone XL nationally and more locally for the development of the Rover Pipeline and Nexus Pipeline. Billions of dollars of pipeline investment are underway by several different developers.

### **Capacity Prices**

Capacity prices, a portion of an electricity bill, are set by three-year looking forward auctions at PJM, will increase beginning in summer of 2015, dramatically so in FirstEnergy service territory. Ask staff or counsel for an overview document.

### **Energy Efficiency Legislation**

Legislation was enacted last year (SB 310) to revise Ohio's energy standards. The issue has been reported and discussed at OMA meetings for nearly two years.

SB 310 froze the alternative energy standards for two years and created a legislative study committee to assess the impacts of the standards. The study committee has met monthly. The committee is co-chaired by Senator Troy Balderson and Representative Kristina Roegner. A report is due in September.

**Manufactured Gas Plant Remediation Costs**

The OMA intervened in Duke Energy's gas distribution case before the PUCO case and is appealing the unfavorable decision. The Ohio Supreme Court is expected to rule on the merits later this year.

**Polar Vortex *Pass-Through* Charges**

Generation customers of First Energy Solutions (FES) were notified by the provider that they would be billed for a regulatory event associated with the polar vortex power shortages in January 2014. The one-time charge is outside the terms of the contract. If allowed by regulators, the charges would result in an unfavorable precedent for all customers. Several OMA members are working collectively to contest the charges. Contact staff to learn more.

## Energy

### **PUCO Decides in OMA Favor, Saving Duke Customers Tens of Millions**

In 2014, Duke filed an application with the Public Utilities Commission of Ohio (PUCO) for permission to charge customers for program costs associated with Duke's energy efficiency and demand response rider (Rider EE/DR). The electric distribution utility sought from customers an incentive payment for surpassing its EE/DR benchmarks using banked savings.

On May 20, 2015, the PUCO issued a [Finding and Order](#) determining, among other things, that Duke may use its banked savings to reach EE/DR benchmarks, but *may not* use banked savings to obtain performance incentives from customers. In its ruling, the PUCO sided with the OMA, stating that "the Commission agrees with OMA and finds the Company (Duke) may only use the banked savings to reach its mandated benefit."

The PUCO determination prevents Duke from collecting tens of millions of dollars from customers without additional customer benefit.

Manufacturers make a difference by intervening in rates cases through the [OMA Energy Group](#). Contact OMA's [Ryan Augsburger](#) to learn more. 5/28/2015

### **Coal Plant Retirements Expected to Double under Clean Power Act**

In its [most recent analysis](#), the U.S. Energy Information Agency (EIA) projects retirements of coal-fired electricity generation plants to more than double by 2040. About 90 GW of power are projected to be retired under the proposed regulations; approximately 40 GW have been projected to be shuttered without the regs.

The agency thinks the law would increase U.S. electricity rates by 4.9%. It foresees a carbon emission reduction of between 484 to 625 million metric tons by 2030.

On the law's effects on natural gas prices, EIA says: "The Clean Power Plan increases natural gas use significantly relative to baseline at the start of Clean Power Plan implementation, but this effect fades over time as renewables and efficiency programs increasingly become the dominant compliance strategies ... the Clean Power Plan itself does not significantly move natural gas prices with the exception of an initial impact expected during the first 2-3 years after the start of implementation." 5/26/2015

### **AEP Ohio Continuous Energy Improvement Program Offers Incentives**

AEP Ohio is calling on manufacturers that use more than 3,000,000 kWh annually to consider participating in its [Continuous Energy Improvement \(CEI\) program](#). The CEI program offers an incentive of \$0.02/kWh saved for no-and-low cost energy reductions such as repairing compressed air leaks and fine tuning chiller set-points.

The program also provides tools, coaching, and resources to help manufacturers achieve energy savings through operations and maintenance improvements. For more information, contact AEP Ohio's [Michelle Cross](#) or OMA energy consultant [John Seryak](#). 5/27/2015

### **FirstEnergy Customers: PJM Capacity Payments Available for Energy-Efficiency Projects**

While FirstEnergy has suspended its energy efficiency programs for 2015 and 2016, manufacturers in FirstEnergy service territory can bypass the utility to receive incentives for energy efficiency projects. PJM, the regional grid operator, offers payments for permanent reductions in energy use from efficiency projects through its capacity auctions. Projects are eligible if they permanently reduce electricity demand during summer daytime hours, such as lighting retrofits, chiller replacements, or air compressor upgrades.

Contact OMA energy consultant [John Seryak](#) to learn more about the PJM process, and to determine if your company's planned or recently completed energy efficiency project is eligible for PJM incentive payments. 5/27/2015

### **OMA Energy Group Elects New Leadership**



Last week at its annual meeting, the OMA Energy Group elected Brad Belden of The Belden Brick Company as chair and Whirlpool Corporation's Bill Mast as vice chair.

Belden accepted the gavel from Barry McClelland who retired from Honda North America, Inc. A founding member of the OMA Energy Group, McClelland was elected to serve as director emeritus.

The OMA Energy Group was formed to provide manufacturers with a voice in critical Public Utilities Commission of Ohio (PUCO) cases. OMA Energy

Group members steer the OMA's legal intervention in PUCO rate cases and get first-hand updates and members-only case summaries.

[Learn more](#) about the OMA Energy Group, a buy-up opportunity for energy intense OMA members. 5/28/2015

*Left, Brad Belden, Director, Support Services, The Belden Brick Co., and right, Bill Mast, Manager, Facilities Engineering, Whirlpool Corporation.*

### Ohio a National Leader in Energy Production

The U.S. Chamber's Institute for 21st Century Energy [ranking of the states](#) finds Ohio a "national leader in energy production and as a result, is also home to several blossoming supply chains that support state-based energy industries, including coal, oil and gas, nuclear, and renewable energy."

With the 7th largest state GDP and 7th largest population, Ohio ranks 8th in electricity production, 11th in coal production, 18th in crude oil production, 18th in marketed natural gas production, 18th in nuclear power generation, and 18th in overall energy production.

At the lower end of its rankings, Ohio has the 27th most affordable retail price for electricity and is 45th in renewable electricity generation. 5/20/2015

### Whirlpool Briefs OMA Members on Wind Energy Project

This week, Mike Kaser, Director of Engineering and Technology, and John Rosenburg, Senior Manager of Construction and Sustainability, of Whirlpool Corporation's Findlay Division, the largest manufacturer of dishwashers in the world, briefed OMA Energy Committee members on a major wind energy project.

Two wind turbines were added to reduce the facility's energy costs and reduce its manufacturing carbon footprint (also, three other turbines were developed for neighboring Ball Corp.). Here's the [PowerPoint presentation](#). 5/21/2015

### OMA Members Tour Energy Technologies at Honda



Members of the OMA Energy Efficiency Peer Network (EEPN) toured Honda's Marysville Assembly plant this week to learn about process innovations that are driving down energy consumption and reducing waste and emissions.

Technologies demonstrated included hydrogen fuel cell lift trucks, onsite hydro-generation, and styrofoam densification.

The OMA EEPN is open to OMA's manufacturing members. [Learn more here](#). 5/14/2015

### Net Metering State of Play in Ohio

Ohio law permits net metering, which is a billing arrangement that enables customers who produce their own electricity to receive credit on their utility bills for any surplus electricity that flows back into the electric utility's distribution system. Net metering is often an important component of financing certain alternative energy projects, such as rooftop solar.

However, after a series of applications for rehearing by various interested parties on the net metering provisions, the Public Utilities Commission of Ohio (PUCO) issued an order in March finding that additional input pertaining to the net metering rules would be beneficial.

In addition to the PUCO's ongoing review, the issue of net metering is also before the Ohio Supreme Court and, potentially, the Ohio General Assembly. [Read more](#) about the net metering state of play from OMA Connections Partner Bricker & Eckler LLP. 5/14/2015

### NERC Raises Reliability Concerns

The North American Electric Reliability Corporation (NERC) has released a [second assessment](#) of the proposed Clean Power Plan of the Obama administration.

The assessment produced four major findings: (1) the plan is expected to accelerate a fundamental change in electricity generation mix in the United States and transform grid-level reliability services, diversity, and flexibility, (2) industry needs more time to develop coordinated plans to address shifts in generation and transmission, (3) implementation plans may change the use of the remaining coal-fired generating fleet from baseload to seasonal peaking, potentially eroding plant economics and operating feasibility, and (4) energy and capacity will shift to gas-fired generation, requiring additional infrastructure and pipeline capacity.

NERC is a not-for-profit international regulatory authority whose mission is to assure the reliability of the bulk power system in North America. NERC develops and enforces reliability standards. 4/28/2015

## **AEP Ohio Customers: Rewind Your Motors!**

Did you know that motors often lose efficiency during the rewinding process? To combat this loss of energy efficiency, AEP Ohio offers the [Emotor Rewind Pilot](#) program.

AEP Ohio is certifying motor service centers that follow energy-efficient rewind practices. The [Emotor Rewind Pilot](#) covers motors from 300 hp to 5,000 hp. Motors that are rewound through the pilot are expected to be 0.5% to 2% more efficient. AEP Ohio offers a \$2.00/hp incentive to Ohio manufacturers that take advantage of this rewind program.

To date, [Hannon Electric](#) in Canton and [Electric Motor & Service](#) in Zanesville have been certified for the program. Manufacturers interested in an efficient rewind can use these two motor service centers, or contact AEP Ohio's [Rick Sullivan](#) to start the process of certifying the motor service center you use. 4/28/2015

## **DP&L Offers Combined Heat & Power Workshop**

Combined Heat & Power (CHP), also known as cogeneration, is the simultaneous production of electricity and heat from a single fuel source.

On Tuesday, May 19, DP&L is offering a [free workshop](#) for businesses to learn more about CHP. The workshop is from 9:00 a.m. to noon, includes lunch, and will be held at the University of Dayton River Campus in Dayton.

Benefits of CHP can include: greater efficiency than separate generation of electricity and thermal energy, lower operating costs, reduction in emissions including CO<sub>2</sub>, NO<sub>x</sub>, and SO<sub>2</sub>, increased power reliability, enhanced power quality, and reduction of grid congestion.

Learn whether your facility is a good CHP candidate and find out about DP&L incentives. DP&L offers free feasibility screening. [Register here](#). 4/28/2015

## **What Does It Cost to Save Electricity?**

4.6 cents.

That's the average total cost of saving a kilowatt-hour in 20 states from 2009 to 2013, according to a report from the Lawrence Berkeley National Lab titled, [The Total Cost of Saving Electricity Through Utility Customer-Funded Energy Efficiency Programs: Estimates at the National, State, Sector and Program Level](#), released this week.

The researchers conclude: "The cost of saving energy is still cheap."

They found that the utility program costs are less than the cost of retail electricity or the cost of new generation. As a result, residential consumers saved 3.3 cents per kWh through the utility programs; commercial and industrial customers averaged 5.5 cents in savings per kWh saved. 4/29/2015

## **OMA Members Receive Energy Efficiency Awards**

AEP Ohio honored 22 businesses, individuals and schools from throughout the state at its Energy Efficiency Awards event held this week. The award recognizes AEP Ohio's business customers and partners that have demonstrated a strong commitment to energy efficiency.

Among the recipients are OMA members, Crown Battery Manufacturing Company, Fremont, and AMG Vanadium, Cambridge. 4/30/2014

## **"Quadrennial Energy Review" Released**

This week the U.S. Department of Energy released its first "[Quadrennial Energy Review](#)," created to identify the "threats, risks, and opportunities for U.S. energy and climate security, enabling the federal government to translate policy goals into a set of integrated actions."

The review contains recommendations for action to ensure resilience and security of transmission and distribution infrastructure, modernize the electric grid, modernize U.S. energy security infrastructure (all fuels), improve "shared transport" infrastructure, integrate North American energy markets, and improve environmental performance of energy infrastructures.

Read a [fact sheet](#) on the review. 4/28/2015

## **Ethane Cracker Coming to Ohio?**

On Wednesday, Governor Kasich [announced](#) the possibility of construction in Ohio of a chemical cracker to refine shale gas and gas liquids. The governor announced that Belmont County has been tentatively chosen by the company. Jobs-Ohio, the state's economic development agency, has been working to attract the cracker for two years.

The project is a partnership between PTT Global of Thailand and Marubeni Corp., a Japanese investment advisor. The project will now undergo 12 to 16 months of engineering study and permitting work before a final decision is made.

Several other cracker projects have been discussed in the region to take advantage of the rich shale plays of Ohio, West Virginia and Pennsylvania. None yet have been developed. 4/23/2015

## Porter Sworn in as PUCO Chair

This week Commissioner Lynn Slaby [swore in](#) the new chairman of the Public Utilities Commission of Ohio (PUCO), [Andre T. Porter](#).

Porter began his five-year term as commissioner on April 11, 2015. As chairman he leads the sole state agency charged with regulating public utility service. The role of the PUCO is to assure all residential, business, and industrial consumers have access to adequate, safe and reliable utility services at fair prices while facilitating an environment that provides competitive choices.

Porter also chairs the Ohio Power Siting Board, which reviews, evaluates and approves the siting of electric generation plants and electric and natural gas transmission lines. *4/16/2015*

## Governor Picks Porter for PUCO Lead

As expected, Governor Kasich has selected Andre Porter to chair the Public Utilities Commission of Ohio (PUCO). Porter's five-year term begins Saturday.

Porter previously headed the Ohio Department of Commerce for the governor. He is a graduate of Capital University, and earned his law degree from Ohio State. *4/7/2015*

## PUCO Turns Down Duke Energy Ohio's Request for Power Purchase Agreement Funding

On April 2, 2015, the Public Utilities Commission of Ohio (Commission) issued an Opinion and Order on Duke Energy Ohio's recent electric security plan (ESP) application. The Commission made determinations of special importance to OMA members served by Duke, [summarized here](#) by OMA energy counsel Carpenter Lipps & Leland LLP.

Among them, the Commission ruled on Duke's proposed Price Stabilization Rider (PSR), which would finance the company's proposed purchase power agreement as it relates to the company's interest in the Ohio Valley Electric Corporation (OVEC), placing the financial risk of operating the OVEC plant on customers, rather than shareholders.

The Commission ruled that while the financing mechanism is authorized under Ohio law, it found that Duke had not sufficiently demonstrated that the PSR would provide customers benefits commensurate with the rider's potential costs; thus, it denied recovery of any costs through the PSR. The Commission, however, authorized Duke to establish a placeholder PSR at an initial rate of zero. *4/9/2015*

## FERC Rejects PJM Demand Response Plan

This week the Federal Energy Regulatory Commission (FERC) [rejected](#) regional transmission operator PJM's plan to change how demand response is valued in capacity auctions, and how capacity resources are paid, or penalized for failure to be online.

The jurisdiction of FERC over wholesale demand response is in litigation through an appeal of a district court's ruling to the U.S. Supreme Court. PJM was attempting a stop-gap measure in reaction to the uncertainty caused by the litigation.

Groups representing consumers, including the OMA, were concerned that the PJM's proposal would squash demand response and raise prices. The FERC action, thus, is favorable. Much more to come. *4/2/2015*

## PUCO Chairman Steps Down

Public Utilities Commission of Ohio (PUCO) [Chairman Tom Johnson](#) stepped down this week. He said it was for unspecified personal reasons. He will remain on the five-member commission until the end of his term in 2019.

It has been widely speculated that Andre Porter, whom the governor recently appointed to the commission, will become the next chairman. Porter will be sworn in next month.

There are a number of potentially very costly cases for manufacturers pending before the commission. Who is in the chairmanship matters, a lot. *4/2/2015*

## Portman: Let States Opt-Out of Carbon Regs

Ohio's U.S. Senator Rob Portman this week proposed a [major amendment](#) to the Senate Budget Resolution that would "give any state the option to opt-out of greenhouse gas regulations from the Environmental Protection Agency (EPA) if the state determines the regulations would increase retail electricity prices, threaten electricity reliability, or have a negative impact on the state's economy."

Portman noted that "compliance costs over the next 15 years could be as much \$366 billion if all four of the Clean Power Plan's building blocks get implemented." *3/26/2015*

## Grid Operator to Lawmakers: Electricity Generation is Sufficient

PJM Executive Vice President, Markets, Andrew Ott told members of the legislative Energy Mandates Study Committee that grid reliability is not in jeopardy due to coal plant retirements.

In his [testimony](#), Ott stated: "(S)hortly after the US EPA issued its final Mercury and Air Toxics Standards rule, PJM began to receive notification of retirements from generation owners. Some of the retirements have already occurred and most will be complete by May 31, 2015. ...The operation of the power grid will remain reliable because the PJM forward capacity market is attracting investment in new gas-fired resources and alternative resources... and the PJM's regional transmission planning process has identified transmission upgrades necessary to maintain reliable power grid operation."

He added: "PJM has evaluated the impact of potential increases in intermittent resources on the regional power grid and found that such resources can be integrated reliably as long as they are supported with adequate transmission infrastructure upgrades."

This [PowerPoint presentation](#) supplements Ott's testimony. *3/19/2015*

**Energy Legislation**  
**Prepared by: The Ohio Manufacturers' Association**  
**Report created on June 2, 2015**

- HB8**      **OIL-GAS LAW** (HAGAN C) To revise provisions in the Oil and Gas Law governing unit operation, including requiring unit operation of land for which the Department of Transportation owns the mineral rights.  
**Current Status:** 4/14/2015 - Senate Energy and Natural Resources, (First Hearing)  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-8>
- HB23**      **OIL-GAS LEASE INCOME** (AMSTUTZ R) To use one-half of any income from oil and gas leases on state land to fund temporary income tax reductions, to modify the law governing the use of new Ohio use tax collections, and to require the Director of Budget and Management to recommend whether or not income tax rates should be permanently reduced.  
**Current Status:** 5/27/2015 - **PASSED BY HOUSE**; Vote 78-16  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-23>
- HB64**      **OPERATING BUDGET** (SMITH R) To make operating appropriations for the biennium beginning July 1, 2015, and ending June 30, 2017, and to provide authorization and conditions for the operation of state programs.  
**Current Status:** 5/26/2015 - Senate Finance, (Fourth Hearing)  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-64>
- HB72**      **ENERGY IMPROVEMENT DISTRICTS** (CONDITT M) To authorize port authorities to create energy special improvement districts for the purpose of developing and implementing plans for special energy improvement projects and to alter the law governing such districts that are governed by a nonprofit corporation.  
**Current Status:** 5/6/2015 - **BILL AMENDED**, House Public Utilities, (Fourth Hearing)  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-72>
- HB83**      **OIL-GAS ROYALTY STATEMENT** (CERA J) To require the owner of an oil or gas well to provide a royalty statement to the holder of the royalty interest when the owner makes payment to the holder.  
**Current Status:** 3/10/2015 - House Energy and Natural Resources, (First Hearing)  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-83>
- HB122**      **PUBLIC UTILITIES COMMISSION MEMBERSHIP** (LELAND D) To require that each major political party be represented on the Public Utilities Commission, to specify that not more than three commissioners may belong to or be affiliated with the same major political party, and to require that Public Utilities Commission Nominating Council lists of nominees include individuals who, if selected, ensure that each major political party is represented on the Commission.  
**Current Status:** 3/24/2015 - Referred to Committee House Government Accountability and Oversight

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-122>

**HB162 SEVERANCE TAX RATES (CERA J)** To change the basis, rates, and revenue distribution of the severance tax on oil and gas, to create a grant program to encourage compressed natural gas as a motor vehicle fuel, to authorize an income tax credit for landowners holding an oil or gas royalty interest, and to exclude some oil and gas sale receipts from the commercial activity tax base.

**Current Status:** 5/12/2015 - House Ways and Means, (First Hearing)

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-162>

**HB176 GAS-FUEL CONVERSION PROGRAM (HALL D, O'BRIEN S)** 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:** 6/2/2015 - House Ways and Means, (First Hearing)

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-176>

**HB190 WIND FARM SETBACKS-COUNTY (BURKLEY T, BROWN T)** To permit counties to adopt resolutions establishing an alternative setback for wind farms and to extend by five years the deadlines for obtaining the qualified energy project tax exemption.

**Current Status:** 5/27/2015 - House Public Utilities, (First Hearing)

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-190>

**HB214 PUBLIC IMPROVEMENT-PIPING MATERIAL (THOMPSON A)** To restrict when a public authority may preference a particular type of piping material for certain public improvements.

**Current Status:** 5/26/2015 - Referred to Committee House Energy and Natural Resources

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-214>

**HCR7 TAX EXEMPT MUNICIPAL BONDS (SPRAGUE R)** To urge the President and the Congress of the United States to preserve the tax-exempt status of municipal bonds.

**Current Status:** 3/17/2015 - House Local Government, (First Hearing)

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HCR-7>

**HCR9 SUSTAINABLE ENERGY-ABUNDANCE PLAN (BAKER N, BOOSE T)** To establish a sustainable energy-abundance plan for Ohio to meet future Ohio energy needs with affordable, abundant, and environmentally friendly energy.

**Current Status:** 6/3/2015 - Senate Public Utilities, (First Hearing)

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HCR-9>

**SB47 DEEP WELL BRINE INJECTION PROHIBITION (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:** 2/18/2015 - Referred to Committee Senate Energy and Natural Resources

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-47>

**SB58**      **CONDITIONAL SEWAGE CONNECTION (PETERSON B)** To authorize a property owner whose property is served by a household sewage treatment system to elect not to connect to a private sewerage system, a county sewer, or a regional sewerage system under specified conditions.

**Current Status:** 3/4/2015 - Referred to Committee Senate Energy and Natural Resources

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-58>

**SB100**      **SALES TAX HOLIDAY-ENERGY STAR (BROWN E)** To provide a three-day sales tax "holiday" each April during which sales of qualifying Energy Star products are exempt from sales and use taxes.

**Current Status:** 3/4/2015 - Referred to Committee Senate Ways and Means

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-100>

**SB120**      **OIL-GAS LAW REVISION (SCHIAVONI J)** To revise enforcement of the Oil and Gas Law, including increasing criminal penalties and requiring revocation of permits for violations of that Law relating to improper disposal of brine.

**Current Status:** 3/10/2015 - Referred to Committee Senate Energy and Natural Resources

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-120>

**SB164**      **UTILITY SMART METER CONSENT (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:** 5/27/2015 - Referred to Committee Senate Public Utilities

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-164>

**SB166**      **HORIZONTAL WELL EMERGENCY PLAN (GENTILE L)** To require the owner of a horizontal well to develop and implement an emergency response plan for the purpose of responding to emergencies.

**Current Status:** 5/27/2015 - Referred to Committee Senate Energy and Natural Resources

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-166>

**TO: OMA Government Affairs Committee**  
**FROM: Ryan Augsburger / Rob Brundrett**  
**RE: Environment Public Policy Report**  
**DATE: June 3, 2015**

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### **Overview**

U.S. EPA and its existing source and ozone standards continue to be the most pressing environmental subjects for Ohio moving through the year. The state budget was introduced and contains several Ohio EPA policy issues with differing amounts of impact.

### **General Assembly News and Legislation**

#### **Senate Bill 1 – Great Lakes – Harmful Algae**

Senate Bill 1 is the Senate's number one priority bill. The bill originally transferred the administration and enforcement of the Agricultural Pollution Abatement Program from the Department of Natural Resources to the Department of Agriculture, required applicators of fertilizer or manure to comply with specified requirements, created the Office of Harmful Algae Management and Response in the Environmental Protection Agency, established requirements governing dredged material, nutrient loading, phosphorous testing by publicly owned treatment works, and household sewage treatment systems. Before passing the bill, the Senate removed the provisions creating the Office of Harmful Algae. It was signed by the Governor on April 2.

#### **House Bill 61 – Lake Erie Fertilizer – Dredging**

House Bill 61 is the House of Representatives option to begin combating the toxic algae blooms that cover the western basin of Lake Erie. The bill generally prohibits the application of fertilizer or manure in Lake Erie's western basin on frozen ground or saturated soil and during certain weather conditions, requires publicly owned treatment works either to monitor monthly total and dissolved phosphorous or to prepare optimization studies that evaluate their ability to reduce phosphorous, and prohibits a person, beginning July 1, 2020, from depositing dredged material in Ohio's portion of Lake Erie and its direct tributaries that resulted from harbor or navigation maintenance activities unless authorized to do so by the director of environmental protection. The bill was voted out of the House the first week of March.

#### **House Bill 64 – State Budget Bill**

Ohio EPA's budget does not include any fee increases; however, the agency is asking to extend existing fees for its air, surface water, drinking water and materials and waste management divisions, and to reallocate materials and waste management funding to support its focus on business assistance, compliance assistance and pollution prevention.

The director also made a pitch while presenting testimony for creating the Certified Water Quality Professional program that will allow a prequalified, third party private-sector evaluation and assessment of wetlands and streams for water quality certification and Isolated Wetland Permit applications.

The agency is also asking for the authority to request chemical information that may include confidential trade secret information in the event of an emergency. Ohio EPA emergency response staff responds 24/7, 365 to environmental spills and disasters and coordinates mitigation and cleanup efforts with local, state and federal partners. The proposal allows Ohio EPA to ask for information from companies during an emergency and share that information with others, such as water treatment plant operators who have an immediate public health or safety interest to protect.

Two OMA amendments were included in the bill that would exempt slag from the definition of industrial waste, and second amendment would exempt clay and shale structural products from solid waste and industrial waste statutes.

## **Regulations**

### **Asbestos Labeling**

On May 8, the OMA requested Ohio EPA clarification regarding the recent change in the Occupational Safety & Health Administration (OSHA) requirements for labeling asbestos waste containers. Sign changes are required effective June 1, 2015.

On May 21, Ohio EPA director Craig Butler responded to the OMA that the new OSHA requirements can flow through the current state administrative code. So, there will be no dual requirement in the state.

The director said he's directed his staff to create new Standard Operating Guidance on the matter to document this helpful and timely decision.

### **Ozone – U.S. EPA**

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 65 and 70 ppb, or even lower. This will have a major impact on Ohio. A new proposal was released in December.

In 2008, the U.S. EPA lowered the National Ambient Air Quality Standard for ground level ozone to 75 parts per billion (ppb). Now, the agency is proposing to lower the standard to as low as 65 ppb and taking comments to as low as 60 ppb.

An updated study by NAM and the OMA shows that at 65 ppb the entire state of Ohio would be out of attainment and it would be the most expensive regulation ever established.

The OMA and Ohio EPA submitted comments opposing such a change.

### **U.S. EPA 111(d)**

In June the U.S. EPA proposed its rules for carbon emissions from the nation's power plants. The rules were proposed under section 111(d) of the Clean Air Act.

The rule proposes a national reduction in power plant carbon emissions of 30% by 2030, from a base year of 2012.

The EPA says it built a formula for state-specific reductions: "EPA analyzed historical data about emissions and the power sector to create a consistent national formula for reductions that reflects the building blocks. The formula applies the building blocks to each state's specific information, yielding a carbon intensity rate for each state."

Those "building blocks" are: making fossil fuel plants more efficient, fuel switching from coal to natural gas, increased use of solar, wind and nuclear power, and reducing electricity demand by increased energy efficiency.

The timetable for implementing these vast rules is aggressive: These rules are to be finalized this summer; the states then have one year to establish their compliance plans; and, the U.S. EPA then has one year to act on the states' plans.

The OMA contributed study for the agency to review and incorporate in their comments. The OMA also submitted comments to U.S. EPA.

### Beneficial Use

Last year Ohio EPA released draft permits for foundry sand and alum sludge. Earlier this year U.S. EPA and the Dept. of AG released a risk assessment concluding that silica-based spent foundry sands from iron, steel and aluminum foundries, when used in certain soil-related applications, are protective of human health and the environment, and yield environmental benefits.

Ohio EPA also released an Early Stakeholder Outreach document on “co-products” and “by-products” last spring. The overall goal of these would be to eventually compliment a beneficial use system and make it clear certain products are not wastes subject to beneficial use regulation. Ohio EPA continues to allude that they want to include slag in this program. OMA will continue to look for avenues to ensure slag is not included in the final rules.

Two weeks ago Ohio EPA released the long anticipated draft beneficial use rules for public comment. The rules cover: foundry sands; material resulting from treatment of water supply for drinking or industrial purposes that are a solid waste, industrial waste, or other waste; wastes used as fuel or ingredient in a combustion unit; and dredged materials. Noticeably absent was any rule regarding slag.

### 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.

The OMA was approached by Ohio EPA to see what sort of backing the expansion of universal waste would have among members. The OMA recently put together a working group to work with Ohio EPA on this topic. The group submitted a document to Ohio EPA last fall and submitted rule language earlier this year.

Most recently the group sent clarifying information to the agency describing the different types of wastes that are expected to be covered under the rule change.

### Water Nutrient Work Group

Ohio EPA has been working on reducing the amount of nutrients that enter Ohio’s waterways. 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. This group remains focused on the water nutrient implementation process it was created to help implement. Ohio EPA is feeling pressure to act in light of last year’s Toledo incident.

### Other Notes

#### Ohio Supreme Court Decision Invalidates TMDLs

On March 24, 2015, the Ohio Supreme Court, in a 5-2 vote, issued a decision invalidating a phosphorus limit that was imposed on a Fairfield County wastewater treatment plant. The

decision in *Fairfield Cty. Bd. Of Commrs. v. Nally*, provides that the Ohio EPA must adhere to Ohio's statutory rulemaking procedure prior to establishing pollutant limits for a body of water.

In his concurring opinion, Justice Terrence O'Donnell provided that the "decision is far-reaching in that Ohio EPA has issued 1,761 TMDLs\* for watercourses throughout Ohio, including 132 TMDLs for phosphorus alone," none of which have been promulgated through the R.C. 119 administrative process. "[T]hus the majority's decision invalidates all of them, leaving the enforceability of numerous permits in question."

OMA environment counsel, Frank Merrill of Bricker & Eckler LLP, writes this summary of the case.

\*The total maximum daily load (TMDL) establishes the maximum amount of a pollutant that may be discharged for certain bodies of water without causing the receiving body of water to violate water-quality standards.

#### Ohio EPA Continues to Recognize Ohio Manufacturers

Ohio EPA Director Craig Butler visited Sherwin-Williams Breen Technology Center in Cleveland to recognize the company for reaching Ohio EPA's highest standard of environmental stewardship. He presented the company with the gold-level Encouraging Environmental Excellence (£3) award.

The £3 program acknowledges Ohio businesses and other organizations for completing environmentally beneficial activities and serves as an incentive to commit to ongoing environmental stewardship. To earn the gold-level award, a business or organization must have a good environmental compliance record and complete environmental stewardship activities that show a strong corporate environmental ethic.

The company won the silver-level award in 2014 and continued to look for ways to be more efficient and reduce environmental impact resulting in the gold-level recognition.

Other OMA members like Crown Equipment, Honda, General Motors and MillerCoors have also been recognized by the agency for their sustainability programs. This is an excellent example of how manufacturers and the agency continue to work together to improve Ohio.

#### Corps Ordered to Dredge

The U.S. Army Corps of Engineers was ordered by a federal judge to complete all the dredging required of it as authorized by Congress. At issue was the dredging of the Cuyahoga River, specifically the final mile of the river channel that "connects Cleveland's ArcelorMittal steel plant to the world." The Corps refused to dredge that mile and dispose of dredge material in a confined waste facility, instead of open dumping into the lake.

Ohio EPA director Craig Butler led the charge against the Corps, and points out that Congress appropriated almost \$8 million, and that the highest bid for dredging received by the Corps is only \$4 million. The Corps has the funding to dredge the entire channel, and dispose of its dredge materials appropriately in the confined waste facility.

Another example of an out-of-control federal agency undermining the U.S. economy.

#### Bottle Bill Amendment

Ohio Attorney General Mike DeWine certified a petition so that the requisite signatures could be solicited for a proposed “bottle bill” amendment to the Ohio Constitution.

The amendment, if it made it to the ballot and passed, would require the General Assembly to enact laws that require a refundable deposit of 5-to-10 cents to be made on certain glass, metal and plastic containers.

Unlike previous so-called bottle bills, where the goal was to encourage recycling and increase reusable feedstock, 80% of the refunded deposits are directed to be used to reduce health and car insurances costs of Ohio residents. There are no specific details of how this would be accomplished. There has been no recent chatter about this development and it is not expected to make the ballot in the fall.



John R. Kasich, Governor  
Mary Taylor, Lt. Governor  
Craig W. Butler, Director

**Director Craig W. Butler H.B. 64 Testimony  
Senate Finance General Government Subcommittee  
May 5, 2015**

Good morning, Chairman Jordan, Vice Chair Gentile and members of the Senate Finance Subcommittee on General Government. I am Craig Butler, Director of Ohio EPA, and I appreciate the opportunity to provide testimony on House Bill 64, Governor Kasich's budget proposal.

Ohio is a much different state today than it was just four years ago. We are a much different and a much *better* state.

The improvements we've seen in the past four years haven't come by accident or from sheer good luck. It's all been due to tough work by a determined governor, like-minded legislators and Ohioans who were ready to see change.

It's clear that the rest of the nation has its eyes on Ohio – as they all want to know how we're doing it. But we're not done by any means. It's understandable that some Ohioans may be ready to pull over to the rest stop to take a well-deserved break, but Governor Kasich believes we need to keep our foot on the accelerator and make an even more determined drive to grow our state.

How does Ohio EPA fit in with this?

As it has been since its creation in 1974, Ohio EPA's mission is to protect the environment and public health by ensuring compliance with environmental laws and demonstrating leadership in environmental stewardship. I take very seriously our commitments to ensure Ohio companies comply with our laws and protect public health. Where I differ from some past Directors is that I believe we can and should first use our voluntary programs and business assistance tools to assist companies to comply with our complex regulations, and, at the same time, help businesses expand and locate in Ohio and create jobs and economic prosperity in Ohio.

As examples of this commitment to economic development assistance, the Agency provides \$40 million per year in funding to local governments and organizations through grants for air pollution control, environmental education, diesel school bus retrofits, watershed restoration, and acquires land and conservation easements to protect and improve water quality. Ohio EPA also supports economic development by awarding \$375 million per year in

federal and state funded low-interest loans to local communities for wastewater and drinking water infrastructure projects.

At the end of the day, Ohio EPA is a national leader in protecting human health and the environment, and an asset to economic development professionals when assisting companies to locate and expand in Ohio. I do and will continue to strive to ensure we maintain this very important balance of using our regulatory tools and our business assistance tools together to help Ohio grow and maintain a healthy environment.

We are committed to efficiency and process improvement. We are looking for opportunities to assist businesses with technical and financial resources without needing statutory changes, and we are doing this by combining our compliance assistance and funding programs into one office to provide a “one stop shop” for communities and businesses to come for free, confidential help at Ohio EPA. This year-long effort is too long in coming, but is already paying dividends in linking businesses and job creators with our technical and financial experts to move possible projects to reality.

We also fully support LEAN Ohio and are implementing process improvements, project by project. The Agency’s first LEAN event was a value stream mapping process evaluating the issuance of wastewater discharge permits. The primary goal to improve the quality of service to our customers with a timely turnaround and a proactive approach will be accomplished by eliminating duplicative reviews, better defined roles and responsibilities and a more efficient, streamlined process.

As an overview of who we are, we have approximately 1,100 full-time and 100 seasonal employees in Columbus, Reynoldsburg, Groveport, Twinsburg, Bowling Green, Logan and Dayton. We issue permits governing installation and operation of pollution sources; provide oversight through inspections and air, water, and ground sampling; monitor and report on environmental quality; provide compliance assistance and environmental education to industry and the general public; help businesses prevent pollution; and respond to spills and other emergencies 24/7.

Our proposed budget will reduce our number of full-time equivalents by 27 through attrition. A small but significant reminder that we are watching the state’s dollars carefully and adjusting staffing as needed, not simply adding more staff when new programs come along.

Our budget proposal for fiscal year 2016 is \$183.2 million, an 8.2 percent **decrease** from fiscal year 2015. Funding for fiscal year 2017 would be \$185.9 million, a slight 1.5 percent increase from fiscal year 2016.

\$10.9 million per year of comes from the General Revenue Fund. This \$10.9 million pays for the E-Check auto emissions testing program in seven counties in Northeast Ohio because these counties are not in attainment with federal ozone requirements.

Ohio EPA's budget does not include any fee **increases**. We are asking to only extend existing fees for our air, surface water, drinking water and materials and waste management divisions, and to reallocate materials and waste management funding to support our increased focus on business assistance, compliance assistance and pollution prevention.

Ohio EPA's budget asks for one new fee, but it will support a program that I believe will make us more efficient and save money in the long run and help businesses get needed permits faster. This new program is to develop a "certified water quality professional program," which I will detail later in my testimony.

We are asking to use our drinking water protection fund as state match funding for federal grants, to continue conducting the successful Diesel Emission Reduction Grant program (DERG) and to increase spending authority to update the surface water permitting/tracking computer program. Again, these changes will help leverage federal dollars and provide more funds for drinking water upgrades, as well as supporting the DERG program that is helpful to municipalities and others to reduce harmful diesel emissions from school busses and protect our children's health.

In summary, we are doing everything we can as an agency to take Ohio to the next level and create more opportunities for Ohioans to succeed while protecting the environment. I am fully convinced we can be a key positive driver in creating new jobs and strengthening our families and our communities. As the Governor has said, and I concur, a job is the number one way to keep Ohioans out of poverty.

Let me provide you with some specifics on the Certified Water Quality Professional program I mentioned earlier. In our Division of Surface Water, we are excited to propose a Certified Water Quality Professional program. The "certified water quality professional" program will allow a prequalified, 3rd party private-sector evaluation and assessment of wetlands and streams for water quality certification and Isolated Wetland Permit applications.

This proposal will be mirrored after our successful certified professional provisions of our Voluntary Action Program (VAP) used to clean up blighted properties for reuse. This program may be the first of its kind nationally. The intent is to eliminate duplication of effort while making certain we protect our critical wetland and streams as we review applications to impact these resources. We believe that this new private certification process will streamline review efforts and reduce the time it takes to issue permits. We also fully believe we have safeguards, such as proposed training and certification of all the new water quality professionals, as well as an auditing program to ensure work is done correctly.

Rest assured, this program has appropriate safeguards to protect our critical wetlands and streams. While we are confident this new program will work to cut the time it may take to receive a permit, we anticipate having critical engagement and auditing of all new "certified water quality professionals" and their work product to ensure they follow the law. In addition, we have suggested tweaks to the program based on comments we have received from

stakeholders, including clarification that the existing permitting model is still an option. However, utilizing the Certified Water Quality Professional would prompt action by the Agency within 90 days of receipt of a complete application (our normal is 180 days).

Ohio EPA, ODNR and interested parties worked together on a provision dealing with right-to-know reporting for oil and gas producers. Since 2001 oil and gas producers have used ODNR's production reports to meet the federal Right-to-Know chemical inventory provisions. Recently that practice was challenged and it was determined that the reports needed to be updated to capture regulatory changes. Our budget language will provide a mechanism for oil and gas producers to resume use of production reports in 2016 to meet state chemical inventory disclosure requirements while ensuring those reports are statutorily up-to-date and available to emergency response professionals in case of an emergency. This will eliminate a duplication of effort because the companies will not be required to provide the same information to two government agencies.

Another proposal we have will provide Ohio EPA emergency responders with the authority to request chemical information that may include confidential trade secret information in the event of an emergency. As you likely know, Ohio EPA emergency response staff respond 24/7, 365 to environmental spills and disasters and coordinate mitigation and cleanup efforts with local, state and federal partners to ensure Ohio's environment is protected. This proposal, simply, but very importantly, will allow Ohio EPA to ask for information from companies during an emergency and share that information with others, such as water treatment plant operators who have an immediate public health or safety interest to protect.

The need for this provision came from issues that we dealt with during an oil and gas well pad incident last summer. The language would protect the confidentiality of trade secret information provided to an emergency responder, and extend that confidentiality to others, such as water plant operators, who receive the information for purposes during an emergency. This very important change will provide us the ability to protect public health in the event of an emergency, while also protecting confidential business information. While this item was removed by the House, I believe it should stay in the bill for the reasons I just outlined.

We are also proposing a provision that would create a "knowingly" and "purposely" standard for water pollution control violations. Currently, all criminal violations of Ohio's water pollution laws are misdemeanors, regardless of their severity or the intent of the violator. This is inconsistent with our authorities under other programs and is a needed change.

As evidence these changes are needed we need to look no further than the egregious illegal dumping of brine material into the Mahoning River in Youngstown that occurred throughout 2012. Without the assistance of the U.S. Department of Justice, the individuals responsible for this crime would not have been able to have been criminally charged and convicted as criminals under the Clean Water Act. While this is a positive result and sentencing has begun for individuals involved, it is important this law be updated to ensure

Ohio does not have to rely on the federal government to respond to violations that occur within our borders.

We are proposing two provisions that would help improve and protect drinking water. We have found that public drinking water systems are good at identifying new infrastructure needs to support new development projects. But once the pipes are in the ground, they are often forgotten or poorly maintained. We are proposing to ensure the long-term sustainability of public water systems by requiring them to develop and implement an asset management plan. Such a plan will drive system operators to think about how to maintain their systems, and identify and plan to address deficiencies before there are significant public health risks and non-compliance. I've brought some photos that show the problems we see when public water systems fail to properly maintain their infrastructure.

Our most recent example of this need comes from Lawrence County in the past few weeks where due to a system failure, hundreds were left without water.

In this not so unique instance, one of two pump stations flooded, causing loss of both pumps in that station. Approximately half of the water system served by that station, including two storage tanks, emptied before one of pumps could be restarted. Because of the system's inadequate pumping capacity, lack of a backup and a large amount of unaccounted-for water loss (reported to be nearly 70%), it has taken more than a week to fill the system. Because the water system's lack of a competent operator, coupled with having no staff with technical, financial or managerial capability, or complete knowledge of the infrastructure components, this was a failure waiting to happen, and it did. Ohio EPA staff, with support of the general manager of the nearby HECLA Water Association, had to take over and operate the system to restore service. Several other nearby water systems also provided support, as did the local and Ohio EMA. This is an all-to-familiar reason why this proposal is needed. Understanding and managing critical water infrastructure is critical. Millions of Ohioans depends on it.

Ohio also has many public water systems owned and operated by private entities, including mobile home parks, homeowners' associations and nursing homes. The provision of drinking water is often considered secondary to the primary business they conduct. The owners of these systems often don't understand the full costs for the operation and maintenance of their water systems. After a period of neglect, the systems break down, resulting in water outages for lengthy periods of time, public health risks and non-compliance. These photos show the problems we see at these public water systems when they break down and the owner does not have funds for repairs.

Current law requires that homeowners associations, when developing a new drinking water system or modifying an existing system, maintain some type of financial assurance to address serious problems that may arise affecting the ability to provide a safe, reliable source of drinking water. Ohio EPA is proposing a similar legislative change that would require manufactured housing communities, apartments and nursing homes that have their own public water systems to also maintain emergency funds to fix major problems. This legislation

addresses the financial gap by requiring deficient owners to establish an escrow account and systems, in general, to demonstrate financial assurance.

A recent but not unique example of this began in September 2014 at Pineview Estates Mobile Home Park in the Dayton area. The manufactured home park had been sited with a significant deficiency after an inspection identified only one of the two wells were working and the working well was leaking water. Nothing had been done to correct the wells and on December 1, 2014, the only working well failed. This caused the system to depressurize and nearly 500 people were without potable water. The owner was unresponsive and didn't want to address the wells or put money into the system. This caused an extended depressurization and boil advisory while residents had to rely on bottled and hauled water for several days.

Both of these measures were removed in the House. We are asking that they be included. I believe the examples I gave illustrate why they are necessary.

Additional changes we are proposing include a technical change in law dealing with air pollution control to fix an over-looked cross reference from earlier legislation; change the definition of lead free to be consistent with federal law; update state law regarding the Water Pollution Control Loan Fund to be consistent with federal law changes; continue the federally required E-Check program in seven northeast Ohio counties; and combine two separate, but similar, advisory councils related to solid waste and recycling. The changes to the Water Pollution Control Loan Fund and the lead-free definition were removed in the House; we are asking them to be included in the bill.

As director of Ohio EPA, I share the Governor's vision for jobs growth and new opportunities to find success in our state and at the same time make certain all Ohioans have a safe environment in which to live and work. I appreciate the opportunity to speak with you today and I hope you are as proud as I am of Ohio's progress and vision for a prosperous future. As you can see, we are committed to working with fewer staff in the next biennium and exploring creative ways to protect the environment while encouraging economic growth. I would be happy to answer any questions you have.



## MEMORANDUM

**TO:** The Ohio Manufacturers Association  
**FROM:** Frank Merrill, Bricker & Eckler LLP  
**DATE:** March 26, 2015  
**RE:** **Summary of Ohio Supreme Court Decision Regarding TMDLs and Phosphorus Limits – *Fairfield Cty. Bd. Of Commrs. v. Nally*, Slip Opinion No. 2015-Ohio-991.**

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On March 24, 2015, the Ohio Supreme Court, in a 5-2 vote, issued a decision invalidating a phosphorus limit that was imposed on a Fairfield County wastewater treatment plant. The decision in [\*Fairfield Cty. Bd. Of Commrs. v. Nally\*](#), Slip Opinion No. 2015-Ohio-991, provides that the Ohio EPA must adhere to Ohio’s statutory rulemaking procedure prior to establishing pollutant limits for a body of water.

This case stems from 2006 when the Ohio EPA issued a renewal to a wastewater discharge permit for the Tussing Road Water Reclamation Facility (“Tussing plant”), owned by Fairfield County, Ohio. Because the wastewater treatment plant discharges pollutants into nearby Blacklick Creek, part of the Big Walnut Creek watershed, the plant is required to obtain a National Pollutant Discharge Elimination System (“NPDES”) permit from the Ohio EPA, pursuant to the federal Clean Water Act and state law. The Clean Water Act also requires each state to establish a total maximum daily load (“TMDL”) for certain bodies of water. The TMDL establishes the maximum amount of a pollutant that may be discharged without causing the receiving body of water to violate water-quality standards.

Based upon Ohio EPA’s TMDL for the Big Walnut Creek watershed, the renewal permit for the Tussing plant included a new condition limiting the discharge of phosphorus. The Ohio EPA imposed this new limit based on a survey in which the Ohio EPA collected biological and chemical data for the area. Its survey suggested that the Tussing plant was contributing to a negative environmental situation in Blacklick Creek. Fairfield County appealed Ohio EPA’s imposition of the new phosphorus limit in its NPDES permit to the Ohio Environmental Review Appeals Commission, and subsequent appeals were made to the Tenth District Court of Appeals and eventually the Ohio Supreme Court.

In the opinion, written by Justice Judith Ann Lanzinger, the Court held that a TMDL established by the Ohio EPA, pursuant to the Clean Water Act, is a “rule”. Therefore, the Ohio EPA must abide by the procedures outlined in Ohio Revised Code (“R.C.”) Chapter 119, which provide for, among other procedures, public notice, comments, and a public hearing prior to a rule being adopted.

Justice Lanzinger explained that a TMDL is a “rule” as defined in R.C. 119.01 because it is a “standard” that has “a general and uniform operation” and creates new legal obligations. Although the TMDL was specific to the Tussing plant, the Court provided that “[t]he TMDL applies to all current and future discharges in the Big Walnut Creek watershed.” The opinion further explains that “[r]equiring Ohio EPA to undertake rulemaking procedures before applying the new standards set forth in the TMDL ensures that all stakeholders in the watershed have an opportunity to express their views on the wisdom of the proposal and to contest its legality if they so desire.” As a result, the phosphorus limit cannot be included as part of the Tussing plant’s NPDES permit because it did not undergo the R.C. Chapter 119 administrative rulemaking process. Because the phosphorus TMDL was part of impermissible rulemaking, the standard for the Tussing plant was vacated, and the case was remanded to the Ohio EPA.

In his concurring opinion, Justice Terrence O’Donnell provided that the “decision is far-reaching in that Ohio EPA has issued 1,761 TMDLs for watercourses throughout Ohio, including 132 TMDLs for phosphorus alone,” none of which have been promulgated through the R.C. 119 administrative process. “[T]hus the majority’s decision invalidates all of them, leaving the enforceability of numerous permits in question.”



John R. Kasich, Governor  
Mary Taylor, Lt. Governor  
Craig W. Butler, Director

May 21, 2015

Robert Brundrett  
Director, Public Policy Services  
The Ohio Manufacturers' Association  
33 North High Street 6<sup>th</sup> Floor  
Columbus, Ohio 43215-3005

RE: Petition to reconcile signage requirements for asbestos transport in Ohio

Dear Mr. Brundrett,

I have received your letter of May 8<sup>th</sup>, 2015 requesting clarification regarding the recent change the Occupational Safety & Health Administration's (OSHA) requirements for labeling asbestos waste containers. Sign changes are required effective June 1, 2015. I am happy to provide clarification on Ohio EPA's flexibility regarding this issue.

Ohio Administrative Code (OAC) 3745-20-05(C)(1) specifies that "each waste generator shall ensure that asbestos waste containers shall meet the following minimum standards" after which it specifies the minimum standards acceptable to Ohio EPA. Ohio EPA's rule was designed to mimic the federal asbestos rule at 40 CFR 61.150(a)(1)(iv), with further specification of the minimum requirements acceptable to us. Upon reviewing the new OSHA requirements we have determined that the new OSHA signage requirements continue to meet the minimum standards required by OAC 3745-20-05(C)(1).

I wanted to present you with this information as quickly as possible so you could communicate my decision to your members before the June 1<sup>st</sup> deadline. My staff will create a Standard Operating Guidance (SOG) to be placed on the Ohio EPA answer-place website to document our decision. If you have any further comments or questions please contact Bob Hodanbosi of my staff at 614-644-2270. Thank you for bringing this to our attention and I trust you will find our decision satisfactory.

Sincerely,

A handwritten signature in black ink, appearing to read "Craig Butler". The signature is fluid and cursive.

Craig Butler  
Director

cc: Bob Hodanbosi, Chief Division of Air Pollution Control  
Paul Koval, Supervisor Air Toxics Unit, Permitting Section  
Drew Bergman, Ohio EPA Legal  
Robert Brubaker, Porter Wright Morris & Arthur LLP

## Environment

### Ohio EPA Responds Favorably, Quickly to OMA Request on Asbestos Waste

On May 8, the OMA requested Ohio EPA clarification regarding the recent change in the Occupational Safety & Health Administration (OSHA) requirements for labeling asbestos waste containers. Sign changes are required effective June 1, 2015.

On May 21, Ohio EPA director Craig Butler [responded to the OMA](#) that the new OSHA requirements can flow through the current state administrative code. So, there will be no dual requirement in the state.

The director said he's directed his staff to create new Standard Operating Guidance on the matter to document this helpful and timely decision. *5/28/2015*

### OMA Asks Ohio EPA for Guidance on Asbestos Labeling

New OSHA asbestos labeling requirements conflict with current Ohio EPA requirements under the Ohio Administrative Code, causing the potential for a duplicative and confusing regulating scheme at both the state and federal level.

OMA [requested](#) that Ohio EPA Director [Craig Butler](#) issue guidance on the matter; OMA recommended that meeting the new labeling requirements under OSHA (and U.S. DOT) would be considered by Ohio EPA to be equivalent to, and in compliance with, the labeling requirements in the Ohio Administrative Code *5/14/2015*

### Ohio EPA Goal is One-Stop Service

Ohio EPA has posted its Strategy to Improve Services recorded webinar and PowerPoint slides on its [website](#) under the 'Training Tab' and on [Ohio EPA's YouTube](#) web link. *5/13/2015*

### Ohio EPA Seeks Comment on Regulation of Nitrogen Oxides

The Ohio Division of Air Pollution Control (DAPC) is seeking stakeholder input on Chapter 3745-110 of the Ohio Administrative Code (OAC). This establishes requirements for emissions of nitrogen oxides (NOx) from very large, large, mid-size, and small boilers, stationary combustion turbines, or stationary internal combustion engines as defined in OAC rule 3745-110-01, or from boilers located at a facility that emits

or has the potential to emit a total of more than one hundred tons per year of NOx emissions from all sources at that facility.

NOx is a precursor compound which, along with volatile organic compounds (VOCs), can form ozone. Ozone is one of the compounds of interest for which a National Ambient Air Quality Standard (NAAQS) has been established under the Clean Air Act.

Comments are due June 9, 2015. Contact [Paul Braun](#), DAPC at (614) 644-3734. Click [here](#) to access more information. *5/13/2015*

### Sound Off on Air Pollution Rules

The Division of Air Pollution Control (DAPC) is seeking stakeholder input on the general provisions rules. These include such things as: the authority of the director of Ohio EPA to request the collection and submission of emission information, the measurement of emissions of air contaminants, the requirements for the determination of a "de minimis" source of air pollution, the requirements in the event of equipment shut down caused by malfunction or maintenance, air pollution nuisances, and other administrative rules.

Comments are due June 12, 2015, and Ohio EPA will hold a public hearing June 12, 2015. Contact [Paul Braun](#), DAPC at (614) 644-3734. Click [here](#) to access more detailed information. *5/13/2015*

### Slag and Clay / Shale Products Amendments Survive

Two separate OMA-backed budget amendments survived the House amendment process and floor vote. They now head to the Senate for further deliberation.

One amendment would exclude slag from the statutory definition of "industrial waste." The amendment clarifies that in Ohio slag is not an "industrial waste" and is therefore treated as an industrial product, which it is. The language removes the current regulatory uncertainty around the product. OMA environmental counsel Frank Merrill put together this [memo](#) for members to use when discussing the amendment with legislators.

The second amendment exempts clay and shale products from solid waste and water regulations. The amendment clarifies that "off spec" Ohio brick and tile products are not subject to certain solid waste and

water regulations that may result in costly disposal requirements. Frank Merrill also prepared this [memo](#) for members. 4/23/2015

### Helpful Slag Amendment in Budget

A welcome new provision was included in the budget (HB 64) amendments this week: an amendment for which the OMA and the Ohio steel industry have advocated: to exclude slag from the statutory definition of "industrial waste."

Ohio is the second largest steel manufacturing state in the nation. Because of this, Ohio produces a large amount of slag, which is treated, stored, and sold on the open market as a useful product. Some of the largest slag processors have facilities in Ohio, such as Stein, Inc. and Tube City IMS.

The House Bill 64 language clarifies that in Ohio slag is not an "industrial waste" and is therefore treated simply as an industrial product, which it is. The language, thus, removes the current regulatory uncertainty around the product.

The OMA provided legislators with this [fact page](#). Members should be sure to thank Reps. Romanchuk (R-Mansfield) and Anielski (R-Walton Hills) for their strong support of the amendment. 4/16/2015

### Amendment Clarifies Regs for 'Off Spec' Brick and Tile Products

In addition to an amendment that provides regulatory certainty for slag, a second welcome environmental amendment the House added to the state budget bill this week would exempt clay and shale products from solid waste and water regulations. Ohio boasts world class manufacturing of shale and clay products.

The amendment spearheaded by Reps. Schuring (R-Canton) and Romanchuk (R-Mansfield) clarifies that 'off spec' Ohio brick and tile products are not subject to certain solid waste and water regulations that may result in costly disposal requirements.

Here is a [fact sheet](#) on the issue. 4/16/2015

### Ohio EPA Offers Webinars on its Service Improvement Plan

Ohio EPA is presenting a webinar so the regulated community can learn more [about the merger](#) of its Office of Compliance Assistance and Pollution Prevention (OCAPP) and Division of Environmental and Financial Assistance (DEFA). During this

webinar, Ohio EPA will discuss how Director Butler is achieving his priority initiative to create a "one-stop shop" for technical and financial resources to help constituents achieve compliance.

The webinar is offered on these two dates: Wednesday, April 15, 2015 1 p.m. – 2 p.m. (EST) and Wednesday, April 22, 2015 10 a.m. – 11 a.m. (EST). Participants can send in questions using the chat feature any time during the event. [Registration is required](#). 4/9/2015

### Ohio Supreme Court Decision Invalidates TMDLs

On March 24, 2015, the Ohio Supreme Court, in a 5-2 vote, [issued a decision](#) invalidating a phosphorus limit that was imposed on a Fairfield County wastewater treatment plant. The decision in *Fairfield Cty. Bd. Of Commrs. v. Nally*, provides that the Ohio EPA must adhere to Ohio's statutory rulemaking procedure prior to establishing pollutant limits for a body of water.

In his concurring opinion, Justice Terrence O'Donnell provided that the "decision is far-reaching in that Ohio EPA has issued 1,761 TMDLs\* for watercourses throughout Ohio, including 132 TMDLs for phosphorus alone," none of which have been promulgated through the R.C. 119 administrative process. "[T]hus the majority's decision invalidates all of them, leaving the enforceability of numerous permits in question."

OMA environment counsel, Frank Merrill of Bricker & Eckler LLP, writes [this summary](#) of the case. 3/27/2015

\*The total maximum daily load (TMDL) establishes the maximum amount of a pollutant that may be discharged for certain bodies of water without causing the receiving body of water to violate water-quality standards.

### Corps Should be Ashamed

"The U.S. Army Corps of Engineers should be ashamed of its flagrant abuse of the Clean Water Act, its violation of Ohio administrative codes and its contempt for the public." So, says the editorial board of the Cleveland Plain Dealer in an unusual [full page editorial](#) this week.

At issue, still, is the dredging of the Cuyahoga River, specifically the final mile of the river channel that "connects Cleveland's ArcelorMittal steel plant to the world." The Corps refuses to dredge that mile and dispose of dredge material in a confined waste facility, instead of open dumping into the lake.

Ohio EPA director Craig Butler has led the charge against the Corps, and points out that Congress appropriated almost \$8 million, and that the highest bid for dredging received by the Corps is only \$4 million. The Corps has the funding to dredge the entire channel, and dispose of its dredge materials appropriately in the confined waste facility.

Another example of an out-of-control federal agency undermining the U.S. economy. *4/2/2015*

### **Ohio EPA Announces Reorganization for Better Service**

This week Ohio EPA director, Craig Butler, issued a letter in which he describes agency goals and a reorganization:

"One of my major initiatives over the next two years is to create a "one-stop shop" environment within Ohio EPA for customers seeking our technical and financial resources to help them achieve compliance. This approach will both enhance the way in which we serve our customers and improve our own internal operations through a more efficient, coordinated and strategic approach to administering resources.

By realigning some of our key compliance assistance and funding programs here, I believe we also will be more strongly positioned to help even more regulated entities with a greater level of service.

I took the first step toward this goal early in June 2014, when I announced that Ohio EPA's Recycling and Litter Prevention Program would become part of the Office of Compliance Assistance and Pollution Prevention (OCAPP).

Today, I am pleased to announce another significant milestone, with the merger of our Office of Compliance Assistance and Pollution Prevention (OCAPP) and our [Division of Environmental and Financial Assistance](#) (DEFA). The new division will retain the name of DEFA; however, will provide a wider variety of services. Effective May 1, DEFA will house several of the Agency's core programs that have supported business and community development for many years ..."

[Read more here.](#) *4/1/2015*

### **OMA Files Comments with U.S. EPA on Flawed Ozone Proposal**

U.S. EPA closed its public comment period this week on its proposal to tighten the ground-level ozone air quality standards from the current 75 ppb (parts per billion) to within a range of 65 to 70 ppb.

A study conducted by National Economic Research Associates (NERA) Economic Consulting estimated that the more stringent ozone standard proposed would be the costliest regulation ever. In Ohio alone, the study found that revising the ozone standard from 75 ppb to 65 ppb could: Reduce state GDP by \$22 billion from 2017 to 2040; result in 22,914 lost jobs or job equivalents per year; cost \$840 million in compliance; and cost the average Ohio household \$440 per year in the form of lost consumption.

In [comments](#) filed with EPA, OMA said: "According to Ohio EPA, the highest eight-hour ozone concentration in Ohio was 112 ppb in 1981; in 2013, it was 86 ppb, a 29% reduction. While significant progress is being made in realizing lower ozone concentrations, the 2008 standard has not yet been fully implemented. Any further reduction in the level of the standard before the current standard has been fully implemented would impose a massive, additional economic burden on Ohio, and other states, before the health and environmental effects of the current standard are realized." *3/19/2015*

### **State Officials Oppose U.S. EPA Ozone Proposal**

This week both [Attorney General Mike DeWine](#) and [Lt. Governor Mary Taylor](#) weighed in with U.S. EPA on its proposal to lower the ozone standard from the current 75 ppb (parts per billion) to between 65 to 70 ppb.

In his [letter](#) to U.S. EPA Administrator Gina McCarthy, Attorney General DeWine said that the proposed rule is "...inconsistent with the intent of the Clean Air Act and without adequate scientific basis..." He also co-signed a [letter](#) to Administrator McCarthy with several fellow attorneys general, in which they state that the proposal is "...unlawful and unachievable..."

Lt. Governor Taylor asked Administrator McCarthy to "...reconsider these burdensome regulations and maintain the current standard of 75 ppb" in her [letter](#).

The OMA appreciates Lt. Governor Taylor and Attorney General DeWine weighing in on this issue.

Final rules are expected this October. *3/19/2015*

### **Sustainability at Great Lakes Brewing**

The Great Lakes Brewing Co. visited with the OMA Environment Committee this week to discuss its [commitment to sustainability](#).

Saul Kliorys, Sustainability Manager, talked to committee members about the three pillars of the brewer's sustainability program: social, environmental

and economic. He discussed water management and stewardship, energy management, waste management, responsible purchasing, and distribution impact, as well as strategic planning and an appreciative and engaged culture.

Great Lakes was Ohio's first craft brewery, founded in 1988. It produces five year-round beers and nine seasonal products. Each of them are enjoyed by Rob Brundrett, who staffs the committee. Not to mention the products of OMA member Anheuser Busch, which presented its sustainability program at a previous committee meeting. *3/12/2015*

**Environment Legislation**  
**Prepared by: The Ohio Manufacturers' Association**  
**Report created on June 1, 2015**

- HB61**      **LAKE ERIE FERTILIZER-DREDGING** (BUCHY J, HALL D) To generally prohibit the application of fertilizer or manure in Lake Erie's western basin on frozen ground or saturated soil and during certain weather conditions, and to prohibit a person, beginning July 1, 2020, from depositing dredged material in Ohio's portion of Lake Erie and its direct tributaries.  
*Current Status:* 3/17/2015 - Referred to Committee Senate Agriculture  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-61>
- HB64**      **OPERATING BUDGET** (SMITH R) To make operating appropriations for the biennium beginning July 1, 2015, and ending June 30, 2017, and to provide authorization and conditions for the operation of state programs.  
*Current Status:* 5/26/2015 - Senate Finance, (Fourth Hearing)  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-64>
- HB101**      **HAB MITIGATION** (HALL D) To establish requirements governing the training of employees of publicly owned treatment works and public water systems to monitor and test for harmful algae, the development of emergency plans by certain public water systems to respond to harmful algal blooms, and the development of an early warning system for harmful algal blooms.  
*Current Status:* 3/24/2015 - House Agriculture and Rural Development, (First Hearing)  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-101>
- HB214**      **PUBLIC IMPROVEMENT-PIPING MATERIAL** (THOMPSON A) To restrict when a public authority may preference a particular type of piping material for certain public improvements.  
*Current Status:* 5/26/2015 - Referred to Committee House Energy and Natural Resources  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-214>
- HCR11**      **GOVERNOR-WATER QUALITY EFFORTS** (HALL D) To commend Governor John Kasich on his efforts to improve the water quality of Lake Erie and to affirm the Governor's ability to form an interstate compact with other states in furtherance of this objective.  
*Current Status:* 5/12/2015 - **REPORTED OUT**, House Agriculture and Rural Development, (Second Hearing)  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HCR-11>
- SB1**      **GREAT LAKES-HARMFUL ALGAE** (GARDNER R, PETERSON B) To transfer the administration and enforcement of the Agricultural Pollution Abatement Program from the Department of Natural Resources to the Department of Agriculture.  
*Current Status:* 4/2/2015 - **SIGNED BY GOVERNOR**  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-1>

- SB16**      **WATERSHEDS-FERTILIZER APPLICATION** (BROWN E) To require applicators of fertilizer or manure to comply with specified requirements and to authorize the Director of Environmental Protection to study and calculate nutrient loading to Ohio watersheds from point and nonpoint sources.  
**Current Status:** 2/10/2015 - Senate Agriculture, (First Hearing)  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-16>
- SB46**      **LAKE ERIE DRILLING BAN** (SKINDELL M) To ban the taking or removal of oil or natural gas from and under the bed of Lake Erie.  
**Current Status:** 2/18/2015 - Referred to Committee Senate Energy and Natural Resources  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-46>
- SB47**      **DEEP WELL BRINE INJECTION PROHIBITION** (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:** 2/18/2015 - Referred to Committee Senate Energy and Natural Resources  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-47>
- SB114**      **MICROCYSTIN LEVELS-PUBLIC WATER** (SKINDELL M) To establish requirements and procedures pertaining to levels of microcystin in public water systems.  
**Current Status:** 3/10/2015 - Referred to Committee Senate Health and Human Services  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-114>
- SB150**      **MOTOR FUEL DISPOSAL** (HITE C) To create a qualified immunity for the dispensing of incompatible motor fuel.  
**Current Status:** 4/28/2015 - Referred to Committee Senate Civil Justice  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-150>

**To: OMA Government Affairs Committee**  
**From: Ryan Augsburger / Rob Brundrett**  
**Re: Human Resources Update**  
**Date: June 3, 2015**

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### **Overview**

Unemployment insurance tax rates remain a hot topic for employers. The U.S. Department of Labor just released its 2014 State Unemployment Insurance Trust Fund Solvency report. As other states solve their debt issues, Ohio continues to only pay down the interest on the debt. Without paying off the principle, FUTA tax rates will continue to increase. The House and Senate continue to have internal discussions on how best to address the issue.

### **General Assembly News and Legislation**

#### **House Bill 64**

The state budget will continue to pay the interest on Ohio's unemployment compensation debt to the federal government. Currently it stands at over \$218 million.

#### **Unemployment Compensation Tax Changes**

Last year the House created legislative study committee that traveled the state to hold hearings about eliminating Ohio's nearly \$1.3 billion debt to the federal unemployment loan fund.

Ohio's unemployment tax has been raised each of the last four years as Ohio continues to struggle to pay off the loan. It was raised again for its fifth hike since Ohio borrowed the federal money. The committee was chaired by Barbara Sears (R-Sylvania); the vice chair was Gary Scherer (R-Circleville). The committee made several stops across the state including OMA member Petaflex in Springfield. At the northwest Ohio hearing, OMA member O-I testified on the impact that the raising rates were having on the company.

No official report was ever made public regarding the hearings or on potential fixes. However Representative Sears has begun to diligently work on a couple of bills to address the solvency and structure of the system.

State of Ohio Payments on the Unemployment Compensation Trust Fund Debt

<b>Calendar Year</b>	<b>State Fiscal Year</b>	<b>Interest Payments</b>
2011	FY12	\$ 70,738,126.58
2012	FY13	\$ 65,805,214.96
2013	FY14	\$ 44,495,535.13
2014	FY15	\$ 37,157,094.67
<b>Total</b>		<b>\$ 218,195,971.34</b>

## Human Resources

### Proposed Blacklisting Regulations Would Affect Manufacturers

National Association of Manufacturers (NAM) Vice President of Human Resources Policy, Joe Trauger, reported that this week the Department of Labor and the Federal Acquisition Regulation Council released their proposed regulations to implement the "Fair Pay and Safe Workplaces" executive order, which was signed by President Obama last summer.

According to Trauger, "The order sanctions a practice known as "blacklisting" companies from federal contracts due to even minor infractions of complex labor laws, such as the Fair Labor Standards Act.

"The order also created the position of a labor compliance officer charged with awarding and overseeing contracts in conjunction with the agency's procurement officer within each federal agency. As political appointees, these officers could inject politics into the procurement process.

"These proposed regulations will impose significant reporting and paperwork burdens on all prime and subcontractors that provide goods and/or services to the federal government.

"The National Association of Manufacturers is pursuing all options to prevent this blacklisting program from going into effect. We will develop extensive comments on the proposed rules ..." 5/28/2015

### How to Deal with the Coming Marijuana Ballot Issues?

House Speaker Cliff Rosenberger (R- Clarksville) this week told reporters that the body will soon tackle issues related to marijuana ballot issues that look to be headed to the fall ballot in Ohio.

Polls show high support among Ohioans for legalization of marijuana both for medical and recreational uses. Opportunists look to seize this public support to create marijuana cartels via the Ohio constitution. Several groups are circulating petitions to get on the 2015 general election ballot.

Speaker Rosenberger is quoted as saying: "I think you'll see us start acting here soon. I also expect to see movement to look at how we can also make it a little more tough to amend the constitution of the state...There needs to be a high threshold to change the constitution. In this case, I mean I got a real problem with people...trying to create a monopoly with our constitution."

The OMA supports the Speaker's call for raising the threshold. It is unlikely, though, that this can be accomplished in time for this November election.

Last week Secretary of State Jon Husted told reporters: "This is at least the fifth particular proposal we have and they're passing across the country. You're seeing the trends in Ohio shift in terms of public opinion on this and, as much as I don't support any of these particular proposals, I don't think we should be naive and pretend like we can stick our heads in the sand and avoid this conversation." He called for a public debate in the legislature to get the issues out in the open. 5/20/2015

### Protecting Your Company in Face of Marijuana Legislation

OMA Connections Partner, Working Partners®, recently held a webinar, "Marijuana Legalization and its Impact on Business Operations."

For those who were unable to view it live, the webinar can be [watched here](#) (registration required).

May 29 is the next enrollment deadline for the Bureau of Workers' Compensation Drug-Free Safety Program (DFSP). With the probability that Ohioans will be voting on marijuana legalization this November, Working Partners advises employers to take advantage of the DFSP rebate and grant, and implement a sound program now.

[Contact Working Partners](#) for more information. 5/20/2015

### Export Focused Summer Interns with Reimbursement Available

The Ohio Development Services Agency is accepting company applications for the 2015 Ohio Export Internship Program.

The program will match companies with highly motivated students who have taken export-focused coursework, while providing a 50% reimbursement for the intern wages. Internships start May 11.

[Here's more information.](#) 4/30/2015

## New MFG DAY Host Toolkit Available



The updated **Manufacturing Day Host Toolkit**, the official guide to organizing Manufacturing Day plant tours, is now available for download. MFG DAY 2015 is Friday, October 2.

A comprehensive playbook for manufacturers who plan to host on-site tours of their facilities, the toolkit includes: instructions for event setup; tips for conducting a facility tour; a complete event checklist; . . . and much more!

[Download your copy](#) today to start planning your MFG DAY event. 4/24/2015

## \$100M More for K-12

The Ohio House added \$100 million to the biennium's K-12 budget in the omnibus amendment adopted Monday. The additional funding was added to hold school districts harmless from the effects of the continuing phase out of the tangible personal property and the kWh tax reimbursement programs. About 100 districts would have lost money under the substitute version of the bill; now, no districts are to lose funding.

See the effects of the new funding on your school district [here](#). 4/24/2015

## EEOC Issues Proposed Rules on Employer Wellness Plans

According to OMA Connections Partner, Bricker & Eckler LLP, last week the Equal Employment Opportunity Commission (EEOC) published its notice of proposed rulemaking addressing how the Americans with Disabilities Act (ADA) applies to some employer wellness programs.

If approved, the rule would provide much needed guidance on how to use financial incentives to encourage workers to participate in wellness programs without violating federal law. [Read the proposed rule and more here](#). 4/17/2015

## See How the House Would Fund Your School District

The substitute budget bill that the House unveiled this week would increase K-12 funding by \$179 million in the "foundation formula" to ensure that no district receives less in state funding than it received in fiscal year 2015.

See how your school district would be effected [here](#). 4/16/2015

## Manufacturing Day: Tackling the Skills Gap



One of the reasons Manufacturing Day was started was to address what's known as the "skills gap" — the mismatch between the skills held by available workers and the skills that manufacturers require.

While it's something manufacturers have felt for a while, it was first formally documented in a landmark study published by [Deloitte](#) and [The Manufacturing Institute](#) in 2001, and then updated periodically.

The 2015 Skills Gap Report has just been released and the concerning trends continue — there's a growing misalignment of skills in the manufacturing sector. Here's an [excellent summary](#) of the report.

Go to [MFG DAY](#) for tons of resources that you can put to use in your community. 4/10/2015

## "Broken Immigration System Hurts Cleveland's Economy"

Global Cleveland issued this [press release](#) to highlight how U.S. federal immigration policies impact businesses and jobs across the country.

"We want our national elected officials to understand that especially in Metro Cleveland and across Ohio, and in other urban centers, in the nation's heartland, immigration reform is a critical component of a prosperous economic future," said Joy Roller, Global Cleveland President.

A recent Partnership for a New American Economy study found that Metro Cleveland has approximately 80 H-1B visas\* denied on an annual basis. Several economic studies have demonstrated that skilled immigrant workers hired under the H-1B create additional jobs of all types for U.S.-born workers. Using statistical predictors, the PNAE report estimates that approval of these visa applications would have generated as many as 286 additional jobs for U.S.-born workers in Metro Cleveland, and nearly 250 of these jobs would be for non college-educated U.S.-born workers. Approval of these visa applications would have also added as much as \$2.236 million in wages for existing U.S.-born computer workers in Metro Cleveland. 4/8/2015

\* An H-1B visa is a temporary non-immigrant employment visa for highly educated foreign professionals in "specialty occupations" that require at least a bachelor's degree or the equivalent.

### **Preparing for a Wage and Hour Investigation**

Imagine this: One day you receive a letter from the Department of Labor (DOL), the agency tasked with investigating and enforcing the Fair Labor Standards Act. The letter informs you that the DOL will show up at your business in one week to conduct an audit of your business for wage and hour violations. Are you prepared?

[Read more](#) from OMA Connections Partner, Bricker & Eckler LLP. 3/27/2015

### **Obama Vetoes Senate Attempt to Kill New "Ambush Election" Rule**

OMA Connections Partner, Roetzel, reports that this week President Barack Obama used the fourth veto of his presidency to block a Senate joint resolution that would have killed the new National Labor Relations Board's "Ambush Elections" rule providing for, among other things, speedier union elections.

Per Roetzel: While two lawsuits alleging the rule change is unlawful remain pending, most legal scholars believe those suits lack the ability to stop the rule from going into effect on April 14, 2015. [Read more](#). 4/1/2015

### **Legislators Talk Workforce with OMA Leadership**

Meeting with the OMA board of directors, Rep. [Kirk Schuring](#) (R - Canton) and Rep. [Nathan Manning](#) (R - North Ridgeville) discussed workforce development,

specifically the House's top bill, [HB 1](#). The two are the lead sponsors of the measure.

Schuring noted that a substitute bill contained many of the recommendations proposed in OMA testimony presented by OMA director Rick Pfeifer of American Trim, Lima. He also said that he introduced the bill because of information presented by OMA members in a series of hearings around the state during the last General Assembly. 3/26/2015

### **U.S. Supreme Court Issues Significant Ruling in Pregnancy Discrimination Case**

OMA Connections Partner, Dinsmore, reports that the U.S. Supreme Court issued a long-awaited decision this week in a case involving whether an employer must provide light duty to pregnant employees if it provides light duty to certain other employees. The Supreme Court ruled that it might be discriminatory for an employer not to do so. [Read more](#). 3/26/2015

### **Can You Support NE Ohio RoboBot Competition?**

The Alliance for Working Together (AWT), a Northeast Ohio organization with a mission to "promote the development of rewarding careers in manufacturing for the long-term success and growth of our manufacturing community," is seeking sponsors for its Regional RoboBot Competition on Saturday, April 25, 2015. Here's a [sponsor form](#) if you can help the participating students; read more at the [AWT website](#). 3/20/2015

### **NLRB "Ambush Election" Law Takes Effect Next Month**

Under the new law, which takes effect on April 14, 2015, a union election can take place in as few as 10 to 21 days after the filing of a representation petition. Although pending lawsuits allege the National Labor Relations Board (NLRB) lacked power to make the changes, there is no guarantee that the courts will rule on the cases in time or will repeal the law.

OMA Connections Partner, Roetzel, says this is the most significant change to federal labor law in the past 50 years and runs down the [changes to expect](#). 3/16/2015

### **Meanwhile, Congress Disapproves Ambush Election Rule**

This week, by a vote of 232-186, the U.S. House voted to approve a Congressional Review Act (CRA) Resolution of Disapproval ([S.J.Res 8](#)) over the

National Labor Relations Board's (NLRB) Ambush Election Rule, which will be effective April 14. The Senate approved this measure earlier this month by a vote of 53-46.

The NLRB's new rule would shorten the time in which a union election can take place to as little as 14 days. Additionally, the rule would require employers to hand over employees' personal cell phone numbers, email addresses and shift information to union representatives.

The National Association of Manufacturers (NAM) again [Key Voted](#) in support of the House vote. The CRA now heads to the president's desk, where, according to NAM, it will be vetoed.

NAM's legal challenge to the rule will be taken up by the U.S. District Court for the District of Columbia, which will start deliberating at the beginning of April. A decision by the effective date of the rule is hoped for. *3/19/2015*

### **In Demand Jobs and Workforce Program Measures**

Dawn Larzelere, Director of the Governor's Office of Workforce Transformation, [testified](#) before the House Workforce and Economic Development Committee this week.

She described the methodology for identifying the state's "in demand jobs": " Utilizing state employment statistics and projections data, job posting trend data from OhioMeansJobs.com and responses from employers in priority industries on future job needs, Ohio created a summary of the state's most urgent job needs...The in-demand jobs data plays an important role in OhioMeansJobs.com, ensuring that job seekers of all ages can learn about the best opportunities with a living wage, job openings and growth opportunities."

She also summarized the office's development of workforce development program measurements. You can find the program measures on this [website](#). *3/19/2015*

### **OMA Suggestions Incorporated into Workforce Bill**

A couple of weeks ago, several members of the OMA Work Group on Manufacturing Career Pathways testified as proponents to House Bill 1, which creates a program for grants to students pursuing education that leads to "in-demand jobs."

In the testimony, the OMA made a series of recommendations for improvement. Most of those [suggestions have now been incorporated](#) into the bill through introduction of Substitute House Bill 1.

Those improvements include: 1) having the greatest portion of the grant distribution be at the end of the courses and just before the student is hired for the in-demand job; 2) removing the tax credit provision from the bill; 3) including Adult Career Technical Schools as eligible to participate in the program; 4) requiring the Ohio Board of Regents (Board) to develop a system of metrics for program performance; and 5) requiring the Board to create a plan for engaging guidance counselors in advising students about in-demand jobs.

Thanks to the bill sponsor, Rep. Kirk Schuring (R - Canton), for listening to and acting on manufacturing's input. *3/12/2015*

### **Senate Votes in Favor of a Resolution Disapproving the NLRB's Ambush Election Rule**

This week, by a vote of [53-46](#), the U.S. Senate voted to approve a Congressional Review Act (CRA) Resolution of Disapproval ([S.J.Res 8](#)) over the National Labor Relations Board's (NLRB) Ambush Election Rule, which will be effective April 14.

The NLRB's new rule would shorten the time in which a union election can take place to as little as 14 days. Additionally, the rule would require employers to hand over employees' personal cell phone numbers, email addresses and shift information to union representatives.

The resolution only needed a simple majority to pass and did so largely along party lines, with the exception of Senator Lisa Murkowski (R-AK), who voted against the resolution.

The National Association of Manufacturers (NAM) [Key Voted](#) in support of the Senate vote and will do so again once the House takes up its companion resolution, H.J.Res. 29, in the next few weeks.

Once the CRA passes the House, it will be sent to the president, who, according to NAM, will veto it.

NAM will pursue a legal challenge to the rule, and expects the U.S. District Court for the District of Columbia to start deliberating by the beginning of April to hopefully have a decision by the effective date of the rule. *3/5/2015*

**Human Resources, Health Care & Employment Law Legislation**  
**Prepared by: The Ohio Manufacturers' Association**  
**Report created on June 2, 2015**

- HB64**      **OPERATING BUDGET** (SMITH R) To make operating appropriations for the biennium beginning July 1, 2015, and ending June 30, 2017, and to provide authorization and conditions for the operation of state programs.  
*Current Status:* 5/26/2015 - Senate Finance, (Fourth Hearing)  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-64>
- SB25**      **MINIMUM WAGE** (YUKO K) To raise the minimum wage; to raise the salary threshold above which certain employees are exempt from the overtime law; and to create a uniform standard to determine whether an individual performing services for an employer is an employee of that employer.  
*Current Status:* 2/4/2015 - Referred to Committee Senate Transportation, Commerce and Labor  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-25>
- SB137**      **OHIO HEALTH CARE PLAN** (SKINDELL M, TAVARES C) To establish and operate the Ohio Health Care Plan to provide universal health care coverage to all Ohio residents.  
*Current Status:* 4/14/2015 - Referred to Committee Senate Insurance  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-137>

**TO: OMA Government Affairs Committee**  
**FROM: Ryan Augsburger / Rob Brundrett**  
**RE: Public Policy Report**  
**DATE: June 3, 2015**

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### **Overview**

The General Assembly continues to focus on the state operating budget. The House has already moved the BWC, IC, and operating budgets to the Senate. The Senate has held several hearings on both the BWC and IC budgets. They should be up for a full Senate vote in the near future. There remains a concern that Senate Bill 5 could be added to the Workers' Compensation budget bill.

### **Legislation and Rules**

#### **Senate Bill 5 – mental / mental**

State Senators Tom Patton (R-Strongsville) and Edna Brown (D-Toledo) have introduced Senate Bill 5. The bill would allow emergency first responders to receive workers' compensation benefits for PTSD even if they do not have an accompanying physical work injury. This would go against how Ohio's workers' comp system has historically operated.

“Mental/mental,” as the provision is called, would go against the workers' compensation principle that benefits must be tied to a compensable physical illness or injury. The measure would increase complexity and cost for public employers and allow certain employees to receive benefits not available to others. It also would be a terrible precedent facing private sector employers.

This would be a major change for public employers and possibly private employers in the future. The Senate passed a similar measure three times last year, only to be rebuffed by the House on each occasion.

The Senate heard powerful testimony from Administrator Buehrer but nonetheless passed the bill out of committee with only one no vote (Uecker). However the bill was referred to Senate Finance because of the price tag and has had several hearings, and one interested party meeting.

The Senate has continued to have hearings on this bill in the Finance Committee. There was an amendment floating around that would have opened the bill up to private employers. The Senate continues to seriously consider the bill for movement over the next few weeks.

#### **Senate Bill 27 – firefighter cancer**

Senator Tom Patton (R-Strongsville) introduced a bill that would assume a firefighter with certain types of defined cancers contracted those cancers within their working conditions. The bill is limited strictly to firefighters.

#### **House Bill 51 – IC budget**

The Industrial Commission budget was introduced with no real policy changes. The bill passed the House and is currently pending in the Senate.

### House Bill 52 – BWC budget

The BWC budget was introduced with minimal policy changes, following the same path the Kasich Administration paved with earlier versions of the budget. Perhaps the most noteworthy change in the bill would give the BWC authority to use funds from its current net position to cover the unfunded liabilities of the Disabled Workers Relief Fund I (DWRF I). The OMA submitted support testimony in both the House and Senate. There is some concern that the budget might get drawn into the Senate Bill 5 discussions.

### HB 64 – State Operating Budget

The Governor introduced the state operating budget in early February. The bill contains the budget appropriations to fund Ohio's general government provisions. However the 2,700 page bill often contains policy changes impacting numerous state agencies. Some workers' comp amendment may be slipped into the bill prior to the June 30 deadline for passage.

The budget is currently pending in the Senate. Hot button issues, such as school funding, tax reform, and Medicaid expansion have taken center stage.

### BWC Medical Reform

The BWC is preparing to launch a medical management pilot this summer focused in northeast Ohio. The pilot will be focusing on comprehensive care for knee injuries.

## **Bureau of Workers' Compensation**

### BWC Board Passes Rate Cut

Bureau of Workers' Compensation (BWC) proposed to again reduce overall rate levels for private employers beginning July 1. The proposed reduction is 10.8%.

The proposed reduction is attributable to a number of factors, including lower expected claim frequency, as well as the upcoming adoption of a prospective billing system. BWC currently bills employers in arrears. Under the new system of prospective billing, BWC will collect premiums before extending coverage. Prospective billing enables BWC to lower rates to reflect the increased investment income.

The proposed 10.8% reduction is an overall statewide average. The actual premium paid by individual private employers will depend on a number of factors, including the expected future costs in their industry segment, their recent claims history, and their participation in various premium credit and savings programs.

The BWC board of directors approved the proposal at its February hearing.

## **Ballot Issues**

### Marijuana Ballot Issue

Several marijuana ballot issues could be on the fall ballot. Responsible Ohio, the group pushing for a 2015 marijuana ballot amendment, released the full text of the proposed amendment. The group also made headlines by naming the ten sites throughout Ohio where marijuana would be grown in compliance with the new constitutional amendment. The sites are specific parcels of land named in the amendment.

The group is currently collecting the approximately 306,000 signatures needed for the November ballot.

**Ohio Manufacturers' Association**  
Workers' Compensation Counsel Report  
May 5, 2015

By: Sue A. Wetzel, Esq.  
Bricker & Eckler LLP

**Changes Under Senate Bill 5 and the Amendment**

**Expansion of the Definition of Injury:**

Senate Bill 5, if enacted, would be very costly for all of Ohio's employers. This bill, as amended, would expand the definition of "injury" to psychiatric conditions that both arise out of an injury, as well as, those which accompany the injury. This amendment would overturn the recent Supreme Court case *Armstrong v. John R. Jurgenson Co.*, which specifically held that for a mental condition to be compensable under the Ohio Workers' Compensation system, a compensable physical condition must have caused the mental condition. These types of claims have never been allowed in Ohio, or any other monopolistic state for that matter. SB 5 originally affected only public employers, but with this amendment, all employers are now exposed to increased costs and decreased productivity.

**Psychological Condition Arises Out of an Injury**

If an employee sustains a physical injury as part of a compensable workers' compensation claim, that individual could also be entitled to benefits for a compensable psychological condition, if the psychological condition *arises out of* the injury. What this means is that the actual, physical injury must have caused the psychological condition. This usually requires a more significant injury or an injury that causes significant pain either at the outset or temporarily at some point throughout treatment, or results in permanent pain. Generally, sprains, minor contusions, etc. are not going to be the proximate cause of a psychological condition.

**Psychological Condition Accompanies an Injury**

If an employee sustains a physical injury as part of a compensable workers' compensation claim, that individual could also be entitled to benefits for a compensable psychological condition, if the psychological condition *accompanies* the injury. What this means is that the psychological condition no longer needs to arise from the actual physical injury, it can arise from the circumstances in which the injury occurred. This could be a motor vehicle accident, attack by a co-worker, or a simple fall. If the mechanism of injury leading to a compensable claim was traumatic for the injured worker, they will have a cause of action for a psychological condition to be added to their claim.

**PTSD as an Occupational Disease for All Employees:**

Additionally, under SB 5, R.C. § 4123.68 permits occupational diseases "for every employee who is disabled because of the contraction of an occupational disease..." This Amendment permits PTSD for 1) anyone exposed to a deadly weapon or 2) anyone exposed to

the results of the use of a deadly weapon. Deadly weapon is defined by section R.C. § 2923.11(A) as: “any instrument, device, or thing capable of inflicting death, and designed or specially adapted for use as a weapon, or possessed, carried, or used as a weapon.” Thus, essentially anything can qualify as a deadly weapon under this section, and I would fully expect the claimant’s bar to argue this as needed.

**Anyone Exposed to a Deadly Weapon:**

If an employee is exposed to a deadly weapon, they can qualify for PTSD under the workers’ compensation system, assuming all other elements are met for a compensable workers’ compensation claim. This permits all employees, not just first responders, to apply for a workers’ compensation claim for the original allowance of PTSD. As with the original SB 5, a physical injury is no longer required first. The additional requirement of a deadly weapon has been added, arguably as a gatekeeper, but the definition of deadly weapon fails to act as a true gatekeeper since it essentially allows anything to be considered a deadly weapon.

**Anyone Exposed to the Results of a Deadly Weapon:**

If an employee is exposed to *the results* of the use of a deadly weapon, i.e. witnesses an assault/threat/death, walks into the scene after the fact, etc., they too can qualify for PTSD under the workers’ compensation system, assuming all other elements are met for a compensable workers’ compensation claim. This expansion overrules *Armstrong* and *McCrone*, permitting any employee *involved in the incident* where a deadly weapon is involved to file a claim for workers’ compensation benefits for the condition of PTSD. Again, a physical injury is no longer required to initiate a workers’ compensation claim.

	Pre-SB 5	SB 5	SB Amendment
Who can qualify as an Injured Worker?	All Employees, but only if 1) physical injury first, and 2) PTSD arises out of physical condition	First Responders; no physical injury required (all other employees pre-SB 5)	All Employees; no physical injury required for PTSD
Physical Injury Required	Yes	No – First Responders Yes – all other employees pre SB 5	Not for PTSD, but for any other psychological condition a physical condition must have occurred
Psychological Disorder Compensable if it <i>arises out of</i> the Physical Condition	Yes	No for First Responders; Yes for all other employees	No
Psychological Disorder Compensable if it <i>accompanies</i> the Physical Condition	No	No	Yes
Deadly Weapon Required	No	No	Yes

In effect, this Amendment permits PTSD to be the original allowance for a workers’ compensation claim and will likely result in increased claims for all employers. The obvious employers affected by this Amendment are banks, retailers, leasing companies, etc. but OMA members are equally at risk. Under this Amendment, any object or piece of equipment at the

employer's place of business can be used as a "deadly weapon," and anyone that witnesses or is otherwise exposed to the results of the use of that "deadly weapon" can file a workers' compensation claim. It should be noted that death is not required under this Amendment; an attack or threat with a deadly weapon can arguably be the basis for a PTSD claim. Additionally, when an OMA is exposed to one of these claims, it is likely it will affect more employees at once and result in a bigger impact.

For example, if a rogue employee uses an air hose/hammer/shoe as a weapon to attack a co-worker, that co-worker and any employees who witnessed the incident, and potentially anyone who didn't witness it but are still exposed to the results of the attack can file a claim with PTSD as the original allowance under this Amendment. The "deadly weapon" in this scenario could be an air hose, a lunch bag, a hammer, a chemical in someone's water, etc. – the list of potential deadly weapons here is endless. While these types of incidents are likely rare, they in deed possible, and would be very costly for the employer. Taking the above scenario down a few notches, an employee holding a hammer/air hose/chemical/etc. and making a threat that he will use the item to harm another employee could equally constitute a compensable claim for PTSD. This scenario is much more likely to occur in a manufacturing setting, and once employees learn of "mental-mental" claims for PTSD being allowed under the workers' compensation system, the potential for abuse becomes a reality.

Long term, this Amendment opens the door for mental-mental claims of all types as well. This Amendment permits claims for PTSD, but it is conceivable that an employee in the exact same situation that causes one employee PTSD could also cause another employee "only" depression. To permit a claim for PTSD and deny another for depression when they arise out of the exact same scenario, admittedly, does not make much sense, so it is only a matter of time.

## Safety & Workers' Compensation

### Jackson Joins OMA Workers' Comp Staff

[Brian Jackson](#) has joined the OMA Workers' Compensation Services staff. Brian comes to us from the Bureau of Workers' Compensation, where he served as an actuarial analyst and a business consultant.

Brian is a graduate of The Ohio State University. There he received a B.S. degree in actuarial science.

Brian will assume Denny Davis's position upon Denny's well-deserved retirement this summer.

Welcome to the OMA team dedicated to protecting and growing Ohio manufacturing, Brian! 5/27/2015

### Protect Your 8 Month BWC Premium Holiday

Ohio Bureau of Workers' Compensation (BWC) Administrator/CEO Steve Buehrer [reminded Ohio employers](#) this week that they must take action now to ensure they receive their portion of the \$1.2 billion premium credit BWC will issue this summer as it updates its billing system.

Private employers in an active status are eligible to receive a credit for eight months of workers' compensation coverage as part of BWC's switch to prospective billing. Since active status includes being up-to-date on payments, Buehrer also announced that BWC would establish payment plans for companies wishing to come into compliance and be eligible for the credit.

Under the new system, effective July 1 for private employers, businesses will be billed prior to receiving coverage instead of the current practice of billing employers in arrears. Designed to prevent double billing during the transition, the credit will result in BWC paying businesses' previous six months coverage, or final payroll report, under the old system, as well as 1/6th of their policy year 2015 premium due. Private employers' first payment under prospective billing will be due August 31.

To receive the credit, employers must be in active status by July 1. Employers with lapsed coverage must take the following steps to ensure eligibility for the transition credit:

- Report unreported payroll for currently lapsed payroll periods;
- Pay any outstanding premium, late fees and penalties for assessed premium, or;

- Request a payment plan for any premium amounts that cannot be paid in full.

BWC continues to offer free prospective billing [webinars and seminars](#) across the state to provide details and answer questions about prospective billing. More information is available [here](#). Employers with questions can call 1-800-644-6292 or [email](#). 5/21/2015

### Revamped BWC Pharmacy Program Dramatically Drops Opiate Use

The Ohio Bureau of Workers' Compensation (BWC) just [reported](#) on the progress its making with the outpatient medication formulary it implemented in 2011 to limit inappropriate uses of medications and lower prescription costs. Injured workers were prescribed 15.7 million fewer opiate doses in 2014 than in 2010, representing a 37% decrease in the number of injured workers receiving opiates.

The report was delivered by John Hanna, BWC's pharmacy program director, during the fourth annual National Rx Drug Abuse Summit in Atlanta, Georgia.

After implementing the formulary, BWC began refining coverage for opiates as well as coverage of muscle relaxants and anti-ulcer agents, which, according to BWC, are also commonly overprescribed and misused. Over that period of time, prescriptions for muscle relaxants and anti-ulcer medications decreased by 72% and 83%.

Moving forward, BWC will be targeting dangerous combinations of medications prescribed by multiple physicians. After detecting those at the highest risk, BWC will work with their physicians or make referrals to managed care organizations to ensure injured workers aren't receiving medication combinations that can be deadly.

Ongoing improvements to the pharmacy program have also produced dollar savings. In 2014, BWC's total drug costs were 16%, or \$20.7 million, less than in 2010.

With 859,000 open claims, BWC is the largest state fund workers' compensation insurer in the country. The agency paid \$1.7 billion in total benefits during fiscal year 2014, including \$662 million in medical spending and \$109 million in pharmacy benefits. 5/14/2015

## Apply Now for OMA Workers' Compensation Services

OMA took its cues from its members' management values and practices and created a *high-performing workers' compensation service system* that is unique in Ohio.

We're now inviting new applicants to participate in our Workers' Compensation Services programs.

OMA Workers' Compensation Services include the services that manufacturing executives, financial managers and human resource managers *all value* in a workers' comp supplier. Learn [more here](#). [Apply now](#). 5/13/2015

## BWC Updates on Payment Switch

Starting July 1, private employers will be able to pay their annual workers' compensation premiums in two, four, six or 12 installments. This change was recently approved by the Ohio Bureau of Workers' Compensation (BWC) Board of Directors as part of the agency's switch to prospective billing.

BWC has now added a [schedule of webinars](#) so that employers can learn more about the switch to prospective payment.

[Read more](#) from the BWC about the switch. 5/14/2015

## New BWC Billing System Effective July 1 for Private Employers

As part of its move to a new prospective billing system, the Ohio Bureau of Workers' Compensation (BWC) board of directors last week approved a plan to allow private employers to pay for their annual workers' compensation premiums in two, four, six or twelve installments for more flexibility.

Under the new system, businesses will be billed prior to receiving coverage instead of the previous system of billing employers after they have received coverage.

Businesses can expect to receive their first notice of estimated annual premium in early June for the 2015 policy year. Beginning July 1, businesses will pay an estimated premium for the upcoming coverage year and undergo a payroll "true-up" process after the policy year ends to ensure the proper premium was paid.

To ease transition costs for employers, BWC will pay employers' premium obligation for January 1 to June 30, 2015, or final payroll report under the old system, as well as the first two months of the 2015 policy year premium (July and August). Therefore, the first payment employers will pay under prospective billing won't be due until August 31.

The switch to prospective billing is expected to provide an overall base rate reduction of 2.4% for private employers and increased ability for BWC to detect employer non-compliance and fraud.

BWC continues to have available dates for [free prospective billing seminars](#). 4/24/2015

## We're Talking Marijuana at May 5 OMA Meeting

The OMA Safety & Workers' Compensation Committee meeting is [Tuesday, May 5](#) from 10:00 a.m. until 1:00 p.m. in the [OMA offices](#) (includes lunch provided by the OMA).

Among the agenda items we have planned, [Joëlle C. Khouzam](#), attorney with Bricker & Eckler LLP will discuss marijuana in the workplace, including: 1) other states' legalization laws; 2) Ohio fall ballot initiatives; and 3) employer impacts of marijuana legalization. There will also be an update on [Senate Bill 5](#), a measure that would allow a workers' compensation claim for posttraumatic stress disorder for Ohio's first responders, even when no physical injury or illness occurs.

A call-in option will be available at: (866) 362-9768, 552-970-8972#. If you haven't already, please [register here](#) for in-person or call-in attendance. Or email [Denise Locke](#) or call us at (800) 662-4463. 4/30/2015

## Senate Still Ponders Coverage for Mental Conditions in Workers' Comp

This week the Senate Finance Committee delayed a vote on [SB 5](#), which would allow for posttraumatic stress disorder (PTSD) claims for first responders without physical injuries. According to actuaries at the Ohio Bureau of Workers' Compensation, the bill would cost local governments \$182 million a year, about doubling rates for coverage.

Senate apparently is gearing up for a vote. [Senate President Keith Faber](#) (R-Celina) is quoted in the media as saying that the state should not discriminate against those with mental illness in the workers' comp system.

The OMA and the rest of the business community oppose the bill. 4/23/2015

### Countdown to BWC's New Payment Plan

In late May, BWC will mail all private employers a notice of estimated annual premium ([like this sample](#)). This notice will be based on your reported payroll for July 1, 2013 to June 30, 2014. It is not a bill, but please review it for accuracy and contact BWC if you feel something is incorrect.

Additional information on prospective billing, including timelines, frequently asked questions and key dates to remember, is [available here](#). 4/17/2015

### Questions about BWC's Drug-Free Safety Program?

OMA Connections Partner, Working Partners®, answers questions about the Bureau of Workers' Compensation (BWC) Drug-Free Safety Program in this [fact sheet](#). The current enrollment period ends May 29. 4/17/2015

### May 12 Webinar: Marijuana Legalization and Business Impacts

On Tuesday, May 12, OMA Connections Partner, Working Partners®, will hold a no-charge webinar from 1-2:30 p.m. EST: **Marijuana Legalization and Its Impact on Business Operation**. The presenters are:

- Dee Mason, president, *Working Partners®*, with 23 years providing drug-free workplace program management services to employers and systems.
- Kevin Griffith, J.D., Littler Mendelson LPA, with primary practice in the areas of business competition litigation and employment litigation, with more than 30 years' experience working with clients implementing drug free workplace programs.

[Read more and register](#). 4/10/2015

### BWC's 'Destination: Excellence' Enrollment Deadline is May 29

Enrollment is currently underway for employers to sign up for several of the Destination: Excellence programs. Destination: Excellence is a bundle of programs BWC offers that help businesses improve workplace safety, enhance injured worker care and save money on workers' compensation costs.

Sign up with the BWC between now and May 29 for these programs:

- **Industry-Specific Safety Program**, a 3 percent premium rebate for completing loss-prevention activities;
- **Drug-Free Safety Program**, a 4 or 7 percent premium rebate for incorporating an alcohol and drug testing and education program;
- **Transitional Work Bonus Program**, a 10 percent premium rebate for successfully returning an injured worker released with restrictions back to work.

BWC's new [Destination: Excellence brochure](#) includes more details about the programs and enrollment deadlines. [Here is a tool](#) OMA created to help employers understand their Destination: Excellence eligibility.

And, all OMA members who buy their workers' comp services from OMA can log into [My OMA](#) to see your company's Destination: Excellence saving report. Need help? Contact [Barb](#), [Georgia](#) or [Denny](#). 4/15/2015

### OMA Members Recognized for Safety

This week the Ohio Bureau of Workers' Compensation (BWC) awarded 35 employers in the Cincinnati area its Special Award for Safety at an annual awards ceremony of the Greater Cincinnati Safety Council.

The award recognizes businesses that have gone at least 500,000 hours and at least six months without an injury resulting in a day or more away from work. OMA members recognized include: INEOS ABS (USA) Corp - 911,836 hours worked; and Sur-Seal Gasket & Packaging Inc. - 1,319,900 hours worked.

BWC's Division of Safety & Hygiene sponsors [82 safety councils](#) across the state. 4/16/2015

### Hosting Recreational Events without Inviting Workers' Compensation Claims

The potential for workers' compensation liability for injuries occurring during employer-sponsored recreational activities, such as on-site basketball games, sports leagues, competitions and parties, often discourages employers from providing such activities. But this need not be the case. [Read advice](#) from OMA Connections Partner, Bricker &

Eckler LLP, for having fun while minimizing liability. 4/15/2015

### **Expansion of Workers' Comp Coverage Costly & Risky**

The Ohio Senate is considering [Senate Bill 5](#) (SB 5), which would allow workers' compensation claims for posttraumatic stress disorder (PTSD) for first responders where there are no physical injuries.

Ohio Bureau of Workers' Compensation (BWC) Administrator Steve Buehrer [testified](#) that the bill would cost local governments \$182 million a year, nearly double the local governments' total current workers' compensation costs for that coverage.

Cost increases will be passed along to local taxpayers, and, critically, the expansion of benefits to public employees will establish a precedent for expansion of benefits to private employers in the future. Should this happen, workers' compensation premiums for Ohio manufacturers would increase dramatically.

Buehrer told a Senate committee that, in the long history, of workers' compensation in Ohio, mental conditions have only been allowed when coincident with physical injuries or illnesses. He explained that such conditions are covered in health insurance, not workers' compensation. And, he noted that other types of occupations beyond police and fire fighters witness trauma and will inevitably push for the same benefit. In spite of these concerns, a majority of senators seem to favor passage.

The OMA, together with all other major Ohio business organizations, opposes SB 5. Here's a [joint letter](#) from business groups to the Senate.

You can quickly and easily email your Ohio senator at [OMA's Manufacturing Advocacy Center](#) to ask him or her to oppose this measure. 4/2/2015

### **BWC Safety Innovation Finalists Named**

Five finalist companies split a pot of \$17,000 in prize money in the Ohio Bureau of Workers' Compensation (BWC) Safety Innovations Competition, which recognizes Ohio employers that have developed innovative solutions to reduce workplace injuries and illnesses. The award was presented during the Safety Congress & Expo 2015, BWC's annual three-day occupational safety, health and workers' compensation conference.

Twelve semifinalists were selected from the 53 companies that entered the competition and the five

finalists showcased their innovations at Safety Congress this week. A panel of independent judges evaluated and scored the innovations based on a number of criteria, including risk reduction, innovation, return on investment, potential for the innovation to be utilized by other employers, and presentation quality.

Congratulations to all competitors and finalists, and a special shout-out to OMA member, Mansfield Engineered Components. The finalists:

- 1st place (\$7,000 award): Bemis North America, of Fremont (Sandusky Co.)
- 2nd place (\$5,000 award): First Solar Inc., Perrysburg (Wood Co.)
- 3rd place (\$3,000 award): FORJAK Industrial, Columbus (Franklin Co.)
- 4th place (\$1,000 award): Mansfield Engineered Components, Mansfield (Richland Co.)
- 5th place (\$1,000 award): Harmony Systems and Service Inc., Piqua (Miami Co.) 4/2/2015

### **BWC: Flexible Payment Plans Coming with Prospective Billing**

The Ohio Bureau of Workers' Compensation (BWC) took another step toward modernizing its billing process by presenting its board of directors with a plan to offer flexible payment options for Ohio businesses. If approved by the board next month, businesses will be able to pay for their annual workers' compensation premiums in two, four, six or twelve installments. The proposal is part of the BWC's move to prospective billing, in which business will be billed prior to receiving coverage.

Under prospective billing, which will take effect July 1 for private employers, businesses will pay an estimated premium for the upcoming coverage year and undergo a "true-up" process after the policy year ends to ensure the proper premium was paid. Premium is based on a number of factors, including the employers' payroll and risk of having a workplace injury.

Businesses can expect to receive their first notice of estimated premium in early June for the 2015 policy year, which begins July 1, 2015. BWC is picking up the cost of the first two months of 2015 coverage, meaning the first payment under prospective billing won't be due until August 31, 2015. In addition, BWC is paying businesses' previous six months coverage, or final payroll report, under the retrospective system. These credits are part of a \$1.2 billion plan approved by the BWC board last year to ease transition costs for employers.

Employers can prepare for the new system by visiting [BWC's website](#) and/or signing up for one BWC's [free prospective billing seminars](#) being held throughout the state in April.

Private employers must be in an active status on July 1 to receive the transition credit. *3/26/2015*

### **Ohio Safety Congress & Expo Starts March 31**

It's not too late to register for the [2015 Ohio Safety Congress & Expo](#) (OSC15), the largest regional safety and health conference in the U.S. This year's event will be held March 31 to April 2 at the Greater Columbus Convention Center. *3/16/2015*

### **Buehrer Inducted into Ohio Association of Commodores**

Steve Buehrer, Administrator/CEO of the Ohio Bureau of Workers' Compensation (BWC), has been inducted into the Ohio Association of Commodores after being appointed by Governor Kasich.

The Ohio Commodores was formed in 1966 by Governor James A. Rhodes to assist in advancing the growth and development of the state and prosperity of its citizens. Its members are recognized by the governor with *The Executive Order of the Ohio Commodore* for their business accomplishment, acumen and leadership.

The Ohio Association of Commodores consists of 300 members including government officials, university presidents and administrators; banking and legal professionals; leaders of trade organizations; chambers and economic development organizations; and senior management executives of large, medium and small manufacturers from across Ohio in a wide variety of industries.

Buehrer is a native of Northwest Ohio and a former legislator who served in both the Ohio House and Senate. As Administrator/CEO of BWC, he leads the largest state-funded workers' compensation insurance system in the nation. Since his appointment by Governor Kasich in 2011, he has focused on the agency's mission of preventing workplace accidents and caring for Ohioans who are injured on the job, while working closely with stakeholders to improve service to employers and injured workers.

A photo from the ceremony is available [here](#). *3/18/2015*

### **Cuyahoga County Judge Strikes Down Workers' Comp Statute, Hinders Employers Challenging Claims in Court**

OMA Connections Partner, Roetzel, reports that the Cuyahoga County Court of Common Pleas recently made it more difficult for Ohio employers to challenge workers' compensation claims in court.

In *Shannon Ferguson v. State of Ohio*, the court ruled the Ohio statute prohibiting a claimant from voluntarily dismissing his or her complaint without the employer's consent when the employer filed the appeal was unconstitutional.

According to Roetzel, "The court's decision will place a significant burden on employers challenging workers' compensation claims in court. If an employer appeals to court, there can be up to one year before a trial is held. If the claimant dismisses the complaint before trial, there can be another year before the case is re-filed and yet another year before the trial arrives. A claimant can thus extend benefits for up three years before being forced to litigate a case that could result in a complete disallowance of the claim. Even if the employer is ultimately successful, in reality it may be difficult to recover the payment of all those benefits. The net result is either a significant direct cost to self-insured employers or increased premiums to state-funded employers." [Read more](#) *3/12/2015*

**Workers' Compensation Legislation**  
**Prepared by: The Ohio Manufacturers' Association**  
**Report created on June 2, 2015**

- HB51**      **INDUSTRIAL COMMISSION BUDGET** (HACKETT R) To make appropriations for the Industrial Commission for the biennium beginning July 1, 2015, and ending June 30, 2017, and to provide authorization and conditions for the operation of Commission programs.  
*Current Status:* 5/27/2015 - Senate Transportation, Commerce and Labor, (Third Hearing)  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-51>
- HB52**      **WORKERS' COMPENSATION BUDGET** (HACKETT R) To make changes to the Workers' Compensation Law, to make appropriations for the Bureau of Workers' Compensation for the biennium beginning July 1, 2015, and ending June 30, 2017, and to provide authorization and conditions for the operation of the Bureau's programs.  
*Current Status:* 5/27/2015 - Senate Transportation, Commerce and Labor, (Third Hearing)  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-52>
- HB64**      **OPERATING BUDGET** (SMITH R) To make operating appropriations for the biennium beginning July 1, 2015, and ending June 30, 2017, and to provide authorization and conditions for the operation of state programs.  
*Current Status:* 5/26/2015 - Senate Finance, (Fourth Hearing)  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-64>
- HB205**      **SELF-INSURING EMPLOYERS** (HENNE M, RETHERFORD W) To modify the requirements for an employer to become a self-insuring employer for purposes of the Workers' Compensation Law, to transfer authority over the workers' compensation self-insurance program to the Superintendent of Insurance, and to allow certain employers and groups of employers to obtain workers' compensation coverage from a private workers' compensation insurer.  
*Current Status:* 5/19/2015 - Referred to Committee House Insurance  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-205>
- HB206**      **INDUSTRIAL COMMISSION-CLAIM STATISTICS** (HENNE M) To require the Industrial Commission to keep statistics on individual hearing decisions of contested workers' compensation claims.  
*Current Status:* 5/19/2015 - Referred to Committee House Insurance  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-206>
- HB207**      **WORKERS' COMPENSATION-SURPLUS FUND** (HENNE M, MCCOLLEY R) To allow a state fund employer to have a workers' compensation claim that is likely to be subrogated by a third party paid from the surplus fund account in the state insurance fund rather than charged to the employer's experience.  
*Current Status:* 5/19/2015 - Referred to Committee House Insurance  
*State Bill Page:* <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-207>

- SB5**      **WORKERS' COMPENSATION-PTSD** (PATTON T, BROWN E) To make peace officers, firefighters, and emergency medical workers diagnosed with post-traumatic stress disorder arising from employment without an accompanying physical injury eligible for compensation and benefits under Ohio's Workers' Compensation Law.  
**Current Status:** 4/22/2015 - Senate Finance, (Fifth Hearing)  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-5>
- SB27**      **WORKERS' COMPENSATION-FIREFIGHTER CANCER** (PATTON T) To provide that a firefighter who is disabled as a result of specified types of cancer is presumed for purposes of the laws governing workers' compensation and the Ohio Police and Fire Pension Fund to have incurred the cancer while performing official duties as a firefighter.  
**Current Status:** 2/17/2015 - Senate Insurance, (First Hearing)  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-27>
- SB149**      **WORKERS' COMPENSATION-BRAIN-SPINAL CORD INJURY** (SCHIAVONI J) To make an individual who has lost the use of a body part due to a brain injury or spinal cord injury eligible for partial disability and permanent total disability compensation under the Workers' Compensation Law.  
**Current Status:** 4/22/2015 - Referred to Committee Senate Transportation, Commerce and Labor  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-149>

**TO: OMA Government Affairs Committee**  
**FROM: Ryan Augsburger / Rob Brundrett**  
**SUBJECT: Tax Public Policy Report**  
**DATE: June 3, 2015**

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### **Overview**

The state operating budget bill, House Bill 64, continues to dominate debate at the Statehouse. The House passed their version of the budget bill in early April. The chamber removed many of the Governor's proposed tax reform pieces. The Senate began having hearings immediately and is planning to unveil a new substitute version of the bill in the next couple of weeks. The bill must be signed by June 30, the beginning of a new fiscal year.

### **State Financial Condition**

Economic growth slowed and almost came to a halt in the first quarter to a 0.2% pace. Forecasters are still expecting a pickup in growth during the remainder of the year.

U.S. employment rebounded to 223,000 jobs in April from a revised growth of only 85,000 in March. April's increase was somewhat below the average of approximately 250,000 during the previous six months. The unemployment rate decreased to 5.4% - the lowest level of this expansion.

Ohio employment increased by 1,500 jobs in March and the unemployment rate was unchanged at 5.1%.

The recent weakening in many measures of economic activity is likely the result of temporary factors, including unusually severe winter weather, the large decrease in the price of oil, strengthening in the foreign exchange value of the U.S. dollar, and the work disruptions on west coast ports. However, there are signs that the second quarter and 2015 as a whole will also produce weaker growth than originally expected.

### **Special Committees**

#### **Senate Tax Expenditure Review Committee**

President Faber announced that the Senate Ways and Means Committee would be reviewing existing Ohio tax expenditures prior to the state budget bill moving to the House. The OMA testified on March 11, on the manufacturing inputs sales tax exemption. The Governor has also included a review of tax expenditures in his budget proposal.

The OMA followed up its sales tax exemption testimony, with testimony regarding the commercial activity tax. It was stressed in testimony that no new carve outs or exclusions should be added to the tax.

## **Tax Legislation**

### **House Bill 9 – Tax expenditure review committee**

One of the House priority bills is to create a Tax Expenditure Review Committee for the purpose of periodically reviewing existing and proposed tax expenditures. The Governor included this in his budget proposal and the Senate is reviewing expenditures currently. The House reported the bill out of committee this week.

### **House Bill 64 – state budget bill**

The House made significant changes to the Governor's proposed tax plans in the budget. The House bill removes the proposed rate increases for the commercial activity tax and sales tax. It also removes the proposed expansion of the sales tax base to services and intercompany transactions.

Meanwhile the bill follows the governor's push to continue lowering the state personal income tax rate by: providing a 6.3% across the board income tax rate cut; lowering the top income tax rate to just below 5%; producing an aggregate \$1.2 billion in tax relief to Ohioans over the next two years; making permanent the 75% small business tax deduction that the governor created last session; and, retaining the proposed means testing of retirement income credits.

House leadership also would establish an "Ohio 2020 Tax Policy Study Commission," which would take a longer range look at Ohio's tax competitiveness.

House Bill 64 was originally introduced in February. The House removed the tax portions of the bill for separate hearings in the Ways and Means Committee. The bill raised the CAT rate from .26% to .32%, increased the state sales tax by one-half cent, from 5.75 percent to 6.25 percent. It also expanded sales tax to a number of services, including cable TV subscription services and parking. There was also a possibility the new language might pick up legal, accounting, and intercompany transactions.

The severance tax and the tobacco tax were also proposed for rate changes.

The plan used the new revenues generated to finance a small business and personal income tax deduction. Current law contains a deduction for one-half of the first \$250,000 for an individual's net business income; this deduction applies to sole proprietors as well as to the owners of pass-through entities such as partnerships, S corporations, and limited liability companies. The budget retained that provision for businesses with income in excess of \$2 million. In addition, the bill proposed to exclude small business income from any business with gross receipts up to \$2 million.

Personal income tax rates were reduced 15 percent during the first year of the budget, with an additional 8 percent reduction for the second year. The top personal income tax rate would have been reduced from the current 5.33 percent to 4.1 percent over the two years.

### **Senate Bill 88 – CAT credit**

Sponsored by Sen. Charleta Tavares (D-Columbus) would create tax credits, including CAT credits, for the employment of individuals who have been convicted of criminal offenses. The bill has not had any hearings.

#### House Bill 102 – CAT credit

House Bill 102 sponsored by Reps. Niraj Antani (R-Miamisburg) and Hearcel Craig (D-Columbus), would provide a bid preference for state contracts to a veteran-owned business and would have authorize a personal income and CAT credit for a business that hires and employs a veteran for at least one year. However the sponsors introduced a substitute version of the bill at its first hearing removing the CAT provisions from the bill.

#### House Bill 176 – CAT credit

House Bill 176 sponsored by Reps. Hall (R-Millersburg) and O'Brien (D-Bazetta) creates the Gaseous Fuel Vehicle Conversion Program. The bill allows a credit against the income or commercial activity tax for the purchase or conversion of alternative fuel vehicle. It reduces the amount of sales tax due on the purchase or lease of a qualifying electric vehicle by us to \$500. It applies the motor fuel tax to the distribution or sale of compressed natural gas. The bill also authorizes a temporary, partial motor fuel tax exemption for sales of compressed natural gas used as motor fuel. The bill was introduced last year, but stalled in the legislative process.

#### House Bill 182 – JEDDs reorganization

House Bill 182 sponsored by Representative Schuring (R-Canton) would revise the law governing the creation and operation of joint economic development districts (JEDDs) and enterprise zones. Amongst the changes the bill establishes a procedure permitting the owner of a business operating in the unincorporated territory of a JEDD to apply for exemption from the JEDD income tax on behalf of the business and its employees.

#### Unemployment Compensation Debt

The Ohio House is working on a bill create solvency within the Ohio Unemployment Compensation Trust Fund. The projected bill would revise the current system to ensure stability going forward.

#### **Tax News**

##### Ohio 2nd in 2014 Site Selection Ranking

For the second year in a row, Ohio finished second in Site Selection magazine's "Governor's Cup," awarded for the number of new plant projects in the year. Ohio finished second both in the aggregate number of projects and in the per capita category.

Texas led the nation in total projects. Kentucky took the per capita crown.



**BEFORE THE WAYS AND MEANS COMMITTEE  
OF THE OHIO SENATE  
SENATOR BOB PETERSON, CHAIRMAN**

**TESTIMONY  
OF  
MARK ENGEL  
BRICKER & ECKLER LLP  
OMA TAX COUNSEL**

**May 6, 2015**

Mr. Chairman and members of the Committee, my name is Mark Engel. I'm the Partner in charge of Bricker & Eckler's Cincinnati-Dayton office; my practice is taxation, with concentrated experience in all aspects of state and local taxation, including tax planning, compliance, and litigation in sales and use, income, commercial activity, public utility, and property taxation as well as economic development. I also serve as tax counsel for The Ohio Manufacturers' Association (OMA). I'm testifying today on behalf of OMA regarding the business tax proposals incorporated in House Bill 64, including both the House changes and the governor's proposals, as well as tax policy in general. The OMA was created in 1910 to advocate for Ohio's manufacturers; today, it has 1400 members. Its mission is to protect and grow Ohio manufacturing.

For Ohio to be successful in a global economy, the state's tax structure must encourage investment and growth and be competitive nationally and internationally. A globally competitive tax system is characterized by (a) certainty, (b) equity, (c) simplicity and (d) transparency. Economy of collections and convenience of payment are also important considerations. And, generally, manufacturers support efforts to broaden the business tax base, which enables lower rates.

The OMA identified specific issues of concern in the as introduced version of House Bill 64's tax proposal that are critical to business in general and to manufacturing in particular. They are interrelated and in many ways spill over into each other. My testimony will address the greatest concerns with the as introduced version. Before I turn to the bill, however, I would like to provide a bit of context with Ohio's current business tax structure.

### **Ohio's Previous Tax Structure**

Prior to 2005, Ohio's tax structure was essentially unchanged since the 1930s. At that time, Ohio's economy was driven by agriculture and manufacturing. Its tax structure reflected that economy. The major taxes were the real property tax, the sales and use taxes, the tax on tangible personal property used in business, and the corporation

franchise tax measured on net worth. Both agriculture and manufacturing received exemptions from the sales tax for business inputs, since the tax was intended to apply to household consumption. However, the franchise tax and the tangible personal property tax, especially, both hit capital-intensive industries harder than others and had to be paid whether the entity made, or lost, money. Thus, the manufacturing sector paid an inordinately high level of state tax when compared with other segments of the economy.

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

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

### **Calls for Reform**

During the 1960s, calls for reform in Ohio's tax structure began. Over the years, various band-aids were applied to Ohio's tax structure in order to attempt to reduce its inequalities. Differences in the assessment rate applied to various types of business tangible personal property were reduced or eliminated, and the over-all assessment percentage was reduced. In the early 1970s the net income tax base for the franchise

tax and the personal income tax were enacted on the basis that they were perceived as “more fair” because they were based on ability to pay. Ohio’s intangibles tax on investments was repealed during the early 1980s. A cap of \$150,000 was placed on the franchise tax liability of a taxpayer as measured by net worth in the early 1990s. At the same time, Ohio continued to enact exemptions from, or exceptions to, the various taxes, thereby creating increasing disparity and complexity.

With the dawn of a new millennium, calls for tax reform increased. Dr. Ned Hill of Cleveland State University independently conducted a study that examined the impact of state tax policy on Ohio’s economy and called for the elimination of the tangible personal property tax and existing dual-based franchise tax, to be replaced with a broad-based, low-rate tax based on payroll. The study also showed how capital-intensive segments of the economy, such as manufacturing, construction, and mining, paid anywhere from 3 to 11 times more state taxes than did members of many service industries.

### **Tax Reform Enacted**

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

- Eliminate tax on investment and shift to a greater reliance on the taxation of consumption, consistent with the second and third bullets, below;
- Broaden the over-all business tax base;
- Reduce over-all business tax rates;
- Provide a more stable and predictable flow of revenue; and
- Simplify compliance.

The result was a comprehensive overhaul of Ohio’s tax system by House Bill 66. As enacted, the bill:

- Eliminated the tangible personal property tax on new investment in manufacturing and phased out the tax on all general business property over 4 years;

- Phased out the corporation franchise tax for most corporations over 5 years;
- Phased in a 21% reduction in personal income tax rates ratably over 5 years (the last reduction was delayed 2 years in 2009 in an effort to balance the state budget, but was implemented in 2011), a reduction enjoyed by the owners of pass-through entities; and
- Enactment of the commercial activity tax (“CAT”), a broad-based, low-rate tax measured by gross receipts from virtually all business activities and entities.

House Bill 66 became law in June 2005. Although generally opposed to gross receipts taxes because of their compounding nature, most manufacturers soon found that the savings from replacing the onerous and complex taxes on tangible personal property and corporation franchise with the extremely broad-based, low-rate and comparatively simple CAT made up for the policy misgivings regarding a gross receipts tax. Other taxpayers that initially withheld support, also warmed to the tax as the savings became clear. Compliance costs were slashed as taxpayers no longer had to undertake the arduous process of preparing personal property tax returns or corporation franchise tax reports.

### **Results of Tax Reform**

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

- In 2009, Ohio won Site Selection magazine’s “Governor’s Cup” for an unprecedented fourth consecutive year. The Governor’s Cup is awarded annually to the state having the most major business expansions in the nation.
- Following other years of strong showings, Ohio finished second in Site Selection magazine’s “Governor’s Cup” in both the total number of economic development projects, as well as the number of projects per capita, in both 2013 and 2014.
- A January 2009 Ernst & Young study indicated that Ohio’s business tax burden rated between 18<sup>th</sup> and 23<sup>rd</sup> best on 3 different scales of comparison. Another

Ernst & Young study conducted for the Ohio Business Development Coalition showed that Ohio had the lowest effective tax rates on new capital investment in the Midwest.

- The Small Business & Entrepreneurship Council's Business Tax Index in 2008 rated Ohio's state tax system as 14<sup>th</sup> best nationally.
- In March 2010 the Federation of Tax Administrations released an analysis of new data from the U.S. Census Bureau showing that for FY 2009, Ohio's per capita state tax burden was the 16<sup>th</sup> lowest; as a percentage of personal income, the burden was the 18<sup>th</sup> lowest.
- In April 2011, Ernst & Young and the Council on State Taxation issued a report entitled "Competitiveness of State and Local Business Taxes on New Investment" in which they concluded that Ohio had the third lowest rate of state and local taxation on new business investment. The report laid this result directly at the feet of the 2005 tax reform law.
- In early 2013, Site Selection Magazine honored Ohio as having the 5<sup>th</sup> most favorable tax climate for mature firms and the 3<sup>rd</sup> most favorable tax climate for new firms for fiscal year 2012.
- Finally, according to the Ohio Department of Taxation, Ohio is one of only 6 states that do not tax corporate profits, and one of 10 that do not tax business personal property.

### **Commercial Activity Tax**

The major tax reforms approved by the Ohio General Assembly in 2005 led to significant improvements to a tax system that was for many years widely regarded as obsolete. As previously mentioned these reforms reduced overall tax rates, eliminated tax on investment, and broadened the tax base, all of which have provided more stable and predictable revenues, simplified compliance and provided fairness among business segments.

The elimination of the tangible personal property tax, the corporate franchise tax, and the estate tax has strengthened the competitiveness of Ohio's tax system. So has the

reduction of the personal income tax rate as well as the creation of the broad-based, low-rate commercial activity tax (CAT).

The most competitive aspects of the CAT are its broad base, its low rate, and its broad application to business entities. House Bill 64, as introduced, proposed that the rate at which the CAT is imposed be raised by 23% from 0.26 percent to 0.32 percent in order to help finance a personal income tax deduction. As a gross receipts tax, the CAT applies to every transaction in the chain of commerce. Thus, the tax is paid multiple times in the economic chain and is included in the price that the final consumer pays for a good or service. The distortive effect of taxing intermediate transactions is minimized when the tax rate is kept low, but it remains. By raising the rate, this distortive effect is greatly magnified. It renders Ohio tax structure less transparent and its businesses less competitive. The success stories related earlier in this testimony could not have happened with a higher rate. The rate must remain low for the CAT to work effectively. OMA members appreciate the House changes which removed the increase in the CAT rate as proposed.

It has been suggested that perhaps the CAT should be bifurcated, with different rates applicable to different taxpayers. Such a step is not good policy for several reasons. First, it involves government selecting winners and losers and reduces horizontal equity within the tax. Part of the purpose of the CAT was to reduce inequities in the level of taxation between economic segments; this proposal increases those inequities. Second, it ignores the over-all tax structure on particular taxpayers and continues the band-aid approach that has plagued Ohio taxation for years. Third, it renders the CAT more complicated both for taxpayers and the department of taxation in terms of who qualifies for what rate of taxation. For these reasons, we are not in favor of such an approach.

## **CAT Facts**

According to Ohio Department of Taxation Fiscal Year 2014 Commercial Activity Tax Returns data, manufacturers made up the second-largest group of CAT taxpayers, representing 10.2% of all taxpayers (retail trade is the largest).

In terms of CAT revenues based only on the 0.26% CAT rate for gross receipts in excess of \$1 million, manufacturers pay 26.8% of the state's total – far more than any other group. If the CAT rate is increased from 0.26% to 0.32%, as in the proposed version of House Bill 64, manufacturers as a group will be required to pay roughly \$111M in additional CAT per year, a 23% tax increase.

In addition, CAT filers with taxable gross receipts of \$1 million or less accounted for 66.7% of all filers in fiscal year 2014, but only 0.7% of the total liability for that period. Clearly, small business benefits from the CAT, as well as the 21% reduction in personal income tax rates that was also part of the 2005 tax reform, the 10% reduction enacted in the last budget, and the additional proposed reductions included as part of the state's current budget bill.

## **CAT Tax Expenditures**

When it was first enacted, there were few exclusions from the CAT and only four credits. The tax expenditure associated with those exclusions in 2009, the first year the tax was fully phased in, was according to the Ohio Department of Taxation approximately \$300 million. Those exclusions were built into the tax as enacted and the 0.26 percent rate was established with those exclusions in mind.

In its fiscal year 2014 tax expenditure report, the Department of Taxation lists a larger number of exclusions and credits to the CAT. The total cost of those expenditures is over \$600 million! Thus, in just 10 years, additional credits and exclusions were added to the tax that doubled the amount of the tax expenditure.

The CAT is a stable tax. Although it is a gross receipts tax that pyramids along the economic chain, it is acceptable because of its broad base and low, low rate. However, in less than 10 years, tax expenditures associated with the tax have doubled. Ohio traveled down this path before with the franchise and personal property taxes. The trip was a disaster. Ohio should not venture down that path again with the CAT. Rather than raise the rate, consideration must be given to reducing the number of exemptions and exclusions that have been added since its original enactment in 2005.

The CAT was enacted as a tax on commercial activity. All enterprises engaged in such activity should be paying the CAT; in fact, equality in the burden of taxation demands that they all remain subject to the tax.

### **Ohio's Sales and Use Taxes**

Ohio's sales tax was first enacted as a temporary measure in the depths of the Great Depression in the 1930s. At that time, it was conceived as a tax on final *household* consumption of tangible goods. One year after initial enactment, the use tax was enacted; the two taxes were made permanent and the first exemption for machinery and equipment used to produce tangible personal property for sale by manufacturing was added. Similar exclusions were made for other activities that, similarly, resulted in the production of goods that would be subject to the tax upon final sale.

Similar to prior proposals made by the Administration to broaden the sales tax base to many business services and raise the tax rate, House Bill 64, as introduced, proposed to do both. The bill proposed to increase the state sales tax rate by 8.7% and add a number of business services to the tax base. The rationale offered for both is the belief that in order to spur economic growth, consumption, rather than income, should be taxed. That is simply wrong.

A sales tax acts to tax *personal household* consumption. The Administration implicitly recognizes this in its testimony when it refers to Attachment E, which outlines the increase in *household* consumption in recent years. *However, the tax is not intended to*

*tax business inputs* such as raw materials, machinery and equipment that are used to produce other outputs that are ultimately taxed.<sup>1</sup> Any expansion of the sales tax base should not be directed at commercial enterprises. And, if the base was to be expanded, good tax policy would dictate that the rate would be lowered, not increased. From a policy standpoint, the proposal is flawed in both these respects.

Manufacturers were very concerned about the provisions in the as introduced version of House Bill 64 that would seemingly extend the sales tax to certain currently exempt services such as legal and accounting services. Among the concerns are (1) extension of the tax to transactions between members of an affiliated group of entities, (2) uncertainty surrounding sourcing rules, (3) failure to afford to services the benefit of existing exemptions for tangible property for purposes of resale or for business inputs, and (4) uncertainty of the breadth of taxable services under the plain language of the statute.

### **Affiliated Entities**

Existing law excludes from the state sales tax certain taxable services (e.g., electronic information services and employment services) that are provided to other members within a related group of businesses.

However, under House Bill 64 as introduced, transactions among affiliated entities were taxable “regardless of the identity of the service provider.” Thus, the members of affiliated businesses that use a common service center to provide accounting, credit and collections, legal, management or other centralized services, will all have to pay sales tax on those transactions within the group if there is any sort of cost allocation or charge-back. OMA members appreciate the administration’s recent testimony stating that it was never their intent to tax these affiliated entities. However, this provision’s plain language in the as introduced House Bill 64 concerned manufacturers for several reasons:

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<sup>1</sup> See John Due, “Sales Tax Exemptions – The Erosion of the Tax Base: *Revenue Administration, 1982; Proceedings of the Fiftieth Annual meeting of the National Association of Tax Administrators* (Washington: National Association of Tax Administrators): 200.

1. Such business structures are typically used to reduce costs or for liability reasons; they do not represent any meaningful economic activity of the business. Recognition of this fact has led to the exclusion of transactions between affiliated entities for income or commercial activity tax purposes.

2. Any economies an enterprise might realize from an affiliated entities business structure can be lost through the taxation of those services. Businesses employing this structure often allocate costs as simply as possible to minimize their administrative burden. If all transactions are taxed, businesses will need to track those allocations more closely in order to tax them properly. The cost of such changes for businesses not currently set up to do so (in time, money and human capital) could be enormous.

3. It has become a best practice among large, global companies (and many smaller ones, as well) to consolidate shared business services as a corporate headquarter function. These functions employ highly compensated managers. If the transactions of these global business service centers were to become taxed, such companies would be discouraged from locating these shared services business centers in Ohio, as the Ohio tax cost under the bill would be high.

4. It violates the proscription against the taxation of business inputs.

5. This situation is made worse by the uncertainty of determining the location where the benefit of services provided to affiliated entities is received, as we discuss next.

### **Location of the Sale**

In addition to the statewide sales tax, counties and transit authorities also may impose local sales tax at various rates. It is critical, therefore, to determine where a sale takes place for both state and local tax purposes so that the correct tax can be collected and paid.

Existing law provides some general guidelines regarding where a sale takes place. Generally, a sale is taxed at the location where the tangible property is located, or where the benefit of the service is received. Given the nature of the limited number of services that currently are taxed and the limitation of taxing services to those consumed by individuals, this rule, although inexact, generally works. However, as introduced House Bill 64's ambiguous definitions which appeared to include nearly all business services in the sales tax base will make it increasingly more difficult to determine where a sale takes place and the correct tax, if any, to apply to the transaction.

Previously the Department of Taxation proposed to allow taxpayers to use any reasonable method to apportion their sales or purchases, and has indicated it intends to promulgate rules that will provide guidance in this area. Unfortunately, such vagueness only increases uncertainty and speculation.

This sort of vague provision, such as that contained in House Bill 64, as introduced, could become extremely complex with respect to compliance and auditing.

### **Exemptions for Resale and Business Inputs**

Additionally, a number of tangible business inputs are presently excluded from the sales tax for a person creating tangible items that are ultimately sold and subject to the tax. (For example, manufacturers may acquire various tangible items used in the manufacturing activity without paying sales tax.) As we demonstrated in our testimony to this committee on March 11, 2015, this exclusion is based on sound tax and economic policy. However, this provision is limited to the acquisition of "things" or property.

House Bill 64, as introduced, failed to extend this basic policy to services to which the sales tax would be extended under the bill. There is no good reason to create a divergence in the treatment of one sort of purchase (tangible personal property) from another sort of purchase (service or intangible).

Transparency also is lost as the sales tax pyramids on *intermediate* transactions. In order to prevent the hidden pyramiding of the tax on intermediation transactions, the sales tax should be applied only to final consumption. That was good policy when the taxes were first enacted; it remains good policy today.

As introduced House Bill 64, like previous proposals from the administration, contained no parallel exclusion for services that may be used in the manufacturing. This is poor tax policy. Any existing violations of this principle should be addressed, and additional violations should not be considered.

This raises the matter of two specific cases in which the sales or use tax laws violate this principle and should be amended to exclude specific manufacturing service inputs. I'll briefly describe them:

One, Ohio does not impose sales or use taxes (or the CAT) on the wages paid to employees. Just as wages are not subject to such taxes; and business inputs, such as ingredients, machinery and equipment, are exempted from the sales and use taxes, so too should amounts paid for temporary employees engaged in manufacturing activities that are otherwise exempt from the tax. Such employees are a business input; the sales tax should not apply to transactions by which such labor is obtained.<sup>2</sup>

Two, Ohio also taxes industrial janitorial and maintenance services. Manufacturers' production facilities and the equipment components of their production processes require continuous repair and maintenance. Without the required cleaning, repairs and maintenance the machinery breaks down and fails to produce acceptable products for sale to customers. Cleaning industrial assets is absolutely critical to the manufacturing process. It is a necessary business input and sales tax should not apply.

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<sup>2</sup> Note that we are limiting this suggestion to temporary employees that are employed in actual manufacturing operations. If the equipment being operated may be purchased without the payment of sales tax, there is no possible reason for taxing the labor that operates that equipment.

Transactions involving tangible property are excluded from the sales tax because it is a tax on ultimate consumption. The product being produced ultimately will be taxed, but inputs into the production of those goods should not be taxed. This basic premise of sales tax policy has existed since the inception of the tax in 1934 and applies to a number of activities where multiple steps may be taken that result in a tangible good that is sold for ultimate consumption and that is subject to sales tax. Reputable sales and use tax policy experts are unanimous on this point. As we noted in our testimony on March 11, imposing the sales tax on business inputs will lead to one of three outcomes: Either prices will increase; wages or employment will go down; or owners' return on capital will be reduced. None of these is conducive to economic development or job creation.

Manufacturers do not enjoy a sales-tax free ride. According to the department of taxation's annual report for fiscal year 2014, manufacturers paid over \$410 million in sales and use tax on their purchases directly to the State of Ohio. That is one of the largest amounts paid by any industry segment that does not collect tax from customers on its taxable sales. In addition, they also paid millions in sales tax on taxable purchases to their vendors in Ohio.

### **Income Tax**

House Bill 64, as introduced, called for cutting the state income tax by 23 percent and eliminating it entirely for small businesses with less than \$2 million in annual gross receipts. This reduction was paid in large part by increasing the sales tax paid by business. The House reduced the rates by 6.3 percent, and made the 75% small business tax deduction permanent.

Ohio manufacturers understand that lowering the state's income tax rates and broadening its base are intended to increase the state's overall competitiveness with other states when attempting to attract new businesses and/or retain expanding businesses. We are troubled, however, by the number of credits and exclusions from

the tax that remain, the selection of a single form of business for special relief, and the tax-shifting used to make the reduction possible. As remarked by one business owner at a meeting to discuss the administration's proposal, it doesn't matter whether the business pays a dollar of income tax or a dollar of sales tax; it is still paying a dollar of tax. Selecting a single form of business for tax relief at the expense of other forms of business and shifting the tax burden among taxpayers amounts to government picking winners and losers.

### **Conclusion**

The OMA supports tax policy that supplies sufficient revenue for the execution of necessary state services in a manner that stimulates economic growth, investment and job creation. Tax policy should encourage growth of capital, and growth in jobs in Ohio. We believe that the changes made by the House will continue to promote Ohio as a place where businesses can grow.

Manufacturing is the largest contributor to the state's GDP, contributing fully 17 percent. The success of Ohio manufacturing – through its vast network of in-state customers and suppliers - large global firms and their local supply chains - enhances the economic vitality of all other Ohio industries and Ohioans' quality of life. Reducing tax rates in a manner that treats all taxpayers fairly should be encouraged. Funding the reductions by increasing the sales tax and CAT on business, the very taxpayers that reduced taxes are supposed to help to encouraging employment and job creation, just doesn't make good policy sense.

Thank you very much for the opportunity to comment and provide input into this proposed legislation. Ohio's manufacturers are prepared to help improve the business climate in the state. We look forward to continuing our partnership with the administration and the General Assembly.

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



April 21, 2015

Representative Ron Amstutz  
Speaker Pro Tempore  
Ohio House of Representatives  
77 South High Street, 14<sup>th</sup> Floor  
Columbus, OH 43215

Dear Representative Amstutz:

On behalf of our respective organizations and the more than 105,000 business members we serve, we are writing in strong support of the changes made by the Ohio House Finance Committee to the tax provisions of the introduced version of House Bill 64. We believe these revisions will encourage investment, job growth and retention, and entrepreneurship and will build upon recent efforts to improve the competitiveness of our tax climate undertaken over the past several years.

Amended Substitute House Bill 64 affords \$1.2 billion in tax relief through a meaningful reduction in the personal income tax and the permanency of the small business investor deduction at a higher level. We especially agree with the Committee's approach of achieving these tax reductions while also maintaining predictability, avoiding added tax complexity, providing adequate funding for state operations and, most important, not increasing other taxes. Further, we applaud the establishment of the 2020 Tax Study Commission which creates an opportunity for a longer-term evaluation of Ohio's tax system to ensure our great state remains competitive. We look forward to participating in this process. We also applaud the creation of an Ohio Expenditure Committee, which wisely seeks to root out inefficiency in and improve upon state government operations.

Our organizations believe that Amended Substitute House Bill 64 is balanced on the whole. Your vote on the state operating budget is one of the most critical votes you will take during the 131st Ohio General Assembly as it appropriates money to provide for the ongoing operations of the state. Some of our organizations compile voting records through issuing of "key votes" on critical pieces of legislation, and it is possible your vote on House Bill 64 may become part of these voting records. Thank you for your consideration and support of House Bill 64.  
Sincerely,

Eric Burkland  
President, Ohio Manufacturers' Association

Andrew E. Doehrel  
President, Ohio Chamber of Commerce

Jack Fisher  
Executive Vice President, Ohio Farm Bureau

Roger R. Geiger  
Vice President/Executive Director, NFIB/Ohio

Gordon Gough  
President, Ohio Council of Retail Merchants



**FOR IMMEDIATE RELEASE**

April 16, 2015

**Major Statewide Business Groups Praise  
House Budget Bill's Tax Policy Provisions**

(Columbus, OH): Ohio's five major business groups – National Federation of Independent Business/Ohio, Ohio Chamber of Commerce, Ohio Council of Retail Merchants, Ohio Farm Bureau, and The Ohio Manufacturers' Association – jointly issued this statement commenting on the tax policy provisions contained in Substitute House Bill 64, the House version of the state budget bill introduced in the Ohio House of Representatives Tuesday:

“Ohio's business community commends the Ohio House of Representatives for its forward-thinking approach to improving the tax environment in Ohio, as reflected in the House substitute budget bill. House Bill 64 sensibly builds on the efforts of recent General Assemblies to reform the state's tax structure with policies that encourage investment, attract and retain jobs, enhance competitiveness for Ohio businesses and provide responsible funding for state government operations. Specifically, we're pleased with the continued reduction of personal income tax rates as well as the significant tax relief for small businesses. And, we welcome the opportunity to participate in the longer range review of our state's tax competitiveness envisioned in the proposed 2020 Tax Policy Study Commission.

We applaud Speaker Cliff Rosenberger and House Finance Committee Chairman Ryan Smith for their leadership and vision, and we look forward to working closely with legislative leaders to advance the bill in the state budget process.”

**For more information, contact:**

- Eric Burkland, President, The Ohio Manufacturers' Association, 614.224.5111
- Andy Doehrel, President, Ohio Chamber of Commerce, 614.228.4201
- Jack Fisher, President, Ohio Farm Bureau, 614.249.4400
- Roger Geiger, Executive Director, NFIB/Ohio, 614.221.4107
- Gordon Gough, President, Ohio Council of Retail Merchants, 614.221.7833

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## Tax

### OMA Tax Committee Hears Senate Budget Update



This week Ohio Senate Ways and Means Chairman [Bob Peterson](#) (R-Sabina) and Vice Chairman [Bill Beagle](#) (R-Tipp City) visited with OMA Tax Committee members. The senators discussed the Senate's process of analyzing the [budget bill's](#) tax provisions.

Senator Peterson indicated that the Senate members heard the [arguments](#) set forth by the OMA and other business groups and are thus wary of touching the commercial activity tax or expanding the sales tax. He indicated that the Senate favors a larger income tax cut than that contained in the House-passed bill. The senators speculated that the sales tax rate might receive a Senate increase, although it would likely be smaller than the governor's introduced proposal.

The Senate plans to release a sub bill the week of June 8<sup>th</sup> and hold a floor vote on June 17. That would leave just 13 days for the House and Senate to settle any disagreements in the conference committee process. The governor's signature must be on the final bill by the statutory June 30 deadline. *5/28/2015*

*Pictured: OMA Tax Committee Chair, Michele Kuhrt, Director of Taxes & Financial Administration, The Lincoln Electric Co., Sen. Bob Peterson, and Caroline Ramsey, Government & Community Relations, Honda of America Manufacturing, Inc.*

### Heritage Foundation Supports Governor's Tax Plan

This week the [Senate Ways and Means Committee](#) heard [testimony](#) from [Stephen Moore](#), Distinguished Visiting Fellow with The Heritage Foundation, a Washington D.C. based think tank.

Moore testified in support of the administration's introduced tax plan. He argued, "Mr. Kasich would cut this rate (income tax) by expanding the sales tax, increasing extraction taxes on the oil and gas

industry, and raising other fees. On balance all of these tax shifts would be economically desirable and help create more growth in Ohio."

The Senate will release a substitute version of the budget in early June. The OMA, as well as other business groups, previously [testified](#) in the Senate articulating serious concerns with the tax plan as introduced. *5/21/2015*

### Manufacturers Push Senate on State Budget & Taxes

Debate continues in the Ohio Senate on HB 64, the state operating budget and potential vehicle for proposed business tax increases.

OMA members have been communicating [concerns](#) about the tax increases and their economic consequences. If you haven't contacted your state senator on the issue, please do so. You'll be making a difference, now and into the future. Use the [OMA Manufacturing Advocacy Center](#) to easily connect.

The OMA Government Affairs Committee meets on June 3 at the OMA offices across the street from the Statehouse. It'll be a good time for you to come to the state capital, meet with peers and then visit with your senators and representatives. Contact [Ryan Augsburger](#) or [Rob Brundrett](#) for help with scheduling legislative visits. Register for the meeting [here](#). *5/14/2015*

### Tax Debate Continues

Debate over state tax policy continues in Columbus, as the Senate takes up the House-passed Am. Sub. HB 64, the state operating budget bill. The House eliminated all increases and expansions in business taxes from the budget as introduced.

The governor and his team are objecting to the House changes, and have asked the Senate to reinstate the tax provisions of the bill as introduced, in order to finance deeper personal income tax cuts.

The bill is undergoing hearings in the Senate Ways & Means Committee. [Contact your Senator](#) to urge opposition to business tax increases. *4/30/2015*

### House Passes Tax Reducing Budget

On Wednesday, the full House passed [Am. Sub. HB 64](#), the biennial state operating budget. The bill lowers the personal income tax rate by 6.3%, and eliminates proposed increases in the rates or bases of other taxes.

The OMA and the state's four other major business groups [wrote to all House members](#), urging a "yes" vote, that the bill "affords \$1.2 billion in tax relief through a meaningful reduction in the personal income tax and the permanency of the small business investor deduction at a higher level. We especially agree with the (Finance) Committee's approach of achieving these tax reductions while also maintaining predictability, avoiding added tax complexity, providing adequate funding for state operations and, most important, not increasing other taxes."

In a [Key Vote Alert](#) to House members, the OMA stated: "Am. Sub. H.B. 64 provides continued personal income tax relief to small businesses without proposed rate increases in the commercial activity tax or the sales tax. Inclusion of the 2020 Tax Policy Study Commission will afford an opportunity for more thorough review and consideration of structural tax reforms."

Read a [summary of the tax issues](#) in this budget, prepared by OMA tax counsel Mark Engle of Bricker & Eckler. *4/24/2015*

### **Tax Debate to Continue in the Senate**

Ohio Senate leadership has indicated that it will start from scratch on the pending biennial budget bill, Am. Sub. HB 64, rather than using the House-passed provisions and numbers. This is unusual. Hearings start next week on the bill.

This week, Office of Budget and Management director Tim Keen gave the Senate Finance Committee a [detailed summary](#) of the governor's budget proposal. And, Tax Commissioner Joe Testa [made his case](#) for the administration's proposal to fund substantial personal income tax cuts through increases in other taxes before the committee. He called the 2005 tax reforms a "tax cut windfall for large businesses" and said that the proposed rate increase in the commercial activities tax would be less than the savings from the 2005 reforms. *4/23/2015*

### **The R&D Tax Credit - More Available Than You May Have Thought**

According to OMA Connections Partner, Clark, Schaefer, Hackett, companies that design, develop, or improve products, processes, techniques, formulas, inventions, or software may be eligible for federal and state research and development (R&D) tax credits. If your company has invested time, money, and resources toward the advancement and improvement of its products and processes, your activities may qualify.

Often companies with qualifying expenditures fail to realize they could capture R&D credits. Under recently developed government regulations, more industries qualify than in the past. And IRS regulations allow eligible taxpayers to "look back" to all open tax years (typically three years plus the current year) for potential R&D credits that were never claimed. [Read more](#) *4/17/2015*

### **House Addresses Manufacturers' Tax Concerns**

Ohio House leadership addressed all of the OMA concerns about some of the tax provisions within the state operating budget that is pending in the Finance Committee.

The House bill removes the proposed rate increases for the commercial activity tax and sales tax. It also removes the proposed expansion of the sales tax base to services and intercompany transactions.

Meanwhile the bill follows the governor's push to continue lowering the state personal income tax rate by: providing a 6.3% across the board income tax rate cut; lowering the top income tax rate to just below 5%; producing an aggregate \$1.2 billion in tax relief to Ohioans over the next two years; making permanent the 75% small business tax deduction that the governor created last session; and, retaining the proposed means testing of retirement income credits.

House leadership also would establish an "Ohio 2020 Tax Policy Study Commission," which would take a longer range look at Ohio's tax competitiveness.

The OMA and the four other major Ohio business groups took the unusual step of issuing a [joint press statement](#) commending the House for the tax changes and applauding the leadership of Speaker Cliff Rosenberger and Finance Committee Chairman Ryan Smith. *4/16/2015*

### **Today is "Tax Freedom Day" in Ohio**

Each year the Tax Foundation calculates "[Tax Freedom Day](#)." Tax Freedom Day is the day when the nation as a whole, or an individual state, has earned enough money to pay its total tax bill for the year. Today, April 17, is it for Ohio.

The Tax Freedom Day for the nation is April 24. The earliest state is Mississippi (April 4); the latest states are Connecticut and New Jersey (May 13).

In 1900, Tax Freedom day for the country was January 22. 4/16/2015

### House Set to Unveil Budget Bill Changes

Next week the Ohio House Finance Committee is set to unveil a multitude of changes to [HB 64](#), the state budget bill.

The budget as proposed by the governor would decrease personal income taxes while increasing the commercial activity tax (CAT), cigarette tax and severance tax rates, and also expand and increase the sales tax. OMA members expressed concerns with the tax increases and expansions proposed in the original bill.

The House of Representatives plans to finish work on the bill in the next few weeks and are targeting to send the amended bill to the Senate for its consideration on April 22. 4/9/2015

### OMA Testifies on CAT Expenditures

The OMA this week testified before the Senate Ways and Means Committee, which is studying "tax expenditures" (tax credits and exemptions in statute) with an eye to perhaps eliminating some.

Mark Engel, OMA tax counsel from Bricker & Eckler LLP, [testified](#): "(S)ome 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 pleas for individual carve-outs and exemptions.

When it was first enacted, there were few exclusions from the CAT and only four credits. The tax expenditure associated with those exclusions in 2009, the first year the tax was fully phased in, was approximately \$300 million. Those exclusions were built into the tax as enacted and the 0.26 percent rate was established with those exclusions in mind.

In its fiscal year 2014 tax expenditure report, the Department of Taxation lists a larger number of exclusions and credits to the CAT. The total cost of those expenditures is over \$600 million! Thus, in just 10 years, additional credits and exclusions were added to the tax that doubled the amount of the tax expenditure."

Engel urged the senators to protect the tax base. He said: "Every time an exclusion or exemption from the CAT is created, that increases the tax burden on everybody else. The solution isn't a tax system made of Swiss cheese; we tried that already, and it didn't work."

He noted that manufacturers pay 26.8% of the CAT revenue, but are only 10.2% of the CAT payers. 3/26/2015

### The ABC's of an IC-DISC

An Interest Charge Domestic International Sales Corporation, or IC-DISC, is an exporting incentive for U.S. firms that can boost profitability, ROI and fiscal savings through federal tax savings. This incentive is available to companies that export their own goods, as well as companies that manufacture a good that is part of, or included in, a product that is exported by others – and this is where many businesses miss out.

Learning more about the IC-DISC might lead to more money in your pocket. [Read more](#) from OMA Connections Partner, Clark, Schaefer, Hackett. 3/26/2015

### Manufacturing Friendly Tax Climate Discussed



Reps. Jeff McClain (R-Upper Sandusky) and Gary Scherer (R-Circleville), chairman and vice chairman of the Ohio House Ways and Means Committee, visited with members of the OMA Tax Committee this week.

OMA Tax Committee Chair Michele Kuhrt of The Lincoln Electric Company led a vigorous discussion of committee members and the two legislators (both strong supporters of Ohio manufacturing) on ideas for creating an investment and job attracting tax climate.

*Pictured: Rep. McClain, Michele Kuhrt, OMA Committee Chair and Director of Taxes & Financial Administration, The Lincoln Electric Company, Rep. Scherer, and OMA's Rob Brundrett, Director, Public Policy Services*

**Taxation Legislation**  
**Prepared by: The Ohio Manufacturers' Association**  
**Report created on June 2, 2015**

- HB9**      **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:** 5/26/2015 - **REPORTED OUT AS AMENDED**, House Ways and Means, (Fourth Hearing)  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-9>
- HB12**      **TIF-INCENTIVE DISTRICTS** (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 creating the district.  
**Current Status:** 3/17/2015 - House Ways and Means, (First Hearing)  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-12>
- HB19**      **INTERNAL REVENUE CODE** (SCHERER G) To expressly incorporate changes in the Internal Revenue Code since March 22, 2013 into Ohio law and to declare an emergency.  
**Current Status:** 4/1/2015 - **SIGNED BY GOVERNOR**  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-19>
- HB26**      **COIN SALES-USE TAX EXEMPTION** (MAAG R, HAGAN C) To exempt from sales and use taxes the sale or use of investment metal bullion and coins.  
**Current Status:** 5/19/2015 - **REPORTED OUT**, House Ways and Means, (Fourth Hearing)  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-26>
- HB32**      **AIRCRAFT-MOTOR FUEL EXCISE TAX** (PERALES R) To subject the receipt of motor fuel used to operate aircraft to the motor fuel excise taxes rather than the sales and use taxes and to require a percentage of motor fuel excise tax revenue to be used for airport improvements.  
**Current Status:** 2/10/2015 - Referred to Committee House Ways and Means  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-32>
- HB64**      **OPERATING BUDGET** (SMITH R) To make operating appropriations for the biennium beginning July 1, 2015, and ending June 30, 2017, and to provide authorization and conditions for the operation of state programs.  
**Current Status:** 5/26/2015 - Senate Finance, (Fourth Hearing)  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-64>
- HB65**      **TAX-EXPENDITURE APPRAISAL** (DRIEHAUS D) To provide for the periodic appraisal of the effectiveness of tax expenditures.  
**Current Status:** 3/24/2015 - House Ways and Means, (First Hearing)  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-65>
- HB84**      **MUNICIPAL TAX-CIVIL ACTIONS** (SPRAGUE R, SWEENEY M) To require civil actions by taxpayers related to municipal income taxes be brought against the municipal corporation imposing the tax rather than the municipal corporation's tax administrator.  
**Current Status:** 3/24/2015 - House Ways and Means, (First Hearing)  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-84>

- HB99**      **INCOME TAX-SCHOOL FUNDING** (CURTIN M) To require that an amount equal to state income tax collections, less amounts contributed to the Ohio political party fund via the income tax checkoff, be distributed for the support of elementary, secondary, vocational, and special education programs.  
**Current Status:** 5/5/2015 - House Ways and Means, (Second Hearing)  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-99>
- HB102**      **VETERAN-OWNED BUSINESSES** (CRAIG H, ANTANI N) To provide a bid preference for state contracts to a veteran-owned business and to authorize a personal income and commercial activity tax credit for a business that hires and employs a veteran for at least one year.  
**Current Status:** 4/28/2015 - House Ways and Means, (First Hearing)  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-102>
- HB162**      **SEVERANCE TAX RATES** (CERA J) To change the basis, rates, and revenue distribution of the severance tax on oil and gas, to create a grant program to encourage compressed natural gas as a motor vehicle fuel, to authorize an income tax credit for landowners holding an oil or gas royalty interest, and to exclude some oil and gas sale receipts from the commercial activity tax base.  
**Current Status:** 5/12/2015 - House Ways and Means, (First Hearing)  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-162>
- HB176**      **GAS-FUEL CONVERSION PROGRAM** (HALL D, O'BRIEN S) 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:** 6/2/2015 - House Ways and Means, (First Hearing)  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-176>
- HB232**      **SELLER-USE TAX COLLECTION** (GROSSMAN C, SCHERER G) To prescribe new criteria for determining whether sellers are presumed to have substantial nexus with Ohio and therefore required to register to collect use tax, to allow sellers presumed to have substantial nexus to rebut that presumption, and to require a person, before the person enters into a sale of goods contract with the state, to register, along with the person's affiliates, to collect use tax.  
**Current Status:** 6/2/2015 - Referred to Committee House Ways and Means  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-232>
- SB2**      **INTERNAL REVENUE SERVICE-INCORPORATE CHANGES** (PETERSON B) To expressly incorporate changes in the Internal Revenue Code since March 22, 2013, into Ohio law, and to declare an emergency.  
**Current Status:** 2/18/2015 - Referred to Committee House Ways and Means  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-2>
- SB12**      **INCOME TAX CREDIT-SCIENCE RELATED DEGREE** (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:** 2/4/2015 - Referred to Committee Senate Ways and Means  
**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-12>
- SB18**      **TAX CREDIT-NATIONAL GUARD EMPLOYMENT** (GENTILE L) To authorize a refundable income tax credit for employers that hire one or more qualified veterans or members of the National Guard or

reserves.

**Current Status:** 2/4/2015 - Referred to Committee Senate Ways and Means

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-18>

**SB21**      **EARNED INCOME TAX CREDIT RESTRICTION (SKINDELL M)** To remove the income restriction on the earned income tax credit and to make the credit refundable beginning in 2015.

**Current Status:** 2/4/2015 - Referred to Committee Senate Ways and Means

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-21>

**SB40**      **ECONOMIC DEVELOPMENT TAX CREDIT (BEAGLE B)** To authorize tax credits for contributions of money to economic and infrastructure development projects undertaken by local governments and non-profit corporations.

**Current Status:** 2/11/2015 - Referred to Committee Senate Ways and Means

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-40>

**SB41**      **NEW MARKETS TAX CREDIT QUALIFICATIONS (BEAGLE B, TAVARES C)** To modify the qualifications for the New Markets Tax Credit and the schedule for receiving the credit.

**Current Status:** 6/3/2015 - Senate Ways and Means, (First Hearing)

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-41>

**SB52**      **AIRCRAFT FUEL EXCISE TAX (BEAGLE B)** To subject the receipt of motor fuel used to operate aircraft to the motor fuel excise taxes rather than the sales and use taxes and to require a percentage of motor fuel excise tax revenue to be used for airport improvements.

**Current Status:** 2/18/2015 - Referred to Committee Senate Ways and Means

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-52>

**SB88**      **FELON EMPLOYMENT TAX CREDIT (TAVARES C, THOMAS C)** To create a tax credit for the employment of individuals who have been convicted of criminal offenses.

**Current Status:** 3/4/2015 - Referred to Committee Senate Ways and Means

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-88>

**SB100**      **SALES TAX HOLIDAY-ENERGY STAR (BROWN E)** To provide a three-day sales tax "holiday" each April during which sales of qualifying Energy Star products are exempt from sales and use taxes.

**Current Status:** 3/4/2015 - Referred to Committee Senate Ways and Means

**State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-100>