

9:30 a.m. (EST)
1-866-362-9768
940-609-8246#

OMA Government Affairs Committee
June 15, 2016



AGENDA

Welcome & Introductions

Luke Harms, Committee Vice Chair
Senior Manager of Government Affairs, Whirlpool

National Association Reports

- Highlights of activity from national groups such as NAM, GMA, PMA, NTMA, ACC, Foundries, Autos

Stephen Norton, Dir. Corp. Comm. and Gov't Affairs, Steris
Derek Crawford, Corporate and Gov't Affairs, KraftHeinz
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
Kimberly Bojko, Partner, Carpenter Lipps & Leland,
OMA Energy Counsel
Committee Members

Discussion / Action Items

- **Current OMA Action Alerts**
- **Above-Market Electricity Charges**
- **Medical Marijuana Legalization**
- **Unemployment Comp**
- **Legal Challenge: Drug Pricing Initiated Statute**
- **Truck weight reform (SETA)**
- **Employee engagement tools**
- **2016 OMA Election Services**

Member Discussion

Special Presentation:

- *Battleground House Races*
- *Perspectives from the Presidential Campaign Trail*

Mike Dittoe, Ohio House Chief of Staff
Kenny Street, OHROC Executive Director

Matt Carle, Kasich Advisor

Lunch – provided by OMA

2016 Government Affairs Committee Calendar

Meetings will begin at 9:30 a.m.

Wednesday, June 15
Wednesday, August 31 (Cleveland location)
Wednesday, November 30

Our thanks to today's meeting sponsor:





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Legislative Schedule Set for Second Half of 2016

Senate President Keith Faber (R-Celina) and Speaker of the House Cliff Rosenberger (R-Clarksville) recently announced the schedules for the Senate and House for the second half of 2016. The following provides a composite of the schedules for both. Unless otherwise notified, Senate sessions start at 1:30 p.m. on Tuesdays and Wednesdays and 11 a.m. on Thursdays, while the House meets at 11 a.m. on Tuesdays, 1:30 p.m. on Wednesdays and 1 p.m. on Thursdays. Dates and times are subject to change.

July

Monday, July 4 - **Independence Day** (State Offices closed)

September

Monday, Sept. 5 - **Labor Day** (State Offices closed)

Tuesday, Sept. 27 - Senate Session
Wednesday, Sept. 28 - Senate Session
Tuesday, Sept. 29 - Senate Session

October

Tuesday, Oct. 4 - Senate Session
Wednesday, Oct. 5 - Senate Session
Thursday, Oct. 6 - Senate Session

Monday, Oct. 10 - **Columbus Day** (State Offices closed)

November

Tuesday, Nov. 8 - **General Election**
Wednesday, Nov. 9 - Senate Session (if needed)
Thursday, Nov. 10 - Senate Session (if needed)
Friday, Nov. 11 - **Veterans' Day** (State Offices closed)

Tuesday, Nov. 15 - Sessions
Wednesday, Nov. 16 - Sessions

Tuesday, Nov. 22 - Senate Session (if needed)
Thursday, Nov. 24 - **Thanksgiving Day** (State Offices closed)

Tuesday, Nov. 29 - Senate Session/House Session (if needed)
Wednesday, Nov. 30 - Sessions

December

Thursday, Dec. 1 - Senate Session

Tuesday, Dec. 6 - Sessions
Wednesday, Dec. 7 - Sessions
Thursday, Dec. 8 - Senate Session

Tuesday, Dec. 13 - Senate/House Sessions (if needed)
Wednesday, Dec. 14 - Senate/House Sessions (if needed)
Thursday, Dec. 15 - Senate Session (if needed)

Sunday, Dec. 25 - **Christmas Day**
Monday, Dec. 26 - Christmas Day observed (State Offices closed)
Wednesday, Dec. 28 - Senate Session (if needed)

6/1/16

Senators, finish the job on Ex-Im

Ryan Augsburer 11:54 a.m. EDT April 25, 2016

Ryan Augsburer is the vice president and managing director of public policy services for the Ohio Manufacturers' Association.

Ever since the Wright Brothers built the first successful airplanes in Dayton, Ohio, has proudly defended our state's legacy as the "Birthplace of Aviation." Nearly 120 years later, the industry they created continues to help drive our state's economy.

But over the past year, dysfunction in Washington put that industry at risk when some in Congress tried to shut down the U.S. Export-Import Bank. Ex-Im, as it is often called, is a small federal agency that helps American companies export goods by offering financing and insurance to help close deals when no commercial alternative is available.

Over the past several years, Ex-Im has helped hundreds of Ohio manufactures sell more than \$2 billion of American-made products abroad. Since 2011, nearly 7,000 American companies turned to Ex-Im to help them close deals that wouldn't have happened if Ex-Im didn't exist.

But a small group who believed that the government should have no role in helping American firms compete in the world markets aimed to kill Ex-Im. They made wild claims about the bank hurting taxpayers despite the fact that it doesn't cost taxpayers one cent to run since companies pay interest and fees for its services. Ex-Im actually takes in more money than it costs to run, which then helps pay down our national deficit.

Those same critics ignored the fact that 90 percent of the Bank's transactions directly benefit small business, and tried to claim Ex-Im was a tool of large corporations. They called it "Boeing's Bank" because Ex-Im is sometimes used to finance foreign purchases of American made Boeing jets.

After all, every airplane Boeing sells is the product of a vast supply chain made up of nearly 14,000 suppliers. Suppliers such as General Electric, which manufactures jet engines in Evendale that power many of these planes. Or Allen Aircraft Products of Ravenna, which make valves for the airplane fuel and water systems. And the flame-retardant foam manufacturer Technifab, based in Avon, used on Boeing 737, 747 and 787s.

Boeing spent more than \$12 billion last year with Ohio suppliers, which is nearly double what Boeing spent in any other state. That work supports 400,000 direct and indirect Ohio jobs.

But right now, those jobs are at risk because of those in Congress who oppose the Ex-Im Bank. Last year when they tried to shut it down completely, they lost. An overwhelming bipartisan majority of Congress – with the help of Sens. Rob Portman

and Sherrod Brown of Ohio – stood up to say rigid ideology shouldn't trump American jobs.

And yet those critics just won't give up. They realized that in order for Ex-Im to approve larger transitions that create the most American jobs, it needed a full quorum of members on its Board of Directors. Since the bank is currently one member short, refusing to confirm the nominee for that slot could effectively hamstring Ex-Im's ability to create jobs.

The fringe group pursuing this gridlock tactic doesn't dispute the qualifications of Mark McWatters, a Republican nominated by the White House. Opponents don't dispute his prior experience in finance or his expertise as a former law professor. They acknowledge that he was previously unanimously confirmed by the Senate to the National Credit Union Administration Board, where he has served with distinction.

They have refused to act on the nomination out of pure power politics – putting political gain ahead of jobs and the economy.

Unless McWatters is confirmed soon, commercial airplane sales are in jeopardy. These sales directly affect the bottom line of every Ohio company that has a hand in building those airplanes. And there will be more deals that languish or go to foreign competitors after that. It is a failure of leadership and nothing more.

The time has come for the Senate to do its job so that the Ex-Im Bank can do its job. I urge Portman and Brown to demand an up or down vote on this nomination today.

Clinton vs. Trump – Ohio Polling Data

Polling Data						
Poll	Date	Sample	MoE	Clinton (D)	Trump (R)	Spread
RCP Average	4/26 - 5/19	--	--	42.7	41.3	Clinton +1.4
CBS News/YouGov	5/16 - 5/19	992 LV	3.7	44	39	Clinton +5
Quinnipiac	4/27 - 5/8	1042 RV	3.0	39	43	Trump +4
PPP (D)	4/26 - 4/27	799 RV	3.2	45	42	Clinton +3
NBC/WSJ/Marist	3/4 - 3/10	2052 RV	2.2	48	42	Clinton +6
PPP (D)	3/3 - 3/4	1248 RV	2.8	45	40	Clinton +5
CNN/ORC	3/2 - 3/6	884 RV	3.5	50	43	Clinton +7
Quinnipiac	2/16 - 2/20	1539 RV	2.5	42	44	Trump +2
Quinnipiac	9/25 - 10/5	1180 RV	2.9	43	42	Clinton +1
Quinnipiac	8/7 - 8/18	1096 RV	3.0	43	38	Clinton +5

Portman vs. Strickland – Ohio Polling Data

Polling Data						
Poll	Date	Sample	MoE	Strickland (D)	Portman (R)	Spread
RCP Average	4/26 - 5/8	--	--	40.5	40.0	Strickland +0.5
Quinnipiac	4/27 - 5/8	1042 RV	3.0	43	42	Strickland +1
PPP (D)	4/26 - 4/27	799 RV	3.2	38	38	Tie
PPP (D)	3/4 - 3/6	1248 RV	2.8	41	40	Strickland +1
Quinnipiac	2/16 - 2/20	1539 RV	2.5	44	42	Strickland +2
Quinnipiac	9/25 - 10/5	1180 RV	2.9	46	43	Strickland +3
Quinnipiac	8/7 - 8/18	1096 RV	3.0	44	41	Strickland +3
Quinnipiac	6/4 - 6/15	1191 RV	2.8	46	40	Strickland +6
PPP (D)	6/4 - 6/7	859 RV	3.3	41	43	Portman +2
Quinnipiac	3/17 - 3/28	1077 RV	3.0	48	39	Strickland +9

Constitutional Amendment - Citizen-Initiated

- Ohio Cannabis Rights Proposed Constitutional Amendment II
- Ohioans For Medical Marijuana Constitutional Amendment
- Ethics First Proposed Constitutional Amendment
- Clean Energy Proposed Constitutional Amendment V
- Clean Energy Proposed Constitutional Amendment IV
- Ohio Fair Wage Amendment
- Strengthening Term Limits on State Legislators
- Cannabis Control Amendment
- Legalize Marijuana and Hemp in Ohio
- Ohio Cannabis Rights Proposed Constitutional Amendment
- Voter Bill of Rights Proposed Constitutional Amendment
- Freedom To Marry Proposed Constitutional Amendment
- Bottle Bill for Ohio
- Marriage Proposed Constitutional Amendment
- Clean Energy Proposed Constitutional Amendment
- Clean Energy Proposed Constitutional Amendment II
- Clean Energy Proposed Constitutional Amendment III
- Workplace Freedom Proposed Constitutional Amendment
- Ohio Medical Cannabis Proposed Constitutional Amendment
- Personhood Proposed Constitutional Amendment
- Ohio Alternative Medical Treatment Proposed Constitutional Amendment

Initiated Statute

- Ohio Drug Price Relief Act
- Fresh Start Act

Referendum

- House Bill 7



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MEMORANDUM

TO: Ohio Manufacturers' Association
Government Affairs Committee

FROM: Bricker & Eckler LLP

DATE: June 14, 2016

RE: Summer 2016 Legislative & Judicial Report

I. June 2016 Government Affairs Committee Counsel Report.

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

II. Ballot Issues.

Marijuana Legalization: Following the passage of H.B. 523 (Rep. Steve Huffman, R-Tipp City), we anticipate that the myriad constitutional ballot measures proposing to legalize/regulation marijuana in Ohio will end. For example, a proposal from Ohioans for Medical Marijuana was certified by Ohio Attorney General Mike DeWine on March 31, 2016 to begin collecting signatures and was considered by many to be the proposal with the highest likelihood of success. However, following the legislative passage of H.B. 523, the group announced the suspension of its campaign. (*Note, Governor John Kasich signed H.B. 523 into law on June 8, 2016.*)

Minimum Wage: The Ohio Fair Wage Amendment was certified in October 30, 2015. The issue, which is supported by the group Stand Up Ohio, would increase the minimum wage to \$10.00 per hour on January 1, 2017 and increase it by 50 cents every following January 1st until it reaches \$12.00 per hour. Once it reaches \$12.00 per hour, the minimum wage will be annually adjusted for inflation. The amendment also proposes a similar change for tipped employees. The group will need to collect 305,591 petition signatures by July 6 in order to get the measure on the 2016 ballot.

Strengthening Term Limits on State Legislators: A proposal to further limit Ohio legislative terms has been certified by the Attorney General and Ballot Board. The amendment, which is supported by the group Eight is Enough, would amend the Ohio Constitution to state that no person shall hold any combination of elected legislative offices for more than 12 years, and no person shall hold the same legislative office for more than 8 years. Currently, a person may hold the same legislative office for no more than 8 years, but

legislators frequently move back and forth between the House of Representatives and the Senate to indefinitely stay in office.

Ohio Clean Energy Initiative: The Ohio Clean Energy Amendment was certified by the Attorney General's Office on November 2, 2015. This marks the 5th attempt by Yes for Ohio's Energy Future at this ballot initiative. Under the \$14 billion proposal, the Ohio General Assembly would be required to provide for the issuance of general obligation bonds – totaling \$1.3 billion principal each fiscal year for the 10 years after the amendment is adopted – for developing alternative energy sources. The Ohio Energy Initiative Commission LLC, a limited liability corporation registered in the State of Delaware, would have sole responsibility for awarding funds to projects. Major utilities, including AEP Ohio and FirstEnergy, as well as the Ohio Chamber of Commerce have come out in opposition to the effort. The group has until July 6 to gather the requisite 305,591 signatures.

III. Initiated Statutes.

Fresh Start Act: ResponsibleOhio, the group that proposed a 2015 Constitutional amendment to legalize marijuana in Ohio, was also behind a proposed initiated statute for 2016 that would have amended numerous sections of the Ohio Revised Code to allow for the expungement of various marijuana-related crimes in the event that marijuana was legalized for recreational use. While the group had gathered the requisite number of signatures and the Secretary of State transmitted the act to the Ohio General Assembly in January 2016, because Issue 3 was defeated in November and marijuana was not legalized for recreational usage, ResponsibleOhio has suspended its efforts on this initiative. Even in light of the passage of H.B. 523, it is unlikely that the group's efforts will pick back up as that bill only legalizes marijuana for limited medicinal use, and the recreational use of the drug will remain illegal.

Ohio Drug Price Relief Act: The Ohio Drug Price Relief Act is an initiated statute proposed for the 2016 ballot to prohibit the State of Ohio from entering any agreement for the purchase of prescription drugs or agree to pay, directly or indirectly, for prescription drugs unless the net cost is the same or lower than the lowest price paid for the same drug by the U.S. Department of Veterans Services. The proposal is backed by the AIDS Health Care Foundation, a Los Angeles-based organization headed by controversial activist Michael Weinstein.

Following initial questions and possible violations of Ohio election law, Ohio Secretary of State Jon Husted ordered county boards of elections to re-review the petitions and signatures in January 2016, which led to more than 35,000 additional signatures being stricken due to illegal petition mark ups and unlawful circulator statements being executed. The Ohio Secretary of State transmitted, "with reservations," ODPRA to the General Assembly on February 4, 2016.

On February 29, 2016 the Ohio Manufacturers' Association, the Ohio Chamber of Commerce and the Pharmaceutical Research & Manufacturers of America (PhRMA), along with electors Keith Lake and Ryan Augsburg, filed a challenge in the Ohio Supreme Court asking the Court to invalidate part-petitions submitted as part of the ODPRA. The challenge alleged that, in violation of Ohio law, petition circulators and those who coordinated and oversaw the petition

effort, listed false permanent residence addresses, unlawfully altered part-petitions, submitted false circulator statements and, in some cases, were ineligible to circulate petitions due to felony convictions. More information about this litigation effort is included later in this report.

When the Secretary of State submitted the proposal to the legislature, the General Assembly had four months to take action on it. The General Assembly did not, and as such, triggered a second round of signature gathering. The Protest filed by the OMA, Ohio Chamber, and PhRMA is still pending with a decision on the unlawful, intentional, and systemic petition irregularities due from the Ohio Supreme Court in July.

IV. Pending Legislation (2015-2016).

H.B. 194 – Ohio Patent Troll Legislation: H.B. 194 is the re-introduction of H.B. 573 from the previous General Assembly. The bill, sponsored by Representative Kristina Roegner (R-Hudson), revises Ohio law 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. To date, this bill has received one hearing in the House Judiciary Committee.

We have worked with OMA’s legislative affairs director and representatives of OMA member Proctor & Gamble, we are working towards steering the conversation to an alternative bill that seeks to reduce unintended consequences impacting “legitimate” patent owners. We have participated in several interested parties meetings with the OMA and legislators to discuss the bill and have proposed amendments. We continue to monitor problematic proposals from Representative Jim Butler (R-Oakwood) to set up an Ohio administrative regime to review patent infringement demand letters or to strengthen the bill against all parties other than the pharmaceutical industry. We also continue to monitor for any alternative draft language that may be interpreted by the courts as providing an inherent private right of action.

H.B. 350 – Autism Coverage: H.B. 350, introduced by Representatives Cheryl Grossman (R-Grove City) and Lou Terhar (R-Cincinnati), would require health plans to provide coverage for screening, diagnosis, and treatment of autism spectrum disorder. Autism Speaks, the Center for Autism Spectrum Disorders at Nationwide Children’s Hospital, and families and individuals impacted by autism spoke in favor of the legislation at committee hearings. Opponents include the Ohio Chamber of Commerce, NFIB-Ohio, and the Ohio Association of Health Plans. Opponents expressed concerns with the cost of the mandate and the burden placed on businesses as the result of rising health care costs for services that employees may not want or need.

The House Government Accountability & Oversight Committee voted on May 25, 2016 and the bill was approved by an 8-4 vote.

H.B. 394—Unemployment Compensation: In an effort to reform Ohio’s unemployment compensation system, this bill sponsored by Rep. Barbara Sears (R-Maumee) would change the

calculation of the minimum safe level (“MSL”) used to determine solvency of the Unemployment Compensation Fund (“the Fund”). The bill would also increase to the taxable wage base for employer contributions from \$9,000 to \$11,000 for any year when the Fund is at or below 50% of the MSL in addition to lowering the base to \$9,000 and the new employer rate for non-construction employers from 2.7% to 1% when the Fund is at or above the MSL.

The bill requires an individual to have earned wages in at least two of the three prior calendar quarters to establish a “base period” for eligibility for unemployment benefits. The bill will also require drug testing in certain circumstances and limits an individual’s benefits period from 26 weeks to a range of 12 to 20 weeks. If the Fund is at or below 50% of MSL, the maximum weekly benefit amounts are frozen at the prior year’s level.

Proponents of the legislation include the Ohio Manufacturers’ Association, Ohio Chamber of Commerce, NFIB-Ohio, Ohio Council of Retail Merchants, and the Ohio Farm Bureau.

During a January 2016 hearing, a substitute bill was accepted by the House Committee. Changes included in the substitute bill include a provision that will allow an appeal for workers denied benefits because they were terminated for violating company handbook policies. The substitute bill also sets Social Security offsets at 50% and addresses concerns raised by the construction industry about high seasonal rates of unemployment.

The bill has received six hearings in the House Insurance Committee to no avail. In response to the concerns raised by opposition groups, an informal group comprising members of both houses was created to seek a compromise. The major points of contention that the group is discussing are the provisions that reduce the maximum timeframe for claiming benefits, the total number of weeks a person is eligible for, and the Social Security offset provision. Changes in these areas are expected to be made, though Rep. Sears has predicted that the overall framework of the bill will remain the same.

Formal progress won’t happen until the fall, but Rep. Sears hopes that the bipartisan conversation with members from both houses will result in the bill moving quickly once the General Assembly returns from summer recess. *(Note, it was recently announced that Rep. Sears will be moving to the Governor’s Office of Health Transformation. The OMA and interested parties will be looking to Speaker Rosenberger and the House leadership team for guidance on who will pick up and carry the good work on H.B. 394 started by Rep. Sears).*

S.B. 171 – Uniform Interstate Depositions and Discovery Act: Senate Bill 171, introduced by Senator Seitz, 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. Sen. Seitz noted in his remarks to the House Judiciary Committee that the current Ohio law dates to 1953 and that “the discovery process has radically changed over the last 62 years,” hence the need for the update legislation. John Van Doorn, executive director of the Ohio Association for Justice, Praised the bill’s adoption of a national model that “establishes simple procedures for courts in one state to issue subpoenas for out-of-state depositions.”

The bill was passed in the Senate on April 20 by a 33-0 vote. Following three committee hearings in the House, the bill passed the May 24 vote 88-0. The bill was delivered to the Governor’s on June 8 for his signature.

S.B. 201 – Nuisance Law: Senator Jim Hughes (R-Columbus) introduced S.B. 201 to expand nuisance law to apply to any real property, including vacant land, on which an offense of violence has occurred or is occurring. Under continuing law not changed by the bill, the Ohio Attorney General, or the chief legal officer of a political subdivision, is authorized to bring legal action to require the abatement of a nuisance. These proceedings may result in property being unavailable for use for one year and the imposition of fines and taxes. Senator Hughes said in his sponsor testimony that he introduced the bill after he was contacted by the City of Columbus. The City said that there are sites and structures in the city that have been the location of multiple stabbings, shootings and other violent offenses, but the city is currently unable to remedy these nuisance locations under current law. The bill was introduced on August 10, 2015 and has had three hearings in the Senate Civil Justice Committee.

S.J.R. 2 – Congressional Redistricting: S.J.R. 2 was introduced by Senator Frank LaRose (R-Copley) and Senator Tom Sawyer (D-Akron) to create a new process for congressional redistricting. The plan mirrors Issue 1 from the November 2015 ballot and proposes a seven-member panel to draw new districts: the governor, auditor, secretary of state, and four legislative members appointed by the majority and minority parties in each chamber. For a map to be used for the full 10-year cycle, the plan would need approval from two minority party members. Without those two votes, the map would only be used for 4 years, at which point the panel would reconvene to draw a new map. The proposal also includes language to prevent maps from being drawn to favor one party over another.

If approved by the Ohio General Assembly, the issue would be put before voters as a statewide ballot issue. S.J.R. 2 was referred to the Government Oversight & Reform Committee on September 15, 2015 but has not yet had a first hearing.

H.J.R. 2, sponsored by Democratic Representatives Mike Curtin (D-Columbus) and Kathleen Clyde (D-Kent) also proposes changing the congressional redistricting process. This bill has been pending in the House since March 2015, but has not received a hearing.

V. Taxation Update

The 2020 Tax Policy Commission continues to meet monthly. OMA has testified twice, once regarding general tax policy considerations, and once regarding tax credits. Co-Chair Jeff McClain is being replaced by new House Ways and means Chair Tiff Schaffer. The commission plans to have some recommendations ready for the next budget.

P&G and Gillette are seeking review by the SCOTUS of a decision out of California regarding the apportionment of income and whether a state can decide to depart from the terms of the Multistate Tax Compact. Under the compact, member states agree to apportion income using the standard equally-weighted three factors of property, payroll and sales. Many states have begun weighting the sales factor more heavily as an inducement to taxpayers to invest and hire in their states. The Compact gives taxpayers the option of using either method. California ruled that even though it is a member to the company, it may be statute preclude a taxpayer from using the standard formula. The taxpayers argue that a state that is a member of the compact may not selectively decide which terms to follow. P&G/Gillette are seeking help from Ohio business associations and the Ohio Attorney General in getting the appeal accepted by the SCOTUS for review. We met last week with AG DeWine, seeking support from his office. It was a good meeting and he promised to do what he and his staff felt it could to support the effort, but since Ohio does not directly have a dog in the fight (it is not a member of the compact and does not have a corporate income tax), it wants to make sure its involvement is important.

A separate, more detail tax report is being submitted by OMA Tax Counsel Mark Engel.

VI. Medical Marijuana Legislation (H.B. 523)

House Bill 523, which legalizes marijuana for medicinal purposes was signed into law by Governor Kasich on June 8, 2016.

Following the failure of Issue 3 on the November 2015 ballot, ballot initiative efforts by groups seeking to legalize the substance continued, many of which sought to legalize the recreational use of marijuana. In a response to these initiatives, the House and Senate formed task forces to explore the legalization of the drug for medicinal purposes.

The House Task Force was chaired by Rep. Kirk Schuring (R-Canton) and worked with representative from the medical field, law enforcement, business and labor. Meanwhile, Sens. Dave Burke (R-Marysville) and Senator Kenny Yuko (D-Richmond Hts.) conducted a three-city listening tour to hear from citizens on the subject.

In April, a H.B. 523 was introduced in the house, sponsored by Rep. Steve Huffman (R-Tipp City), which would create a “Medical Marijuana Control Commission” under the Department of Commerce. Following nine hearings in the House, the bill passed a May 10 floor vote 71-26. Once in the Senate, a series of amendments were made which spread the regulatory responsibility out over three different agencies: The Board of Pharmacy, State Medical Board,

and the Department of Commerce. The Senate voted 18-15 to pass the measure on May 25 and the House concurred in the amendments hours later.

Citing public support for medical marijuana effort, the legislature was motivated to pass a statute, which can be amended or even repealed much easier than a constitutional amendment.

Under the new law, in order to use marijuana, a patient will need a prescription from his or her doctor. The doctor's prescription is limited to a maximum of 90 days, at which point the patient would need to return to the doctor to get a renewal. Patients are only allowed to use marijuana in vapor form, smoking the drug remains illegal. A registry of both patients and caregivers will be created.

In addition to needing a prescription from a licensed physician, the marijuana itself can only be grown by a licensed cultivator and sold by a licensed retailer. The law requires independent testing by licensed laboratories to ensure the safety of the products. Legislators noted that marijuana, like any crop, can be affected negatively by pesticides or mold, for example. As to actual regulations regarding the cultivation of the plant, the law leaves those specifics to the newly-created commission, but the law provides that townships may regulate or prohibit the location of cultivation, processing, or retail sites.

VII. Litigation Update.

The Ohio Manufacturers' Association, et al. V. Ohioans for Drug Price Relief Act, et al., Sup. Ct. No. 2016-313

On February 29, 2016 the Ohio Manufacturers' Association, the Ohio Chamber of Commerce and the Pharmaceutical Research & Manufacturers of America (PhRMA), along with electors Keith Lake and Ryan Augsburger (collectively "Relators"), filed a challenge in the Ohio Supreme Court asking the Court to invalidate part-petitions submitted as part of the ODPRA. The challenge is against the Committee behind initiated legislation and the Secretary of State. (Both are required by court rule to be named as Respondents.) The challenge alleged that petition circulators and those who coordinated and oversaw the petition effort, (1) listed false permanent residence addresses, (2) unlawfully altered part-petitions, and (3) submitted false circulator statements, all in violation of Ohio law.

The Committee filed a motion for judgment on the pleadings, asking the Court to resolve the case for lack of jurisdiction. On May 18, 2016, the Court denied the motion for judgment on the pleadings, thereby allowing the case to proceed. The Court issued a scheduling order which required Relators to file their evidence and merit brief on June 8, 2016. Respondents' evidence and briefs are due no later than June 22, 2016. Relators have seven days thereafter to file a reply brief. The case recently has been assigned to a special master (retired Franklin County Judge Pat McGrath). At this point, it is not known whether there will be an evidentiary hearing or whether the Court will decide the case on the briefs and evidence submitted.

Relators filed their brief on June 8, 2016. Prior to that, they filed a motion for partial summary judgment, arguing that if the part-petitions of just one circulator are invalidated on the ground

that she used a false residence address, in violation of Ohio law, the Petition only qualifies in 43 counties and it must qualify in 44 counties to be sufficient.

If Relators prevail on any one of the three grounds asserted, the number of signatures submitted will have been insufficient and the Committee will be required to cure the deficiency before being able to proceed.

It is not known when the Court will rule, but given constitutional deadlines applicable to initiative petitions, such as this one, a ruling is anticipated in July.

Newegg, Inc. v. Testa, Sup. Ct .No. 2015-0483.

On October 20, 2015, the OMA joined an amicus brief with the Ohio State Medical Association, Ohio Dental Association and Ohio Chemistry Technology Council in support of Tax Commissioner Joe Testa. The case is before the Ohio Supreme Court on appeal from the Ohio Board of Tax Appeals. This case involves application of the commercial activity tax and the Board of Tax Appeals' upholding the "bright-line presence" test provided for in R.C. 5751.01(H) and (I).

The Court heard oral arguments on May 3, 2016. The session was pretty lively and we expect a decision will be forthcoming in the fall. If the taxpayer is successful, the portion of that tax that requires out of state taxpayers with no physical presence in Ohio, but with gross sales in excess of \$500,000 to pay the tax, will be struck down.

Linert v. Ford Motor Company, Sup. Ct. No. 2014-1940.

On August 17, 2015, the OMA joined an amicus brief with the National Association of Manufacturers, the Chamber of Commerce of the United States of America, the Ohio Chamber of Commerce and others in a product liability case that was appealed from the Seventh District Court of Appeals.

The decision of the Seventh District requires manufacturers selling products in Ohio to warn consumers, post-sale, of any known risk in using a product, even if the product is not defective. In its decision, the court of appeals interpreted R.C. 2307.76 in a way that is not only contrary to the plain language of the statute, but also to the substantial weight of authority from courts around the country that have adopted post-sale duties to warn.

In light of the court of appeals decision, manufacturers now have a disincentive against selling to Ohio consumers because any subsequent product improvement triggers a duty to warn every prior purchaser of the product, regardless of the likelihood or seriousness of the "risk" posed. Amici, including the OMA, argue that the Seventh District's decision imposes an "innovation tax" in Ohio.

Oral argument was held on January 5, 2016 and we are awaiting the opinion from the Supreme Court.

Sunoco Pipeline v. Carol Teeter, Trustee, Ohio 7th District Court of Appeals, Case No. 16 HA 0002 and 16 HA 0005.

On May 16, 2016, together with other business interests, the OMA filed an amicus brief in a case now pending before the Ohio Seventh District Court of Appeals, in Youngstown. The OMA urges the Court of Appeals to uphold the ruling of a Harrison County trial court in the case, *Sunoco Pipeline v. Carol A. Teter, Trustee*.

At issue is when a pipeline developer may invoke Ohio’s eminent domain statute to site the pipeline. Landowners have challenged Sunoco’s authority to use eminent domain to construct the Mariner East 2 project which will deliver natural gas liquids from the Marcellus and Utica shale in Ohio to points eastward.

The OMA recognizes that pipelines are the safest, most reliable and cost effective means of transporting petroleum and petroleum products, which contributes to reliable and low-cost energy and raw materials for manufacturers. The case is pending and decisional before the 7th District with a ruling likely this summer. We will let you know as soon as more information from the Court becomes available.

VIII. 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. Created in 2011 by H.B. 188, the commission is scheduled to wrap up its work by January 1, 2018.

The full Commission met on April 14, 2016 and May 12, 2016. At the April meeting the Commission heard a proposal from the Bill of Rights and Voting Committee that would deny a person “the rights and privileges of an elector” if they have been judicially determined to lack the mental capacity to vote. The committee discussed the matter, but waited until the May meeting to hold a vote. At the May meeting, the opposition to this proposal suggested that a person so adjudicated should be limited to only losing their right to vote, not all of the rights associated with being an elector. The Commission voted to reject the proposal.

Bill of Rights & Voting Committee: As mentioned above, the Bill of Rights & Voting Committee’s main focus has been on the franchise of those with “mental incapacity.” At the most recent meeting of the Committee, a memorandum regarding whether the Ohio Constitution should contain an explicit “right to privacy” was circulated to the members in addition to one on the mental capacity to vote.

Constitutional Revision & Updating Committee: The Constitutional Revision & Updating Committee spent its March and May meeting continuing its discussion to change the initiated statute process to eliminate the supplemental signature gathering portion of the initiated statute process as well as creates a safe harbor provision to prevent the General Assembly from altering or repealing a law passed by voters on the initiated statute process for at least three years, unless

it has two thirds support. The draft also includes an increase in the initial number of signatures needed, from the current 3% to 5% of the vote cast for the last gubernatorial election. The committee has asked the Legislative Service Commission for help drafting the language that will be voted on and then possibly sent to the entire Commission.

Legislative Branch & Executive Branch Committee: The Legislative Branch & Executive Branch Committee continues to work on a reform proposal to Ohio's congressional redistricting plan. A subcommittee was formed to take the two plans currently in the Legislature: H.J.R. 2 sponsored by Representatives Kathleen Clyde (D-Kent) and Mike Curtin (D-Columbus) and S.J.R. 2 sponsored by Senators Frank LaRose (R-Copley) and Tom Sawyer (D-Akron) and reach a bipartisan compromise that could be approved by the Committee and sent to the Commission. However, it appears that the subcommittee has come to an impasse. The sticking point seems to be the issue of how many split counties or split political subdivisions would be allowable on a given map.

Finance, Taxation, and Economic Development Committee: The Finance, Taxation, and Economic Development Committee voted in their most recent meeting to present to the Commission a proposal that would eliminate reference to the "Sinking Fund." The fund was originally created to oversee the retirement of canal and railroad debt and the Committee believes that the 1851 fund is now obsolete. The Committee's proposal would keep the legislature's debt limit at the current \$750,000, though there was suggestion to raise that ceiling given the increase in size of the State's budget since 1851.



OHIO MEDICAL MARIJUANA LEGALIZATION– SUB. H.B. 523

On June 8, 2016, Ohio Gov. John Kasich signed a medical marijuana bill, Sub. H.B. 523, into law, making Ohio the 25th state to adopt some form of approval and regulation of medical marijuana.

Sub. H.B. 523, which underwent robust discussion and numerous amendments, attempts to balance a perceived acceptance by Ohioans to approve medical marijuana while getting ahead of various groups' efforts to permanently incorporate medical marijuana measures into the Ohio Constitution.

Following extensive House committee review, the House version introduced in April 2016 passed by a 70 to 25 vote. It incorporated many concepts discussed during a series of public meetings convened by the House's Medical Marijuana Task Force earlier this year. Although the Senate version passed by a much narrower version, the Senate amendments also incorporated public input. The highlights of the final version include the following components:

Legislative intent

Sub. H.B. 523 is intended to tax and regulate medical marijuana use and distribution, to recommend to Congress that marijuana be reclassified as a schedule II controlled substance, and to establish incentives for academic and medical research relating to medical marijuana.

Definition of medical marijuana

"Medical marijuana" is defined as marijuana (as currently defined by Ohio law) cultivated, processed, dispensed, tested, possessed, or used for a medical purpose.

Who will regulate medical marijuana in Ohio?

The governor will appoint a Medical Marijuana Advisory Commission within the state Board of Pharmacy to make recommendations to the Department of Commerce, the Pharmacy Board, and the Medical Board for a medical marijuana control program.

Within one year of the effective date of this law, the Department of Commerce will make rules, set standards, and establish best practices for this program. The program shall, in part:

- Establish application procedures, fees, disqualifying factors, and number of licenses for cultivators, processors, and retail dispensaries, based on population, number of patients, and geographic distribution, within 240 days of the effective date. Further, 15% of cultivators, processors, or labs are to be owned or controlled by residents who are members of economically disadvantaged groups;
- Determine how licenses will be renewed, suspended, or revoked, and how a suspension may be lifted;
- Regulate activities from taking place within 500 feet of schools, churches, libraries, playgrounds, parks;
- Create confidential databases to monitor medical marijuana from seed source through dispensing.

The state's existing Automated Rx Reporting System will be used to track the movement of dispensed medical marijuana.

The Pharmacy Board will regulate testing laboratories, and will also require licensed dispensaries to have a pharmacist on staff.

The Medical Board will regulate physicians who may recommend use.

Who may use medical marijuana?

The State Medical Board may determine additional conditions, but those who suffer from the following conditions may apply to become registered users: AIDS; amyotrophic lateral sclerosis; Alzheimer's disease; cancer; chronic traumatic encephalopathy; Crohn's disease; epilepsy or another seizure disorder; fibromyalgia; glaucoma; hepatitis C; inflammatory bowel disease; multiple sclerosis; pain that is chronic, severe, and intractable; Parkinson's disease; positive status for HIV; post-traumatic stress disorder; sickle cell anemia; spinal cord disease or injury; Tourette's syndrome; traumatic brain injury; and ulcerative colitis.

Before the implementation of sales of Ohio-grown product (*i.e.*, between September 2016 and sometime in late 2017 or early 2018), the Pharmacy Board may negotiate reciprocity agreements with other states where medical marijuana is legal to enable registered users and caregivers to purchase medical marijuana and transport it back into Ohio for use.

Registered users and caregivers are immune from arrest and prosecution for consuming medical marijuana in the form of edibles, oils, tinctures, patches, and vaporization (vaping will be limited to extracts from plants by approved sources with THC content of less than 70%). However, driving or using a vehicle while under the influence is not authorized.

Medical Recommendations

A qualifying physician may recommend – *not prescribe* -- that a patient consider medical marijuana to patients with whom a documented physician-patient relationship exists. Qualifying physicians may not personally furnish/dispense medical marijuana, or have any involvement in a medical-marijuana cultivating or retailing enterprise.

Physicians who wish to recommend medical marijuana will be registered and controlled through the Ohio State Medical Board, which will issue and may revoke certificates to recommend. They will be required to confidentially track the use and outcomes of medical marijuana recommendations. They will also be required to participate in continuing education courses.

A patient recommendation cannot be renewed more than three times for 90 days each, absent a physical examination. The physician must conform to confidential reporting requirements that track the effectiveness of use during the year covered by the recommendation and renewals.

Dispensing, Content Limits, Labeling, and Safety

The law permits dispensation of up to 90-day supplies of medical marijuana from licensed dispensaries, but prohibits cultivation for personal use.

Labeling must specify the tetrahydrocannabinol (THC) and cannabidiol ratios. The law imposes prohibitions on making products attractive to minors, and requires that dispensed product be inaccessible to minors.

Labs regulated by the Board of Pharmacy will test for potency, homogeneity, and contamination, and must report results.

The Pharmacy Board shall establish a toll-free line to respond to patients and medical providers about adverse reactions to medical marijuana.

Employment Considerations

Employers may test and take disciplinary action against employees who test positive for use of marijuana.

There is no requirement to accommodate an employee's use of medical marijuana, or to prohibit an employer from refusing to hire, discharging, or taking an adverse employment action because of a person's use of medical marijuana. Moreover, there is no provision for suing an employer who takes such actions.

A termination based on using medical marijuana is a discharge for just cause for unemployment purposes if it violates a written policy of the employer (i.e., a zero-tolerance substance abuse policy, or comparable policy against use of drugs), and would render the applicant for benefits ineligible.

The workers' compensation rebuttable presumption, allowing an employer to initially deny a claim in the event of a positive drug test and allowing the employee to dispute that denial at a hearing, could render an employee ineligible if being under the influence of marijuana was the proximate cause of the injury, regardless of whether its use is recommended by a physician.

The Ohio BWC can continue to grant premium rebates/discounts to employers that participate in the drug-free workplace program.

Zoning

Municipalities and townships may regulate or prohibit licensed retail dispensaries. Counties and townships may apply agricultural-use zoning limitations to regulate retail dispensaries in unincorporated territory.

Banking Services

The bill authorizes financial institutions to conduct business with licensed cultivators, processors, retail dispensaries, or labs.

Post-script

One day after the General Assembly passed Sub. H.B. 523, Ohioans for Medical Marijuana, the group seeking to place the medical marijuana issue before voters in November as a proposed constitutional amendment, suspended its effort to collect petition signatures. The group, backed by the national Marijuana Policy Project, said the changes made to the legislation were acceptable, despite not permitting smoking or home growing of medical marijuana.

Public Policy “Hot Topics” June 15, 2016

Overview

In late May, the General Assembly cleared the decks sending dozens of bills to the Governor. As 2016 is a presidential election year, lawmakers will be in recess until autumn to allow ample time to campaign. A hectic post-election or “lame duck” session is anticipated. Top OMA priorities during the past quarter include electricity rate-making, unemployment compensation payoff and restructuring, legalization of medical marijuana.

Unemployment Compensation

In late May the legislature passed a provision (included in House Bill 390) guaranteeing that the state’s unemployment compensation loan would be paid back to the federal government by the November deadline. By paying the loan off a year early the business community is expected to save over \$400 million. Both the House and Senate have promised to make unemployment trust fund solvency a priority in lame duck.

The short-term plan uses the state’s unclaimed funds to provide a loan to make the payoff. Employers will be assessed a surcharge in 2017 to pay the loan back. By paying off the debt early employers will see an overall savings in 2017.

Together with the other “Big Five” major business groups, the OMA has retained expertise of the Strategic Services on Unemployment & Workers’ Compensation to help the legislature develop a plan to correct Ohio’s insolvent unemployment trust fund.

House Bill 394 was introduced by Rep. Barbara Sears. The bill is a comprehensive reform of Ohio’s unemployment compensation program with a focus on making the system in Ohio solvent. A work group was created by the House and Senate to work through the proposal. The General Assembly announced their intention to pass the bill in lame duck. See OMA Human Resources section report for more information.

Electric Utilities Seek Nearly \$6 Billion in Customer Subsidies

Significant utility rate cases are pending at PUCO. Distribution utilities FirstEnergy, AEP and DP&L filed cases proposing affiliate power purchase agreements (PPAs) whereby the utility companies impose billions of dollars of new charges on customers to subsidize “uneconomic” generation owned by their affiliate generation company. The PUCO staff supported the proposals (after they opposed the proposals) and then in late March, the five governor-appointed PUCO commissioners voted unanimously to approve the AEP and FirstEnergy subsidy proposals.

The OMA has been a leading opponent of the case litigating against the utility proposals at both the PUCO and FERC. After the PUCO approved the utility requests, the FERC took action in a related federal case that effectively blocked the PPAs from going into effect.

FirstEnergy modified their prior PPA plan so that all references to the term “PPA” are absent and customer cash would flow to the utility not the deregulated generation affiliate, hoping the modification would clear FERC scrutiny. At this point all eyes are back on the PUCO to see their next move. The OMA Energy Group directs the OMA legal team strategy and has been quite busy this quarter. See the OMA energy section report.

Medical Marijuana Legalization

Following the defeat of the Responsible Ohio ballot issue to legalize medical and recreational marijuana in 2015, the Ohio House formed a task force to study the efficacy of “medical marijuana” and evaluate regulatory options. OMA Board Chair William Sopko, Sr. served on the task force. The task force heard many days worth of witness testimony. OMA counsel provided testimony to the task force on important employment law considerations.

After the House task force disbanded, House Bill 523 was introduced. Before recessing for the summer, the bill moved through both legislative chambers with lightning speed in an attempt to preempt a new ballot proposal to legalize “medical marijuana.” The bill has provisions to protect employers ability to maintain drug free work policies. Shortly after passage, the ballot initiative campaign announced they would discontinue their campaign. This is a positive development and Speaker of the House Cliff Rosenberger and Representative Kirk Schuring deserve considerable credit.

Minimum Wage

A Cleveland municipal ordinance would hike minimum wage to \$15 per hour for employers in the municipality. The legality of such a proposal is questionable. The OMA staff has been participating in a coalition of opponents. For more information see the OMA human resources section report.

Tax Policy

Hearings have continued on the 2020 Tax Policy Study Commission. The OMA has testified twice on both how Ohio’s tax structure impacts manufacturing and on the impact of tax expenditures on Ohio’s manufacturers. More hearings will continue through 2016.

House Bill 343 which eliminates the sales tax on temporary employees was voted out of the House Economic and Workforce Development Committee against opposition from the Department of Taxation. The issue has been a long time OMA priority.

Civil Justice

Patent troll legislation continues to be held in the House, no action is expected and consensus leans to a federal solution.

Environment

The federal Clean Power Plan / U.S. EPA 111(d) which increases regulation on carbon emissions from power plants continues to be the major environmental issue. Ohio announced previously it would be seeking an extension to develop a state plan. Earlier this year the U.S. Supreme Court issued a stay in the case, which was a major victory for manufacturers. The OMA and other business allies filed an amicus brief in support of the states that are fighting regulation in the court. The oral arguments were delayed until later in the summer to be heard in front of the court. A decision isn’t expected until the end of the year at the earliest.

Government Efficiency -- Grace Commission

OMA President Burkland was tabbed by the Speaker of the House to serve on the Grace Commission to explore government processes ripe for improvement. The Commission finished up their work earlier this spring. A report is expected on the Commission’s findings.

Right to Work

With the approval of right-to-work legislation in West Virginia following narrowly successful veto override, pressure would seem to be mounting on a similar proposal in the Buckeye State. The Administration has continued to remain out of the spotlight on this issue. Stay tuned.

Workers' Comp & Industrial Commission

BWC Administrator Steve Buehrer stepped down from the agency earlier this spring. Chief Legal Officer Sarah Morrison was subsequently appointed by the Governor to lead the BWC.

The OMA and other business groups have been pushing back on Senate Bill 5. The bill has not yet been approved by the full Senate. Senate Bill 5 provides PTSD benefits for first responders through their workers' compensation benefits. This would be a major shift in workers' compensation policy for the state. See the Safety and Workers' Comp report to learn about other majority-party bills pending that would alter the workers' compensation landscape granting expanded coverage and resulting costs.

2016 General Election

The primary season is past and new and old faces will be running for seats in the Ohio General Assembly. Senate President Keith Faber is term-limited this year and is planning on rejoining the House along with Senators Seitz, Hughes and Patton. Former Speaker Larry Householder is also expected to make his return to the chamber.

Three vitally important seats on the Ohio Supreme Court will be at stake. As usual, the OMA will deliver election services in 2016.

The OMA endorsement process will commence this summer. If you have a particular candidate that the OMA PAC should support please contact OMA staff and let them know who and why.

Candidates for statewide races in 2018 are lining up and the OMA will provide opportunities for manufacturers to become acquainted with them as elections draw near.

November General Election – Ballot Issues

It's too early to say what will be in the November ballot; however several possible issues are being circulated. The biggest pro-marijuana group threatening the ballot dropped their campaign in response to the legislators passing House Bill 523. See counsel's report for more detail on possible ballot issues. The OMA filed a challenge in the initiated statute impacting drug pricing.

President Kasich?

John Kasich suspended his presidential campaign in early May, unable to stem the Donald Trump tide which continued to rise throughout the Republican primaries. However he is remaining active on the political front with interviews and actively campaigning for state and national politicians.

Leadership

[Ohio's Interactive Budget](#)

June 10, 2016

The state Office of Budget and Management has just unveiled a cool new website, "[Ohio's Interactive Budget](#)."

The site provides data on how the state generates the revenue, how it budgets it, and how it spends it. So, now, you can see how the state will be spending \$142 billion during this biennial budget, in detail.

Congratulations to budget director Tim Keen, who had the vision for this service.

[We Make Voting Easy!](#)

June 10, 2016

With TurboVote, we make sure you always know when elections are happening, and have the information you need to vote with confidence. [Sign up](#) to receive election reminders, get registered to vote, & apply for your absentee ballot!

Imagine a world in which all 12 million U.S. manufacturing workers vote!

[Ohio's Fiscal Health Strong](#)

June 10, 2016

A new report, "[Ranking States' Fiscal Health](#)," puts Ohio as 11th best among the states in fiscal health.

The Mercatus Center of George Mason University reviewed audited financial reports for fiscal 2014 for all 50 states and Puerto Rico. It evaluated the reports on five metrics: cash solvency, budget solvency, long-run solvency, service-level solvency and trust fund solvency.

Alaska, Nebraska, Wyoming and both Dakotas were the top five states. Puerto Rico, Connecticut, Massachusetts, New Jersey, Illinois and Kentucky were the stinkers.

[NAM Builds "Trade Toolkit"](#)

June 10, 2016

The National Association of Manufacturers (NAM) has developed a "[Trade Toolkit](#)" website. The site is for use by manufacturers in their trade advocacy.

Writes NAM: "To grow manufacturing and expand our global competitiveness, manufacturers are increasingly seizing new opportunities for trade. A more robust trade policy that opens markets, prioritizes enforcement and improves the competitiveness of manufacturers in America will help America win a bigger share of global manufacturing trade, creating new opportunities, growth and investment in local communities and the American workforce."

[Marijuana Ballot Group Backs Down](#)

June 3, 2016

In what is a major victory for Ohio businesses, last weekend the [Marijuana Policy Project](#) (MPP) announced it was suspending its medical marijuana ballot initiative campaign in Ohio.

Had the campaign been successful, the constitutional amendment would have allowed the use of medical marijuana in Ohio without taking into consideration business interests or worker safety.

MPP cited [House Bill 523](#), spearheaded by the legislature and supported widely by interested parties including Ohio manufacturers, as the reason for suspending the ballot campaign.

With a large majority of Ohioans in favor of medical marijuana, the legislature made a reasonable decision to legalize medical marijuana under specific conditions while protecting employer rights and workplace drug rules.

MPP conceded the bill was better than it could have imagined and that raising money in light of the bill's passage was harder than predicted.

Keeping medical marijuana law out of the constitution gives Ohio manufacturers the opportunity to continue to improve and mold the law to ensure workplace safety does not suffer.

[Election Tools for Employers, Tools for Voters](#)

June 3, 2016



Part of protecting and growing manufacturing is having manufacturer engagement in the electoral processes.

To make it easier for our members to source non-partisan Get Out the Vote tools and useful electoral information for their employees, we have collaborated with the National Association of Manufacturers to create the [OMA Election Center](#). The site contains tons of tools: sample messages, posters, manufacturing data and more. All free.

But that's not all: We have also created a totally new website – [ManufacturingVoter.com](#) – that is intended for any manufacturing voter anywhere to pick up some useful information to help them make their voices heard at the polls.

[Let us know what you think](#) and what else you may need.

[General Assembly Sets Fall Schedule](#)

June 3, 2016

Senate President Keith Faber (R-Celina) and Speaker of the House Cliff Rosenberger (R-Clarksville) have announced the schedules for the Senate and House for the second half of 2016.

[See full schedule published by Hannah News Service here](#). Dates and times are subject to change.

[Not Too Late to Register for June 14 Food Manufacturers & Suppliers Meeting](#)

June 3, 2016



It happens just once a year – the OMA Food Manufacturers & Suppliers Meeting!

We serve up the legislative, regulatory and economic development issues that directly impact Ohio food manufacturing companies and their manufacturing suppliers.

[Click here for a printable flier](#) and [here for the agenda](#).

RSVP for the [June 14 meeting](#) to [Denise Locke](#) or call us at **(800) 662-4463**. Or register at [My OMA](#). A networking dinner with colleagues and officials follows the business meeting at [Scioto Country Club](#).

[Goal: 3,000](#)

June 3, 2016



Manufacturing DaySM is a celebration of modern manufacturing meant to inspire the next generation of manufacturers. Although Manufacturing Day is officially the first Friday in October—October 7 this year—any day can be a Manufacturing Day.

Over four years the growth of [MFG DAY](#) has been phenomenal: From 240 events hosting 7,500 visitors in 2012 to 2,600 events and 400,000+ guests in 2015. The 2016 goal is 3,000 events.

Whether you simply invite the friends and family members of your employees or the entire community, your event should be on the calendar. Please take the 5-7 minutes to put your event on the [map](#). There are already more than 200 events listed.

[Ohio Offers Export Assistance](#)

June 3, 2016

The Ohio Development Services Agency staffs the Ohio SBDC Export Assistance Network. Services are available at seven regional [Ohio Small Business Development Centers](#) (SBDCs) across the state.

Export services include no-cost, confidential counseling from Export Assistance Network directors; in-depth market research in more than 40 countries to help small businesses build local relationships and identify quality distributors; international marketing grants to encourage more investment into market

development; and export-trained internships to support export growth.

If you are interested in exporting your goods and services into international markets, contact your local Ohio SBDC Export Assistance Director and [visit this website](#).

[Infrastructure Matters \(video\)](#)

June 3, 2016

Recently the National Association of Manufacturers (NAM) joined other business groups, labor organizations and elected officials across the country to tell policymakers and citizens to promote the need for more infrastructure investment during a week long series of events known as [Infrastructure Week](#).

The NAM premiered [this 2-minute video](#) featuring manufacturers from both small and large companies highlighting the challenges that remain in addressing critical modernizations and reforms.

Infrastructure is an important plank of both the OMA's and the NAM's policy frameworks for action.

[Bill Would Restrict Unsafe Used Tires](#)

June 3, 2016

Before leaving the Statehouse for summer recess, the General Assembly introduced legislation to prevent the installation of unsafe used tires on cars. The legislation revises the state's deceptive sales practices statute by defining an unsafe used tire and prohibiting their installation.

The OMA will work with tire manufacturers to support passage of [HB 574](#) (sponsors Robert Sprague (R-Findlay) and Anthony DeVitis (R-Akron)) and [SB 336](#) (sponsors Cliff Hite (R-Findlay) and Frank LaRose (R-Akron)) in the fall when the House and Senate return.

Contact OMA's [Ryan Augsburger](#) to learn more.

[Major Victory: Unemployment Comp Penalties Will Be Eliminated](#)

May 27, 2016

Late Wednesday night the General Assembly agreed to a deal with the intention to eliminate the state's recession-era unemployment compensation debt to

the federal government. The move [supported by the OMA](#) and other business allies will potentially save Ohio's businesses more than \$400 million in FUTA penalties. Without this fix employers were staring at a possible \$168 per employee penalty to be paid in 2017.

The new plan will borrow from the state's unclaimed funds to pay off the debt in November 2016. Then employers will repay the state-backed loan by paying a per employee surcharge in 2017. This surcharge is estimated to be \$50. Overall, the plan will save employers around \$70 per employee in 2017.

This bill is on Governor Kasich's desk for signature.

While the General Assembly addressed the short term debt issue, the new plan does not address the long term solvency of the system due to the structural imbalance that contributed to the heavy borrowing. The administration and General Assembly have committed to addressing this root issue with [OMA-backed House Bill 394](#) later in the year.

[Medical Marijuana Bill Goes to Governor](#)

May 27, 2016

The bill that would legalize the use of marijuana for specific medical conditions, [HB 523](#), narrowly passed the Senate this week. The vote was 18 in favor, 15 opposed.

The Senate resisted calls to delete workplace protections for which the OMA advocated. Some senators wanted to prevent employers from terminating employees for positive drug tests, if the employees are authorized to use medical marijuana.

The bill goes to the governor for signature. He has previously indicated that he would be supportive of a medical marijuana bill that was developed with physician input, which this bill was.

[General Assembly Recesses for the Summer](#)

May 27, 2016

The House and the Senate called it a day Wednesday night and went home for the summer. We'll use the break to take legislators on tours through manufacturing facilities in their districts. If you'd like us to arrange such a tour for a legislator, let [Rob Brundrett](#) know. It is the best way to educate legislators about the importance of creating a manufacturing-supportive business climate.

[Unemployment Comp Relief on the Way!](#)

May 20, 2016

Addressing a long standing OMA goal, the House, Senate, and Kasich administration this week outlined a tentative plan to pay off the state's \$315M unemployment compensation debt owed to the federal government.

The debt has triggered increasing yearly penalties on employers' FUTA taxes. Paying off the debt will eliminate the federal penalties. Thus, employers will see their FUTA tax per employee drop from a projected \$168 per year to the standard \$42 per employee.

Under the plan, the state would retire the debt through a loan from state coffers that will be repaid by employer surcharges next year. Surcharges are estimated to be \$45-50 per employee. Thus, employers will have a net savings of \$75 per employee in 2017.

Legislation will be introduced and passed next week to execute the plan.

With the debt soon to be retired, the state must now focus on making the Ohio unemployment compensation system actuarially sound by passing [House Bill 394](#); its solvency measures will help ensure that Ohio does not have to borrow such sums again in the future.

[What's in Ohio's Medical Marijuana Bill? \(video\)](#)

May 20, 2016

OMA Connections Partner, Working Partners®, an organization that helps employers implement and manage their drug-free workplace programs, has created this [short video](#) about some of the provisions of [House Bill 523](#).

["Safe to Eat"](#)

May 20, 2016

The National Academy of Sciences this week [issued a report](#) largely dismissing purported harmful effects of genetically engineered (GE) food. The report states, "Genetically-engineered crops are as safe to eat as their non-GE counterparts, they have no adverse environmental impacts, and they have reduced the use of pesticides."

The National Academy of Sciences is a group funded by the U.S. Congress to provide expert scientifically-based advice on a wide range of issues.

[Manufacturing Summer Camp for 5th & 6th Graders](#)

May 20, 2016

New for June 2016 is the Manufacturing Institute Summer Day Camp!

It's a week long Summer Day Camp with a manufacturing focus for 5th & 6th grade students to be held at [Auburn Career Center's Fab Lab](#).

Camp details include: Two exciting week long sessions in June with a cohort of 25 fifth/sixth grade campers per week. The curriculum includes financial literacy, marketing, manufacturing a project, and advanced manufacturing site tours. Campers will manufacture their own Mars Rover or prosthetic arm! On the fifth day parents, friends, and loved ones will be invited to a showcase breakfast where campers will highlight their week.

Sponsored by [AWT Foundation](#) in collaboration with [Lake/Geauga Educational Assistance Foundation](#) and the office of [U.S. Senator Sherrod Brown](#). [Here is more information](#).

[Supreme Court Affirms Jurisdiction, Moves to Expedite State Drug Price Controls Proposal](#)

May 20, 2016

This week a divided Ohio Supreme Court issued a ruling in the Ohio Drug Price Relief Act challenge. At issue is whether drug price control activists may proceed with a proposed statutory initiative in 2016. Earlier this year, the OMA [filed suit](#) to deter the ballot issue from proceeding citing fraudulent petition collection practices and policy concerns over placing price controls on manufactured products (pharmaceuticals in this case) in the Ohio Revised Code through the initiated statute process.

[In its ruling](#), the court wisely rejected procedural maneuvers by drug pricing activists to limit the court's jurisdiction over the ballot proposal and force drug price controls into the Ohio statutes. The court agreed to allow our challenge to continue that fraudulent petition circulator statements and unlawful signature activities should not be counted.

In a separate but related [Motion and Procedural Ruling](#), the court established an expedited hearing schedule and posed certain legal questions to both sides. "Our lawyers will be very busy over the next few months responding to this schedule and protecting manufacturing against single-issue activists who try to buy their way into Ohio's statutes without

going through any legislative process,” commented the OMA’s Ryan Augsburge

[Ohio Ranked 10th Best for Business Climate](#)

May 13, 2016

In its [annual rankings](#) of the best and worst states for business *Chief Executive* magazine ranked Ohio 10th best.

Ohio jumped 12 places in one year, and has moved up 34 spots since 2010. That’s the year that John Kasich was elected governor.

See the Ohio rankings [here](#).

The rankings were established by survey of 513 CEOs across the country.

[Governor Kasich Ends Presidential Bid](#)

May 6, 2016

In an emotional [press conference](#), Governor Kasich suspended his presidential campaign Wednesday evening. The governor was the last major candidate to enter the race (on July 21, 2015) and was the last candidate challenging Donald Trump.

Governor Kasich earned 154 delegates. He’ll go to the Cleveland Republican convention with the ability to help shape the policy platform.

Congratulations on the race, Governor, and welcome home!

[OMA Director Appointed to Republican Convention Platform Committee](#)

May 6, 2016

Columbiana County’s Dave Johnson was one of two individuals appointed to the GOP convention platform committee by Governor Kasich this week (every state gets to select committee members). This important committee establishes the “platform” upon which the party will run in this year’s election.

Dave Johnson is CEO of Summitville Tiles, Inc., and a director and former chairman of the OMA.

Congratulations, Dave!

[House Committee Moves Medical Marijuana Sub Bill](#)

May 6, 2016

The House Select Committee on Medical Marijuana accepted a substitute version of [House Bill 523](#) on Wednesday and unanimously reported the bill on Thursday. This sets up a House floor vote for next Tuesday, potentially leaving the Senate three weeks to refine and pass the bill prior to the scheduled break for campaign activity. The bill competes with potential fall ballot amendments to gain some form of marijuana legalization in Ohio.

The updated proposal added more details on how the proposed Medical Marijuana Control Commission would regulate the drug. Among the most contentious issues, the bill would bar patients from smoking the drug but would allow vaporization. The bill also prevents patients from growing their own product, but allows for use of oils, tinctures, plant material, edibles, and patches.

Two additional documents were released: [Sub HB 523 Outline](#) and [HB 523 Comparison Document](#). We’ll continue to apprise members as employer-impact analyses are developed.

[Senate: Finish the Job on Ex-Im Bank](#)

May 6, 2016

The U.S. Senate needs to fill a vacancy on the Export-Import (Ex-Im) Bank board of directors, so that the bank can fully function to support American export jobs.

In a [guest column published in the Cincinnati Enquirer](#), OMA’s Ryan Augsburger wrote: “... in order for Ex-Im to approve larger transactions that create the most American jobs, it needs a full quorum of members on its Board of Directors. Since the bank is currently one member short, refusing to confirm the nominee for that slot could effectively hamstring Ex-Im’s ability to create jobs.”

The U.S. Senate should confirm Mark McWatter. Both of our Ohio Senators are on board.

[House Shuffles Leadership, Chairmen](#)

April 29, 2016

This week the House Republicans made changes in their leadership and in a number of committees important to Ohio manufacturers.

Rep. [Kirk Schuring](#) (R-Canton) was elected the majority floor leader, [Rep. Dorothy Pelanda](#) (R-

Marysville) is the new majority whip, and Rep. [Sarah LaTourette](#) (R-Bainbridge) becomes assistant majority whip. Reps. [Barbara Sears](#) (R-Sylvania) and [Mike Dovilla](#) (R-Berea) resigned from their leadership positions; both are leaving the chamber at the end of the year.

Most notable is OMA member [Mark Romanchuk](#) (R-Mansfield) becoming chairman of the Economic & Workforce Development Committee. Congratulations, Mark!

Other new chairs of interest to manufacturing are: Rep. Barbara Sears (R-Maumee) takes over the Insurance Committee, Rep. Mike Dovilla (R-Berea) will lead the Public Utilities Committee, and [Rep. Tim Schaffer](#) becomes Ways & Means leader. Each of the new chairs is a good supporter of Ohio manufacturing.

[Women in Manufacturing Honored](#)

April 29, 2016



[The Manufacturing Institute](#) has announced its 2016 STEP Ahead Award Honorees and Emerging Leaders. These women have accomplished success within their companies and have proven to be leaders in the industry as a whole.

This year, the Institute has also recognized a select few for the Emerging Leaders category – representing young women who are the future of the industry and have demonstrated exceptional accomplishments at just the beginning of their careers.

The 130 women were honored at the 2016 STEP Ahead Awards on April 21 at the Ronald Reagan Building in Washington, D.C. [Take a look at the stories of the honorees.](#)

[OMA Files Supreme Court Amicus on Contract Breach](#)

April 22, 2016

The OMA this week filed an [amicus brief](#) at the Supreme Court in a case that could have bearing on breach of contract cases and cases in which punitive damages are sought in a breach of contract case. The brief supports Nationwide Insurance in an appeal from a decision by the Court of Appeals, Seventh Appellate District.

The brief argues: “The Seventh District’s unprecedented decision that punitive damages are available for breach of contract disrupts what had been well-settled law in Ohio. Punitive damages have long been recoverable only for actions based on, and for, tort. That is how it has always been and how it should continue to be.”

The OMA was joined on the amicus by the Ohio Alliance for Civil Justice and the Ohio Chamber of Commerce.

[Register Now for June 14 Food Manufacturers & Suppliers Meeting](#)

April 22, 2016



The OMA’s annual Food Manufacturers & Suppliers Meeting brings you the legislative, regulatory and economic development issues that directly impact food manufacturers.

On June 14, the officials whom you need to know and hear from will be on hand, including Ohio Agriculture Department Director, David Daniels, EPA Deputy Director for Business Relations, Laurie Stevenson, and JobsOhio Managing Director, Aaron Pitts.

Our meeting chairman is Derek L. Crawford, Director, U.S. Government Affairs, The Kraft Heinz Company.

Reserve your spot now for the June 14 event at [My OMA](#), or email [Denise Locke](#) or call us at (800) 662-4463. A networking dinner will follow the business meeting. Click here for a [downloadable flier with the details.](#)

[MFGDAY 2016 is October 7 – Plan Ahead!](#)

April 22, 2016



Manufacturing Day is changing perceptions about manufacturing! Every

first Friday in October is Manufacturing Day in the U.S. The fifth annual MFG DAY is October 7, 2016.

MFGDAY posts tons of [great resources](#) to help you plan your own MFGDAY event to showcase to the public, students, and policymakers in your community the amazing things you do in your facility. It's not too early to get your team together and hatch a plan.

[\\$2.6B Capital Budget Unveiled](#)

April 15, 2016

House and Senate leaders unveiled a \$2.6 billion capital budget this week. The bill's expenditures would be: \$650 million for school construction, renovation, and maintenance; \$428 million for higher education capital needs; \$500 million for roads, bridges, water supply, and wastewater systems; \$275 million for dams, parks, waterways, and wildlife projects; \$160 million for community quality of life projects, and \$100 million for critical health and human services.

You can find how your community and county fared [here](#).

[Kasich Delivers Sixth State of the State](#)

April 8, 2016

Taking a brief break from campaigning for the presidency, Governor John Kasich delivered the [State of the State address](#) in Marietta this week.

In an upbeat speech (which he read from notes, parting, mostly, from his usual ad hoc style) the governor reflected on his achievements in the past five years, and looked ahead. He said he will seek additional tax reforms (lowering the income tax), stronger regulations of pharmacies to combat opiate abuse, congressional district map-drawing reforms, and changes to the Medicaid program.

After his day in Marietta, the governor headed back to New York for campaigning for the April 19 primary.

[Marietta: Ohio's First Settlement](#)

April 8, 2016

Governor Kasich choose [Marietta](#) for his sixth state of the state, delivered this week. Marietta is the first permanent U.S. settlement in the Northwest Territory in what would become Ohio, established in 1788 with 137 original settlers. Marietta is named for Marie

Antoinette, Queen of France, ally in the Revolutionary War.

The governor's speech took place in the historic, recently renovated [People's Bank Theater](#). The theater opened in 1919, and, until the renovation, sat unused since 1985.

Marietta is home to Ohio's first female governor, [Nancy Putman Hollister](#), wife of OMA director and former chairman Jeff Hollister, Ohio's first first-guy.

[Data USA: Visualization of U.S. Public Data](#)

April 8, 2016

MIT and Deloitte have built a powerful new data visualization engine for U.S. public data. It is available for use at the "[Data USA](#)" website.

Through advanced data analytics and visualization, the engine helps users "understand and visualize the critical issues facing the United States in areas like jobs, skills and education across industry and geography. And, to use this knowledge to inform decision making among executives, policymakers and citizens."

This open platform provides an opportunity for easy, but deep dives into data about locations, industries, occupations, health care, and many other issues. Anybody who has ever used U.S. government data to inform decision-making will find this platform a massive improvement.

Check out how it looks at [U.S. manufacturing](#), and [Ohio](#).

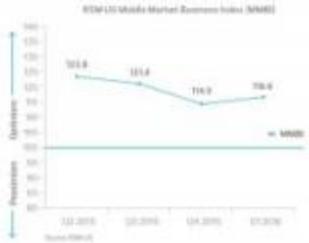
[Governor Kasich to Deliver State of the State Address Next Week](#)

April 1, 2016

Continuing his tradition of taking the annual State of the State address on the road, Governor Kasich will deliver his comments in Marietta next week, on Thursday, April 7 at noon. You can watch the governor's remarks via webcast on the [Ohio Channel](#).

[RSM Announces U.S. Middle Market Business Index](#)

April 1, 2016



OMA Connections Partner, RSM US LLP, recently released its first U.S. Middle Market Business Index (MMBI). Developed in partnership with Moody's Analytics, the MMBI is designed to accurately reflect business conditions in the U.S. middle market, while providing a statistically significant measure of the health and outlook for these businesses.

The inaugural edition of the index puts U.S. middle market business conditions at 116.6 in the first quarter of 2016, a 1.4 percent uptick from the fourth quarter of 2015. Going forward, the MMBI is intended to serve as a leading indicator for the middle market, what RSM calls the real economy. RSM says this segment of the U.S. economy represents more than 200,000 firms, 40 million jobs and one-third of private sector gross receipts.

The index is based on surveys of RSM's Middle Market Leadership Council, a panel of 700 middle market executives managed by Nielsen, conducted in the first month of each quarter. [Read more.](#)

[Participate in Annual Manufacturing Benchmark Study](#)

April 1, 2016

OMA Connections Partner, [RSM US LLC](#), is calling for participation in its *2016 Monitor* study which will assess manufacturer and distributor business conditions, growth strategies, use of information technologies, and cyber security issues.

OMA encourages member participation which give this high-profile study vital information and real-world insights that are used by manufacturers, distributors, industry trade associations, and government policymakers.

This year RSM added a special segment that will allow automotive manufacturers to answer questions specific to the automotive industry.

[Please complete the questionnaire](#) to the best of your ability, based on conditions at your company. It should take approximately 15-25 minutes. Thank you for submitting your questionnaire by April 22, 2016.

RSVP for the [June 14 meeting](#) to [Denise Locke](#) or call us at **(800) 662-4463**, or go to [My OMA](#) to register. A networking dinner will follow the business meeting. [Click here for a downloadable flier](#) with the details

Miscellaneous Legislation of Interest to Manufacturers

Prepared by: The Ohio Manufacturers' Association
Report created on June 14, 2016

- 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: 6/25/2015 - **SIGNED BY GOVERNOR**; eff. 9/24/15
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: 2/14/2016 - **SIGNED BY GOVERNOR**; eff. in 90 days
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: 10/13/2015 - Senate Finance, (First Hearing)
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**; eff. 7/1/2015; certain provisions effective other dates
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation->

[summary?id=GA131-HB-53](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: 6/30/2015 - **SIGNED BY GOVERNOR**; eff. 6/30/15; certain provisions effective 9/29/2015, other dates
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: 10/6/2015 - House Government Accountability and Oversight, (Third Hearing)
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>
- HB126 NUISANCE LAW (KUNZE S, LELAND D)** To expand nuisance law to include any real property on which an offense of violence has occurred or is occurring.
Current Status: 12/8/2015 - House Judiciary, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-126>
- 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: 5/18/2016 - **PASSED BY HOUSE**; Vote 96-0
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: 6/10/2015 - **SIGNED BY GOVERNOR**; eff. 9/9/2015

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: 5/6/2016 - **SIGNED BY GOVERNOR**; eff. in 90 days

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-233>

HB263 **JUDICIAL-COUNTY SALARY INCREASES** (ROGERS J, CELEBREZZE N) To increase judicial salaries and the salaries of county elected officials, township trustees, township fiscal officers, and boards of elections members, to reinstate the annual cost of living adjustment to their salaries, and to make appropriations.

Current Status: 6/23/2015 - Referred to Committee House Government

Accountability and Oversight

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-263>

- HB280** **BALANCED BUDGET COMPACT** (KRAUS S, KOEHLER K) To adopt the Compact for a Balanced Budget and to declare an emergency.
Current Status: 6/30/2015 - Introduced
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-280>
- HB282** **PREVAILING WAGE LAW** (ROEGNER K, HOOD R) To repeal Section 509.70 of Am. H.B. 497 of the 130th General Assembly to repeal the Prevailing Wage Law.
Current Status: 9/16/2015 - Referred to Committee House Commerce and Labor
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-282>
- HB350** **AUTISM TREATMENT-COVERAGE** (GROSSMAN C, TERHAR L) To mandate coverage of autism treatment.
Current Status: 5/25/2016 - **REPORTED OUT**, House Government Accountability and Oversight, (Fifth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-350>
- HB502** **CAMPAIGN FINANCE** (BECKER J) To modify the Campaign Finance Law.
Current Status: 4/13/2016 - Referred to Committee House Government Accountability and Oversight
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-502>
- HB503** **AGENCY RULE-MAKING** (DUFFEY M) To reform agency rule-making and legislative review thereof.
Current Status: 5/24/2016 - House Government Accountability and Oversight, (Fifth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-503>
- HB505** **BIOLOGICAL PRODUCTS-PHARMACISTS** (HUFFMAN S, PELANDA D) Regarding the regulation of biological products and the substitution of interchangeable biological products when dispensed by pharmacists.
Current Status: 5/17/2016 - Referred to Committee Senate Health and Human Services
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-505>
- HB506** **JOBSONIO-AUDITS** (JOHNSON G, SMITH K) To allow the Auditor of State to conduct full audits of JobsOhio, to require all nonprofit economic development corporations that receive public funds to make annual disclosures related to both their public and private funds, and to require that JobsOhio submit a quarterly progress report detailing all of its active projects.
Current Status: 4/13/2016 - Referred to Committee House Government Accountability and Oversight
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-506>

- HB558** **DOMESTIC STEEL USE** (BOCCIERI J, RAMOS D) To require the use of domestic steel in construction, repair, or improvement projects involving certain buildings used by public schools, state institutions of higher education, and specified private colleges.
Current Status: 5/11/2016 - Introduced
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-558>
- HB574** **USED TIRE INSTALLATION** (SPRAGUE R, DEVITIS A) To prohibit the installation of unsafe used tires on certain motor vehicles.
Current Status: 5/23/2016 - Introduced
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-574>
- HB581** **LIMITED LIABILITY COMPANIES** (DEVER J, REINEKE W) To permit and regulate managers, members, and interests of series limited liability companies.
Current Status: 6/6/2016 - Introduced
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-581>
- 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>
- HJR4** **ANTI-MONOPOLY-CONSTITUTIONAL AMENDMENTS** (SMITH R) Proposing to amend sections of Article II of the Constitution of the State of Ohio to prohibit an initiated constitutional amendment that would grant a monopoly or a special economic interest, privilege, benefit, right, or license to any person or entity and to modify the procedure to propose a law or a constitutional amendment by initiative petition.
Current Status: 7/1/2015 - Filed with Secretary of State
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HJR-4>
- 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>
- HR428** **CANCER DRUGS-COST-AVAILABILITY** (ANTONIO N, LATOURETTE S) To urge the Congress of the United States, the United States Food and Drug Administration, and the National Institutes of Health to address the cost and availability of cancer drugs.
Current Status: 5/24/2016 - Referred to Committee House Health and Aging
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HR-428>
- 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: 5/3/2016 - Senate Finance, (First Hearing)
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. 8/12/2015
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>
- SB135 RARE DISEASE-OUT OF POCKET COST (CAFARO C, JONES S)** To limit the out-of-pocket cost to an individual covered by a health plan for drugs used to treat rare diseases.
Current Status: 10/20/2015 - Senate Insurance, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-135>
- SB181 LIMITED LIABILITY COMPANY LAW (OBHOF L, SCHIAVONI J)** To declare the policy of the Limited Liability Company Law generally to give maximum effect to freedom of contract, and to make other changes regarding corporations and limited liability companies.
Current Status: 4/5/2016 - **SIGNED BY GOVERNOR**; eff. 90 days
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-181>

- SB199** **HANDGUN LICENSE-ACTIVE MILITARY** (UECKER J) To specify that an active duty member of the U.S. Armed Forces: (1) does not need a concealed handgun license to carry a handgun concealed if the member is carrying valid military identification and a certificate indicating successful small arms qualification; and (2) may be sold or furnished a handgun if the member has received military or equivalent small arms training.
Current Status: 5/11/2016 - House State Government, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-199>
- SB210** **TOWNSHIP ROAD CONSTRUCTION** (BALDERSON T) To increase the monetary thresholds above which competitive bidding is required for township road construction, repair, or maintenance contracts
Current Status: 9/15/2015 - Referred to Committee Senate State and Local Government
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-210>
- SB218** **FAIR ACT** (TAVARES C) To enact the "Fair and Acceptable Income Required (FAIR) Act" and to revise the enforcement of the prohibitions against discrimination in the payment of wages.
Current Status: 10/7/2015 - Referred to Committee Senate Transportation, Commerce and Labor
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-218>
- SB242** **MOTOR VEHICLE-FRANCHISE AGREEMENTS** (UECKER J, COLEY W) To revise the law governing new motor vehicle franchise agreements.
Current Status: 6/14/2016 - **SIGNED BY GOVERNOR**; eff. in 90 days
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-242>
- SB245** **MALNUTRITION PREVENTION COMMISSION** (MANNING G) To create the Malnutrition Prevention Commission to study malnutrition among older adults.
Current Status: 5/4/2016 - **PASSED BY SENATE**; Vote 33-0
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-245>
- SB303** **AGENCY RULE MAKING REFORM-LEGISLATIVE REVIEW** (UECKER J) To reform agency rule-making and legislative review thereof.
Current Status: 4/27/2016 - Senate Government Oversight and Reform, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-303>
- SB336** **UNSAFE CAR TIRE INSTALLATION** (HITE C, LAROSE F) To prohibit the installation of unsafe used tires on certain motor vehicles.
Current Status: 5/24/2016 - Introduced
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-336>
- 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: 5/25/2016 - House Government Accountability and Oversight, (Seventh Hearing)

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

SJR2

CONGRESSIONAL REDISTRICTING (LAROSE F, SAWYER T) Proposing to enact Sections 1, 2, 3, 4, 5, 6, 7, and 8 of Article XIX of the Constitution of the State of Ohio to revise the redistricting process for congressional districts.

Current Status: 9/15/2015 - Referred to Committee Senate Government Oversight and Reform

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SJR-2>

To: OMA Government Affairs Committee
From: Ryan Augsburger & Rob Brundrett
Re: Energy Public Policy Report
Date: June 15, 2016

Overview

2016 is a presidential election year, as such a relatively light legislative agenda is forecast. During the spring term, legislation to revise the frozen alternative energy standards was considered. Lawmakers heard plenty of concern from customer groups, including the OMA, about the PPA rate cases. At the same time they heard from utility advocates posturing for the PPAs or some other form of “regulation” that would surely deliver more profits and less competition to the monopoly utility distribution companies. The U.S. Supreme Court, The Ohio Supreme Court and the FERC also took actions that will notably impact the Ohio utility applications. In short, there is a lot in play!

Utilities Seek Nearly \$6 Billion in Customer Subsidies PPA

Significant utility rate cases are pending at PUCO. Distribution utilities FirstEnergy, AEP and DP&L filed cases proposing affiliate power purchase agreements (PPAs) whereby the utility companies impose billions of dollars of new charges on customers to subsidize “uneconomic” generation owned by their affiliate generation company. The PUCO staff supported the proposals (after they opposed the proposals) and then in late March, the five governor-appointed PUCO commissioners voted unanimously to approve the AEP and FirstEnergy subsidy proposals.

Joining the official OMA litigation were dozens of leading Ohio manufacturers who individually communicated concerns on record to the PUCO imploring the agency to consider the significant costs without benefit. The PPA settlements also allowed for manipulation of the market for electricity that has been working. The latter concerns were echoed in a complaint filed at the Federal Energy Regulatory Commission (FERC) by the competitive suppliers of electricity as well as PJM interconnection, the operator of the grid and the market for Ohio. Several notable parties, including the OMA, intervened in the FERC complaint in support of the competitive supplier’s complaint. In an expedited decision the FERC unanimously rescinded a waiver enjoyed by the Ohio utilities, in effect blocking the Ohio approved PPA provisions from going into effect without significant scrutiny and approval for the federal agency charged with protecting the regional market for electricity.

Reactions from AEP and FirstEnergy have been different. Shortly after the FERC ruling, AEP announced they would largely withdraw the PPA provisions and would lobby the Ohio government to “repeal Senate Bill 221 and re-regulate electric generation.” Days later, AEP filed a significantly scaled back modification of the prior application. Even more recently AEP filed to extend the terms of the current rate plan.

FirstEnergy on the other hand has modified their prior PPA plan so that all references to the term “PPA” are absent and customer cash would flow to the utility not the deregulated generation affiliate, hoping the modification would clear FERC scrutiny. Ohio State University economist Dr. Edward “Ned” Hill dubbed the FirstEnergy modifications as the “synthetic PPA.”

At this point all eyes are back on the PUCO to see their next move. The OMA Energy Group directs the OMA legal team strategy and has been quite busy this quarter. Many of the below listed developments have bearing on these cases.

“Reregulation”

With AEP and FirstEnergy’s requests for affiliate PPAs stymied, at least one of the company’s is calling for reregulation. In 1999, with the passage of Senate Bill 3, Ohio became a state in transition to deregulated generation. That transition which has taken over decade, has delivered customer choice, cost-savings and innovation. One of the main tenets of deregulation was forcing then-integrated utility companies to sell or spin-off their generation. “Stranded costs” and other above-market surcharge constructs enabled the utilities to have their generation paid for by Ohio’s for a second time. If approved in some form, the PPA cases would have represented yet another above-market payment to utilities by customers who realize little to no benefit.

The OMA has been an ardent proponent of markets, supporting the original deregulation legislation and opposing utility profit subsidy schemes that distort the market and result in huge new above-market charges on manufacturers.

Several noteworthy studies have demonstrated how the market delivers lower prices, choice and innovation without compromising reliability. See the enclosed study commissioned by PJM.

In short, it is hard to know how or why Ohio government officials would want to spend any time considering this anti-market notion.

Legal Considerations to PPA Proposals

Over the past quarter the U.S. Supreme Court ruled 8-0 in the Maryland case. The Maryland case had parallels to the Ohio utility proposals. Summaries are available. The 8-0 ruling upholding FERC may have emboldened the FERC in the Ohio complaint.

Summaries are also included in the FERC complaint case ruling. The OMA intervention in the FERC case is included in meeting materials.

While all this was happening, the Ohio Supreme Court rendered two very good decisions that address customer issues. See counsel’s report.

Clean Power Plan / Federal Greenhouse Gas Regulations / 111(d)

US EPA issued a final rule in early August. 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. Litigation on the rule is expected to delay effectiveness. If the provision goes into effect, states will need to adopt “state implementation plans” that will impose regulations on emissions to attain the federal goals. Ohio regulators intend to seek extension. The OMA is conducting research on the many ramifications of the CPP.

The US Supreme Court recently granted the stay requested in the Attorneys General lawsuit meaning that implementation steps will dependent upon legal finding. Early this year, the OMA joined with the National Association of Manufacturers and the U.S. Chamber in filing an amicus brief to highlight economic concerns with the Plan. Many legal scholars believe that the passing of Justice Scalia portends survival of the Clean Power Plan.

Natural Gas Infrastructure

The OMA has expressed public support for the Rover Pipeline and Nexus Pipeline. Billions of dollars of pipeline investment are underway by several different developers. Additionally the OMA has participated in discussions with JobsOhio and representatives of America Natural Gas Alliance to consider measures to spur industrial delivery off new transmission investments. Research recently conducted by Cleveland State University may be helpful in this vein. Natural gas production continues to grow in the Buckeye state even with depressed pricing. Officials at JobsOhio have revisited their desire to advance the issue.

Transmission Charge Increase

Ratepayers within the AEP-Ohio service territory may have noticed a jump in on their electricity bills beginning last summer. The increase is attributed to a new rider called the Basic Transmission Cost Rider (BTCR) that went into effect on June 1, 2015.

While lawyers for the OMA Energy Group contested the new rider, it was ultimately approved by the PUCO. Since the implementation of the new rider in June, some members (specifically, AEP-Ohio GS-2 and GS-3 customers) have seen a significant increase in their transmission costs.

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. See counsel's report for positive developments in the case.

Energy Efficiency Legislation

Legislation was enacted in 2014 to revise Ohio's energy standards which required utilities to deliver a certain amount of efficiency from customers and to procure a certain amount of renewable generation. The issue has been reported and discussed at OMA meetings for over three years.

SB 310 froze the alternative energy standards for two years and created a legislative study committee to assess the impacts of the standards. A report was issued in September recommending an indefinite freeze. Governor Kasich subsequently commented that indefinite freeze was unacceptable, and that he did not favor the existing standards either. Without legislative revision, the freeze is scheduled to lift the first of 2017. Senator Seitz has introduced SB 320 to revise some provisions and to extend the freeze for another three years. In contrast Representative Amstutz (#2 ranked member of the House) introduced HB 524 which makes the freeze more permanent. Hearings have been held on the bills in recent weeks. It is unclear if or when these bills may advance.

Meanwhile, AEP and FirstEnergy have addressed plans for future renewable and energy efficiency programs in their PPA settlements in spite of the uncertain governing statutes...a move that has angered some in the General Assembly. Now that the PPA settlements are in limbo, the AEP and DP&L have begun proceedings to again extend their current energy efficiency plan.

Manufactured Gas Plant Remediation Costs

No legislative activity to report. A decision by the Ohio Supreme Court is expected. A provision of the utility PPA settlements has ramifications on this type of cost-recovery.

kWh Tax Revisions?

Stalled legislative proposals to modify the tax revenue generated by power plants (via the tangible personal property tax) may be creeping into discussions to modify the kilowatt hour tax which is paid by customers. In contrast, the tangible personal property tax is paid by power plants. NO VISIBLE ACTION.



Threats to Ohio's Competitive Market for Electricity

Recent developments in Ohio's regulatory framework for electricity generation demonstrate the need for continued vigilance, analysis and advocacy by the OMA Energy Group (OMAEG) and manufacturers across Ohio.

What's all the fuss about?

On March 31, 2016, the Public Utilities Commission of Ohio (PUCO) approved proposals from FirstEnergy (FE) and American Electric Power (AEP) to create non-bypassable Power Purchase Agreement (PPA) riders. The PPAs would force all customers in each utility's service territory to pay a monthly charge to subsidize the continued operation of certain uneconomic generating facilities owned partially or wholly by the utilities or their regulated competitive generation affiliates. Customers would be forced to pay an extra charge on their monthly electric bill to provide the utilities guaranteed levels of profit from aging, uneconomic power plants – even when cheaper power is available and/or a customer purchases its generation service from an alternative supplier.

Expert witnesses found that over the next eight years, the PPAs could cost FE customers \$3.9 billion and AEP customers \$2 billion.

Multiple parties, including the OMAEG, supported a complaint concerning the PPAs to the Federal Energy Regulatory Commission (FERC). On April 27, 2016, in a victory for Ohio manufacturers, the FERC ruled that the FE and AEP PPAs would need to undergo additional federal review before they could be enacted. The purpose of the additional review would be to determine if enactment of the PPAs would result in "market abuse" from subjecting electricity customers to non-bypassable, above-market charges from the utilities' competitive affiliates.

Here we go again.

FE and AEP both have filed for rehearings of the PUCO decisions, but they have responded to the FERC ruling in markedly different ways.

Through what may be described as a kind of verbal sleight of hand, FE has proposed a new non-bypassable rider – what it calls a financial "hedging" mechanism – that its customers would, as in FE's original PPA proposal, be unable to avoid paying. Basically, FE is asking the PUCO to completely forget about the PPAs the utility had previously proposed to generate profits from otherwise unprofitable power plants – while also seeking PUCO approval of FE's request to collect the same additional monthly subsidy from its customers that the utility had proposed in its PPA.

Under FE's latest proposal, its customers would pay more when wholesale electricity prices are low; any credits that customers would have coming to them when wholesale prices are high would be paid by FE's regulated companies, which are paid by customers. In other words, customers would end up paying their credit to themselves with their own money.

In either case, the result is the same: an estimated \$3.9 billion bailout of FirstEnergy.

AEP, on the other hand, has responded to the FERC ruling by abandoning its request for a non-bypassable PPA rider (with one small exception) associated with coal plants. Further, AEP indicated it may seek to sell its Ohio power plants or move "very aggressively" to seek re-regulation of the retail electric market via legislative action at the Ohio General Assembly. Additionally, AEP has reiterated its commitment to develop 500 MW of wind energy and 400 MW of solar energy, but with a few caveats related to the modifications made by the PUCO, including insisting that any cost-recovery rider for renewable energy projects must be non-bypassable and owned in part by AEP affiliates.

Why do the utilities want these subsidies?

The utilities increasingly have been painting doomsday scenarios for Ohio's energy future. They are dismissive of the role that PJM Interconnection plays as a regional transmission organization, arguing that PJM is not operating effectively and that Ohio would be better served by a more Ohio-centric position on electricity generation. They contend that if the state does not act soon to approve customer subsidization of certain obsolete, unprofitable power plants, these generation assets will be at risk of shutting down, in turn threatening the availability and affordability of power for Ohio customers.

The truth, however, is something more fundamental.

As Ohio has slowly transitioned from a regulated environment for electricity to a competitive market for electricity generation, utilities have failed to adapt their business models accordingly so they are positioned to thrive in a competitive market. In the last quarter of the 21st-century, U.S. manufacturers were forced to dramatically reinvent their operations in order to survive the onslaught of globalization – and we continue to do so today. This also has been the case in other deregulated industries such as transportation, trucking, airlines, banking, telecommunications and others.

The time has come for Ohio's electric utilities to undertake their own transformation.

Why should manufacturers be concerned?

The OMA was one of the driving forces behind the first concerted effort to transition Ohio's retail electric market from regulation to competition, dating back to the passage of Senate Bill 3, Ohio's historic electric restructuring legislation, in 1999. That restructuring effort sought to secure safe, reliable, lowest-cost electricity for customers.

While the transition to “electric choice” has had its rocky moments, electricity customers in Ohio today enjoy unprecedented options for shopping for generation service. The competitive market is working. It’s delivering customer choice, new energy technologies, innovative energy services, and direct energy savings to customers – all while assuring energy reliability.

Efforts by FE and AEP to secure non-bypassable customer subsidization of the utilities’ uneconomic power plants put the benefits of electric choice at great risk. If FE and AEP are successful with the rehearings they have requested from the PUCO, electricity customers in Ohio can expect reduced ability to shop for the best available price and no option but to pay above-market prices for electricity whether they actually shop or not.

In continuing its opposition to the utilities’ proposals to secure guaranteed profits for their uneconomic generation assets, the OMAEG is standing up to protect what has long been the engine of economic growth and strength in Ohio and the nation: American free enterprise. The utilities’ efforts to add non-bypassable charges to the market-based price of power is the latest of repeated ploys by FE and AEP to try to mitigate the impact of their past poor business decisions and deny the benefits of free-market competition to customers in Ohio. More broadly, it also represents an ongoing strategy of the utilities to shift the financial risk associated with obsolete, uneconomic power plants from utility shareholders to utility customers.

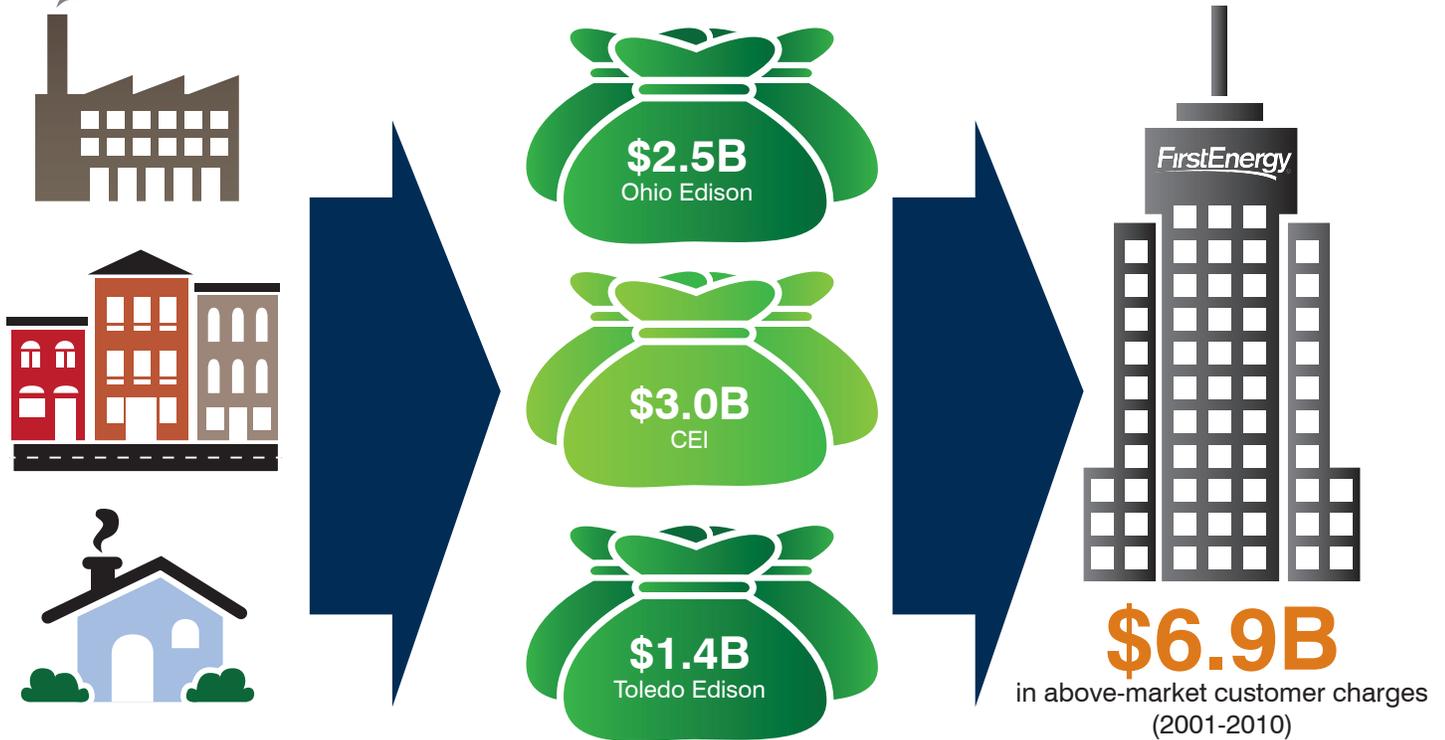
For all of these reasons, the OMAEG remains committed to sustained opposition to FE’s and AEP’s petitions to the PUCO for rehearings. We ask that OMA member manufacturers join our effort. To find out more, contact Ryan Augsburger at raugsburger@ohiomfg.com or (800) 662-4463.

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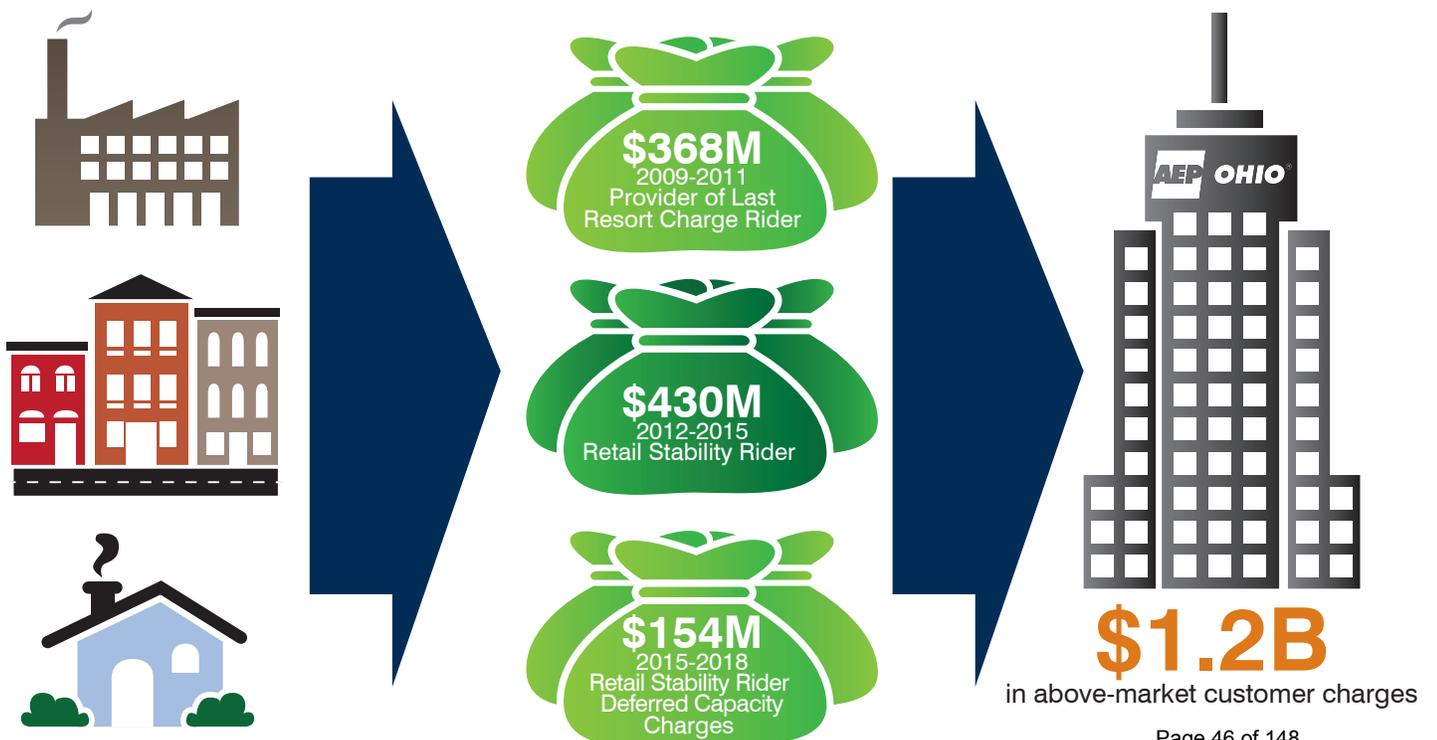
AEP OHIO AND FIRSTENERGY HAVE COLLECTED BILLIONS OF DOLLARS IN ABOVE-MARKET CHARGES

Through their various rate cases approved by the Public Utilities Commission of Ohio (PUCO), both AEP Ohio and FirstEnergy have collected—or will collect—significant above-market charges from their customers.

Estimated Above-Market Customer Charges to FirstEnergy

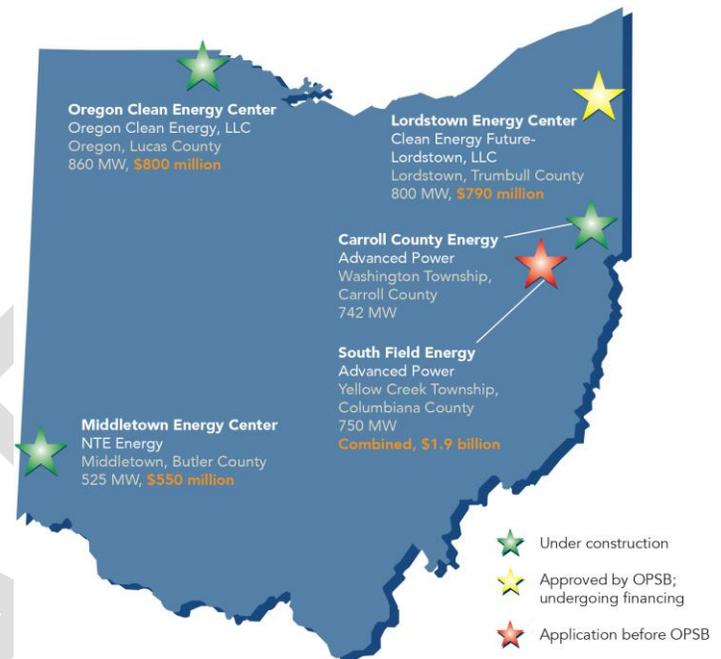


Estimated Above-Market Customer Charges to AEP Ohio



Competitive Market Is Attracting Substantial New Power Plant Investments in Ohio

In recent cases before the Public Utility Commission of Ohio (PUCO), utility companies FirstEnergy (FE), American Electric Power (AEP) and Dayton Power & Light (DP&L) have sought approval to create non-bypassable Power Purchase Agreement (PPA) riders that would force all customers in each utility's service territory to pay a monthly charge to subsidize the continued operation of certain aging, uneconomic generating facilities owned partially or wholly by the utilities or their regulated competitive generation affiliates. Customers would be forced to pay the extra charge even when cheaper power is available and/or customers purchase generation service from an alternative supplier.



In March 2016, the PUCO approved FE's and AEP's PPA rider proposals that expert witnesses said would cost FE and AEP customers nearly \$6 billion over eight years. One month later, the Federal Energy Regulatory Commission (FERC) overruled the PUCO, ordering additional review. The DP&L proposal currently is pending. In the meantime, FE and AEP have submitted new proposals to the PUCO that in varying degrees seek approval to collect from customers above-market charges similar to the riders recently rejected by FERC.

Throughout these cases, the utilities have continued to argue that if Ohio does not act to approve their proposed above-market cost riders, the affected facilities will shut down, threatening the availability and affordability of electricity for Ohioans. The utilities claim that rejection of such riders would send a clear message to the marketplace discouraging investment in new generation assets in Ohio, further compromising our future energy security – and that adequate supplies of generation can be assured only if customers pay certain above-market charges to subsidize continued operation of the utilities' obsolete, unprofitable power plants.

Don't be fooled by the myths that FE and AEP have perpetuated. Look at the facts and judge for yourself.

The utilities continue to try to convince policymakers, regulators and customers that without guaranteed cost-recovery through some form of customer subsidization, investors will not be willing to take on the financial risk of building new generation plants in Ohio.

That assertion is absolutely untrue.

As the map on the preceding page shows, major new power plant investment projects are in various stages of development throughout Ohio. The total economic impact of these new investments can be measured in several ways:



Contrary to the utilities' assertions, **markets work**. The PJM Interconnection energy market is sending price signals that **attract** investment in new generation.

“Iron in the Ground” Case Study: Oregon Clean Energy Center

The Oregon Clean Energy Center in northwest Ohio will be a **new-build combined cycle gas turbine (“clean”) energy plant**. **Currently under construction**, the plant will provide clean, reliable and competitively priced power for customers.

- The Oregon Clean Energy Center was **developed and financed in direct response to the robust wholesale price signal** provided by PJM’s capacity and energy markets.
- PJM **maintains reliability** of the electric power system within its footprint **through market-based mechanisms**.
- The Oregon Clean Energy Center will contribute **more than \$800 million to the economies of the State of Ohio, Lucas County and the City of Oregon** from the facility’s construction and during its first 20 years of operations – **without the need for any capital expenditures by government and without any customer subsidy**.
- Construction of the facility will create approximately 500 on-site construction jobs and approximately 450 indirect jobs in Lucas County, as well as approximately 350 additional indirect jobs across Ohio. **In total, the construction will create 1,300 new jobs in Ohio**.
- The **total economic impact of the facility’s construction in Lucas County alone is \$36 million**, with an additional economic benefit of \$50 million across the state.

- **Operating the facility will create approximately 50 permanent jobs**, which will provide an additional \$20 million of economic impact in Ohio.

The willingness of Oregon Clean Energy Center investors to commit more than \$800 million to this Ohio-based project was predicated on investors' long-term confidence in PJM's markets and Ohio's commitment to those markets. **The PUCO and, alternatively, the Ohio legislature must protect the open, competitive markets created by deregulation, which provide reliable, affordable power for Ohioans.**

Bottom line

Policymakers and regulators should oppose the call by some utilities and their allies to impose non-bypassable, above-market charges on customers as a means of incentivizing new generation. ***It isn't needed.***

Moreover, imposition of such charges by the PUCO would distort the free and competitive marketplace. Further, it would be unfair to companies that are taking investment risks by building new generation in the competitive market.

The fact is, real businesses **are** assuming risk and building new generation in Ohio – in spite of the fear-mongering rhetoric of the utilities. FE, AEP and DP&L would have us believe Ohio will not have adequate generation resources unless policymakers act to guarantee profits to the utilities or their affiliates and to subsidize the continued operation of aging, uneconomic power plants.

PJM has provided a workable competitive market to investors. **Nearly 65 GW of new generation has been built since 2000, and more than 25 GW is committed to be built in the next four years** (some, such as the Oregon Clean Energy Center, already under construction). To investors, the PJM market is not just the spot market but also the bilateral contract market. The short-term bilateral market is strong. The longer term bilateral market is less liquid in recent years, but new merchant investment activity continues to be strong.

As long as PJM continues to provide a level playing field, where all generators compete on equal footing in PJM's energy and capacity markets, investment will continue in the future.

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FOR IMMEDIATE RELEASE

March 31, 2016

CONTACT

Eric Burkland, (614) 224-5111

OMA Responds to PUCO Approval of FirstEnergy and AEP Plans to Impose Billions of Dollars in New Costs on Electricity Consumers

PUCO-approved Power Purchase Agreement riders amount to a bailout for utilities' older, uncompetitive power plants, says the OMA, and will stifle competition, drive electricity costs up and harm manufacturing competitiveness

(Columbus, OH): Eric Burkland, president of The Ohio Manufacturers' Association (OMA), issued the following statement today commenting on the Public Utility Commission of Ohio's (PUCO) decision to approve Power Purchase Agreement (PPA) plans for FirstEnergy and American Electric Power (AEP):

"Today's decision by the PUCO to approve requests from FirstEnergy and AEP to impose billions of dollars in new customer costs to fund the utilities' power purchase agreements with their deregulated affiliates is a setback for electricity consumers in Ohio. If implemented, the agreements will serve essentially as new taxes on families and businesses, which will become a drag on the state's economy.

Non-bypassable new costs on consumers served by FirstEnergy and AEP come at a time when the competitive electricity marketplace has begun to mature and is producing benefits in cost savings and innovative, new products. Those benefits will be undermined with the implementation of the PPAs.

By granting the utilities' request for billions of dollars of new customer charges to subsidize the continued operation of older, uneconomical generating plants, the PUCO has reversed the course set by the Ohio General Assembly dating back to the passage of Senate Bill 3 in 1999. Approval of these anti-competitive bailouts will harm Ohio's manufacturing competitiveness by adding unnecessary costs to customers' bills – with no commensurate benefits.

Access to reliable, affordable power is essential for manufacturing competitiveness. Ohio manufacturers will pursue available legal appeals and engage the Ohio General Assembly on this vital issue."

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The mission of The Ohio Manufacturers' Association is to protect and grow Ohio manufacturing.

Opinion

Editorial

Grid lock

On the campaign trail, John Kasich loves talking about all the progress Ohio has made since he became governor. But the five members of the Public Utilities Commission of Ohio, all picked by Kasich, have given the state, its citizens and businesses backward-looking, eight-year plans that disproportionately benefit two big utilities — Akron-based FirstEnergy and American Electric Power of Columbus — and don't do nearly enough to make Ohio energy-competitive for the future.

The plans will face a challenge before the Federal Energy Regulatory Commission and possibly at the Ohio Supreme Court or in federal court. Last December, we argued in an editorial headlined "Pull the plug" that the PUCO should nix this sweet deal for the utilities. Now, that duty will fall to others to protect the interests of all Ohioans.

The rate plans essentially lock in markets for power generated by FirstEnergy and AEP nuclear and coal-fired plants that have struggled to compete for a variety of reasons, including low natural gas prices. For their part, both AEP and FirstEnergy have argued that the power purchase agreements are necessary and will save consumers money in the long run. (That remains to be seen.) Some modifications to the utilities' initial requests, in areas requiring the utilities to submit plans to modernize the aging electricity grid, invest in more renewable power and provide greater assistance to low-income customers, represented improvement, though more can and should be done in those areas.

Even so, the plans still amount to a bailout for the utilities, as well as a transfer of business risk to electric users from the companies' stockholders and management, without doing enough to encourage a swifter transition to clean energy.

The PUCO decision has been poorly received in most quarters. For instance, Eric Burkland, president of the Ohio Manufacturers' Association, said the plans will "impose billions of dollars in new customer costs to fund the utilities' power purchase agreements with their deregulated affiliates"

and, if implemented, "will serve essentially as new taxes on families and businesses, which will become a drag on the state's economy."

From the perspective of the Office of the Ohio Consumers' Counsel, the PUCO rulings "continue an unwelcome trend of government intervention in competitive markets." Dick Munson, Midwest clean energy director of the Environmental Defense Fund, argues that subsidies for the coal and nuclear plants "will be a huge step backward for electric competition and grid modernization."

The PUCO's decisions mean Ohio's electricity market "will face more uncertainty for up to two years as the matter winds its way through courts and regulatory agencies," as Crain's reporter Dan Shingler noted in a story last week.

The state for too long has faced uncertainty about the direction of its energy policy. It's our hope that the courts and regulatory bodies that next take up these issues do so with greater balance than applied by the PUCO, and without propping up plants in a market long after competition otherwise would force them out.

CRAIN'S
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FOR IMMEDIATE RELEASE

April 28, 2016

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OMA Responds to FERC Decision to Prohibit FirstEnergy and AEP from Implementing Plans to Impose Billions of Dollars in New Costs on Electricity Consumers

The Federal Energy Regulatory Committee (FERC) frustrates the Public Utilities Commission of Ohio's (PUCO) decision to grant subsidy requests from Ohio-based utilities AEP and FirstEnergy. Their bailout proposals would have forced Ohio customers to subsidize old, inefficient power plants for the next eight years at an estimated cost of \$6 billion.

(Columbus, OH): Eric Burkland, president of The Ohio Manufacturers' Association (OMA), issued the following statement commenting on the FERC's decision to review Power Purchase Agreement (PPA) plans for FirstEnergy and American Electric Power (AEP) that had been recently approved by the PUCO:

"As did the U.S. Supreme Court in the Maryland case last week, FERC has acted to protect the wholesale electricity markets from manipulation, created by the recent PUCO decision on the PPAs, which harms customers.

The OMA strongly opposed the PUCO decision that harmed wholesale markets that are benefitting Ohio electricity consumers and that served to subsidize potentially uneconomic utility generating units.

The unanimous FERC decision is welcomed by Ohio manufacturers that depend on markets to provide the cost and innovation benefits of competition.

This decision provides an opportunity to reinforce the evolution of market-based electricity generation in Ohio and the economic benefits and job creation that will come from new investment in efficient generating capacity."

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The mission of The Ohio Manufacturers' Association is to protect and grow Ohio manufacturing.

April 28, 2016

Federal Energy Regulatory Commission Unanimously Decides that the Affiliate PPAs Proposed by AEP, FirstEnergy, and their Unregulated Generating Affiliates are Ineffective

In a unanimous decision, the Federal Energy Regulatory Commission (FERC) granted the complaints filed against AEP, FirstEnergy, and their unregulated generating affiliates (Respondents). FERC rescinded the waivers on affiliate power sales restrictions previously granted to Respondents and further held that “no sales may be made with respect to the Affiliate PPA[s] unless and until [FERC] approves the Affiliate PPA[s] under *Edgar* and *Allegheny*.”

FERC agreed with the arguments asserted by OMAEG and others that circumstances have changed since the waivers were originally granted and further agreed that customers are captive because they have no ability to avoid the costs associated with the Affiliate PPAs by shopping with a competitive supplier. According to FERC, “retail choice protects customers from affiliate abuse only to the extent they have a choice to undertake generation costs. Where, as here, circumstances demonstrate that a retail customer has no choice but to pay the costs of an affiliate transaction, they effectively are captive with respect to the transaction.” In response to arguments that the PUCO can protect customers, FERC noted that the PUCO’s authority is limited to the retail sphere. FERC noted that only it has the exclusive power to regulate the wholesale sphere, which includes an evaluation of whether the Affiliates PPAs are just and reasonable.

Strong language about the transaction itself suggests that FirstEnergy and AEP will be facing an uphill battle in any review of the Affiliate PPAs in the next phase: “[FERC’s] affiliate sales restrictions protect against captive customers of franchised public utilities cross-subsidizing market-regulated power sales affiliates. The Affiliate PPAs raise[] the potential for cross-subsidization from [the] Regulated Utilities’ retail customers--who are captive in the sense that they cannot avoid the non-bypassable charge--to [their] Ohio Market Affiliates.” FERC also stated that the Affiliate PPAs may affect other waivers that the Respondents have regarding corporate separation and affiliate interactions. The FERC required the Respondents to explain whether the Affiliate PPAs affect any other waivers that they currently possess.

FERC noted that OMAEG submitted a timely motion to intervene, thereby making it a party to the proceeding. FERC also noted the arguments of OMAEG multiple times throughout its order, and used these arguments to support its rationale to rescind the waivers previously granted to the Respondents.

Energy

[\\$8 Billion in Above-Market Charges, Already](#)

June 10, 2016

Take a look at [this infographic](#) that shows that FirstEnergy and AEP have collected – or will collect – more than \$8 billion in above-market charges from their customers from 2001-2018 as the generation market moved through the deregulation process. That is, by regulatory fiat their customers paid, or will pay, \$8 billion above the market.

This is no way to have a competitive, job-producing industrial economy.

Now, as you know, FirstEnergy and AEP Ohio continue to attempt to secure more non-by passable customer subsidization of the utilities' uneconomic power plants. What they asked for would have resulted in another \$6 billion in above-market charges.

Isn't it time to stop punishing customers and allow the markets to work?

[Shell Commits to Western PA Cracker](#)

June 10, 2016

In big news for the region, Shell this week [announced its commitment](#) to build an ethane cracker in western Pennsylvania on the Ohio River. The announcement comes five years after Shell initially indicated the plant's potential siting in the region.

The company expects to begin construction in 18 months and production in the early 2020s. Shell indicates the plant will produce annually 1.6 million tons of polyethylene from ethane coming from the Marcellus and Utica shales. It's a multi-billion dollar project is projected to create 6,000 construction jobs and 600 permanent jobs at the cracker.

[Upcoming: Webinar about NEXUS Gas Pipeline Project](#)

June 10, 2016

The NEXUS Pipeline stands to benefit manufacturers in Ohio and throughout the Midwest. Access to reliable, affordable energy is a big competitive issue for Ohio manufacturers.

OMA is [hosting a webinar](#) with OMA Connections Partner, NEXUS, on [Thursday, June 16](#) to brief

manufacturers about the proposed project and how manufacturers can supply NEXUS project needs; whenever possible, NEXUS is committed to using local suppliers. [Details here.](#)

[Threats to Ohio's Competitive Market for Electricity](#)

June 3, 2016

Ongoing efforts by FirstEnergy (FE) and AEP Ohio (AEP) to secure non-bypassable customer subsidization of the utilities' uneconomic power plants put the benefits of Ohio's and the region's electricity markets at risk.

In continuing its opposition to the utilities' proposals to secure guaranteed profits for their uneconomic generation assets, the [OMA Energy Group](#) is standing up to protect energy markets. The utilities' efforts to add non-bypassable charges to the market-based price of power would cause electricity customers to pay above market prices, undermining the competitiveness of the state's industrial economy.

[Read an issue brief here.](#) Contact OMA's [Ryan Augsburger](#) for more information.

[AEP Asks PUCO to Extend Rate Plan](#)

June 3, 2016

On May 13, AEP filed an application to extend and revise its current electric security plan (ESP) through May 2024. This amended ESP proposal is an outgrowth of AEP's PPA settlement case.

OMA Energy Counsel [Kim Bojko](#) of Carpenter Lipps & Leland has prepared [a summary](#) of AEP's proposal.

[Rover Pipeline Hearings: Chance to Support](#)

June 3, 2016

Ohio EPA will hold [five public information sessions/hearings](#) regarding seven draft air permits related to the installation and operation of compressor stations in Carroll, Crawford, Defiance, Harrison, Monroe, Noble and Wayne counties. The compressor stations are intended to facilitate delivery of natural gas along the proposed Rover pipeline.

The pipeline project is important to the development Ohio's energy resources.

Citizens may testify at the public hearings or submit comments in writing to Ohio EPA prior to the close of the public comment periods. Contact OMA's [Ryan Augsburger](#) for more information.

Here is an [Ohio EPA factsheet](#) detailing the agency's role in issuing air permits and considerations related to natural gas compressor station emissions.

[Haque Sworn in as PUCO Chairman](#)

May 27, 2016

[Asim Haque](#) was [sworn in](#) as chairman of the Public Utilities Commission of Ohio (PUCO) this week. Haque has been on the commission since 2013 and has served as vice-chairman.

He appointed [Commissioner Beth Trombold](#) as his vice-chair.

[OMA Defends Public Benefit of Pipelines](#)

May 20, 2016

Together with other business interests, the OMA filed an [amicus brief](#) in a case now pending before the Ohio Seventh District Court of Appeals, in Youngstown. The OMA urges the Court of Appeals to uphold the ruling of a Harrison County trial court in the case, *Sunoco Pipeline v. Carol A. Teter, Trustee*.

At issue is when a pipeline developer may invoke Ohio's eminent domain statute to site the pipeline. Landowners have challenged Sunoco's authority to use eminent domain to construct the Mariner East 2 project which will deliver natural gas liquids from the Marcellus and Utica shale in Ohio to points eastward.

The OMA recognizes that pipelines are the safest, most reliable and cost effective means of transporting petroleum and petroleum products, which contributes to reliable and low-cost energy and raw materials for manufacturers.

[AEP Seeks to Extend Rate Plan Until 2024](#)

May 20, 2016

On May 13, AEP filed to extend its current rate plan, asking regulators for approval by September. The extension request is a component of a broader set of applications requested by AEP with modifications following FERC's move to block approval of the power purchase agreement cases in late April.

The plan would establish permissible utility charges through 2024 and would add some new riders that the utility can use to fund programs and subsidize certain customers. Customers cannot avoid non-bypassable charges by shopping.

Read more in this [Columbus Dispatch story](#) by Dan Gearino.

[PUCO Nominating Council Seeks Applicants for Commissioner Position](#)

May 20, 2016

The Public Utilities Commission of Ohio (PUCO) Nominating Council is [seeking applicants](#) for the position of commissioner of the PUCO to fill the vacancy created by Andre Porter's resignation.

The PUCO Nominating Council is a broad-based 12-member panel that screens candidates for the position of PUCO commissioner. The PUCO is comprised of five commissioners appointed to rotating, five-year terms by the governor. The commissioners are responsible for regulating Ohio's investor-owned public utilities.

After reviewing the résumés of all applicants, the Nominating Council will interview and narrow the list to those most qualified for the position, and recommend four finalists to Gov. Kasich. The governor will have 30 days to either appoint a commissioner from the list or request a new list from the Nominating Council. The governor's appointment is subject to confirmation by the Ohio Senate.

[OMA Energy Committee Heads to Akron](#)

May 20, 2016

In response to member interest in more regional opportunities, the OMA Energy Committee will meet in Akron on Wednesday, May 26 from 10:00 a.m. until 1:00 p.m., and includes lunch.

The meeting will be held at Ariel Corp., 3194 Massillon Rd., Akron, OH 44312. An optional 45-minute tour of the Ariel Corp. facility follows the meeting. Ariel has a sophisticated metal machining operation at this location.

In addition, members are invited to a networking dinner the evening prior, Wednesday, May 25, at Bender's Tavern, 137 Court Ave SW, Canton, OH 44702.

Please [register here](#) for in-person or call-in attendance, and dinner option. Or call us at (800) 662-4463.

[PUCO Moves Fast to Grant FirstEnergy Bailout Rehearing](#)

May 13, 2016

The Public Utilities Commission of Ohio (PUCO) granted FirstEnergy's request for a rehearing of its subsidy request (derailed by a ruling of the Federal Energy Regulatory Commission (FERC)). The PUCO acted before its deadline for parties to file opposition to a rehearing.

The new FirstEnergy proposal would require ratepayers to pay a rider directly to the distribution utility, rather than to the generation affiliate, in an attempt to sidestep FERC oversight. The rider, if approved, is estimated to cost customers \$4 billion over eight years.

FirstEnergy had argued that the previous plan was necessary to keep two plants operating to assure adequate electricity supply. Under the new plan, the two plants receive no revenue.

The [OMA Energy Group](#) will oppose the new plan of FirstEnergy before the PUCO, and, if necessary, at FERC.

[New Study: Wholesale Markets Working Well](#)

May 13, 2016

A [new study](#) commissioned by PJM, the regional transmission organization serving Ohio, finds that wholesale markets are providing the benefits they were designed for: lower costs, greater efficiencies, innovation, and attraction of cost-effective generation.

The report debunks the claim that wholesale markets are forcing premature retirements of legacy generation units. It finds that retirement rates are similar in market and regulated areas.

The report warns state policymakers from distorting the effectiveness of the markets with subsidies to interests claiming that the markets aren't working.

"The simple fact that a generating facility cannot earn sufficient market revenue to cover its going-forward costs does not reasonably lead to the conclusion that wholesale markets are flawed. More likely, it demonstrates that the generating facility is uneconomic," states the report.

[House Bill Freezes Energy Standards Forever](#)

May 13, 2016

[Speaker Pro Tem Ron Amstutz](#) (R-Wooster) proposes to eliminate Ohio's energy efficiency and renewable energy standards in his recently introduced [House Bill 554](#).

Legislation last session froze the standards until January 1, 2017, in order to give the legislature time to study the standards. If the legislature does not act prior to that date, the standards will go back into effect.

Meanwhile, hearings continue in the Senate on [Senate Bill 320](#), introduced by [Senator Bill Seitz](#) (R-Green Township), which would extend the freeze for three years and make multiple changes to Ohio energy law.

[Kasich Picks Haque for PUCO Chair](#)

May 13, 2016

This week [Governor Kasich named](#) Asim Z. Haque, a member of the Public Utilities Commission of Ohio (PUCO) since 2013 and the current vice chair, to serve as chairman of the commission. Haque will succeed Andre Porter, who recently announced that he would step down as chairman on May 20 to accept a position in the private sector.

Haque was first appointed to the PUCO by Gov. Kasich in June 2013 to complete three years of an unexpired term and recently reappointed by the governor to a full five-year term. His term will expire in April 2021 and the appointment is subject to the consent of the Ohio Senate.

Haque holds a bachelor of arts degree in chemistry and political science from Case Western Reserve University and a juris doctorate from The Ohio State University Moritz College of Law.

[FirstEnergy Doubles Down on Subsidy Demand](#)

May 6, 2016

One week after its proposed "power purchase agreements" (PPAs) were halted by the Federal Energy Regulatory Commission (FERC), FirstEnergy filed a new subsidy proposal to the Public Utilities Commission of Ohio (PUCO). The company wants the PUCO to approve it by May 25 so that it can go into effect on June 1.

Essentially walking away from any pretense that its proposal is anything more than a costly bailout, the filing drops the PPAs and any connection to the wholesale markets. Instead, the subsidies are based on the company's own past projections of future costs, not actual costs set by the market.

Once again, customers potentially have more than \$3 billion over eight years at risk.

Read a [good summary of the proposal](#) in the Cleveland Plain Dealer. We'll have a full analysis for members in a few days.

[AEP Accepts FERC Decision](#)

May 6, 2016

AEP this week accepted the Federal Energy Regulatory Commission (FERC) decision that rescinded a waiver that would have allowed its Public Utilities Commission of Ohio (PUCO) approved "power purchase agreement" (PPA) between its distribution utility and its affiliated power plants.

The company now is asking the PUCO to approve a PPA only for the power it controls as part of the Ohio Valley Electric Corp. (OVEC) in southern Ohio. OVEC generates 440 megawatts, or less than 15% of the total previously requested by AEP. OVEC is the only plant owned by the AEP distribution facility (rather than its retail generation affiliate).

AEP [has indicated](#) it will continue to push for customer-financed wind and solar projects totalling 900 megawatts, and that it will seek legislative "re-regulation" of generation.

[Energizing Manufacturing](#)

May 6, 2016

The National Association of Manufacturers (NAM) [released](#) a comprehensive study of the benefits of natural gas and natural gas infrastructure this week.

The study finds: "Total natural gas demand is poised to increase by 40% over the next decade. Key drivers will be manufacturing and power generation. U.S. supply is expected to increase by 48% over the next decade to meet new demand."

Among the economic benefits:

- Natural gas access contributed to 1.9 million jobs economy-wide in 2015.

- Shale gas put an extra \$1,337 back in the pocket of the average American family.
- New natural gas pipelines created more than 347,000 jobs, with 60,000 in manufacturing.

The study calls for more infrastructure development to allow American manufacturers to take full advantage of the U.S. natural gas resources.

Read the report, and its summary, [here](#).

[Don't Be in the Dark about LED Lighting, webinar](#)

May 6, 2016

The OMA [Energy Efficiency Peer Network](#) (EEPN) has scheduled a one-hour webinar on [Wednesday, May 25](#) at 10:00 a.m. – **Technology Check-in: LED Lighting in Manufacturing Facilities.**

LED lighting technology and costs change rapidly. This presentation will update you about current LED technology and how it is being applied in manufacturing environments, including:

- Exterior, High Bay and Low Bay applications
- Are the T8 linear fluorescent to LED tube retrofits a good idea? Cost effective?
- Tips to ensure quality in LED projects
- Are all LED fixtures always the most efficient options?
- Should you consider replacing fluorescent lights with LED lights, or just HID?
- How to optimize LEDs with occupancy, dimming and photo-sensor controls
- What are the approximate economics of different LED applications or situations?

The webinar will also feature case studies presented by peer manufacturing facilities.

All interested members welcome! Register at [My OMA](#) or call us at (800) 662-4463.

[Manufacturers Receive AEP Ohio Energy Efficiency Award](#)

May 6, 2016

Last week AEP Ohio honored organizations that have demonstrated a strong commitment to energy efficiency.

[Crown Battery Manufacturing Company](#), Fremont, received a Sustained Excellence Award for its energy

efficiency efforts over multiple years as well as for making energy efficiency a part of company culture. (You may recall the [OMA Energy Efficiency Peer Network](#) held a plant tour at Crown Battery last year.)

Additional recognized manufacturers were [Bridgestone](#), Upper Sandusky, and [LuK, Inc.](#), Wooster.

AEP Ohio offers a variety of energy efficiency programs and discounts to help business customers conserve energy and save money. Through the programs, AEP Ohio customers save an estimated \$2.2 billion over the life of the measures. For more information [visit AEP Ohio](#) or contact OMA's energy engineer, [John Seryak](#).

[FERC Halts PUCO's Approval of AEP & FirstEnergy Non-bypassable Riders](#)

April 29, 2016

This week the Federal Energy Regulatory Committee (FERC) issued a decision that halts the underlying transactions of the Public Utilities Commission of Ohio (PUCO)-approved subsidy requests from Ohio-based utilities AEP and FirstEnergy. Their bailout proposals would have forced Ohio customers to subsidize old, inefficient power plants for the next eight years at an estimated cost of \$6 billion.

OMA president Eric Burkland [issued a statement](#) commenting on the FERC's decision, saying: "The OMA strongly opposed the PUCO decision that harmed wholesale markets that are benefitting Ohio electricity consumers and that served to subsidize potentially uneconomic utility generating units. ... The unanimous FERC decision is welcomed by Ohio manufacturers that depend on markets to provide the cost and innovation benefits of competition."

The non-bypassable new costs under the PUCO-approved plans would have come at a time when the competitive electricity marketplace has begun to mature and is producing benefits in cost savings and innovative, new products. The utilities' plans would add costs to customers' bills with no commensurate benefits.

In an effort to prevent the potential damage, the [OMA Energy Group](#), among others, pursued its available legal appeals to the FERC.

This [one-page summary](#) of the FERC decision prepared by OMA energy counsel, Carpenter Lipps & Leland notes: "FERC agreed with the arguments asserted by OMAEG (OMA Energy Group) ... that customers are captive because they have no ability to

avoid the costs associated with the Affiliate PPAs by shopping with a competitive supplier."

To learn more about how through the [OMA Energy Group](#) you can effect change that protects your company, please contact OMA's [Ryan Augsburger](#).

[Energy Standards Freeze Introduced](#)

April 29, 2016

Senator Bill Seitz (R-Green) introduced a bill, [Senate Bill 320](#), that extends the freeze on the state's renewable and energy efficiency standards for another three years. The bill makes extensive other changes to the state's energy statutes.

Read [this analysis](#) prepared for the OMA by Runnerstone.

[Ohio Supreme Court Finds PUCO Erred](#)

April 29, 2016

Late last week, the Ohio Supreme Court decided two separate cases impacting AEP customer charges.

In the first case, Justice Sharon Kennedy authored the high court's [decision](#) finding that the PUCO incorrectly authorized AEP to recover from customers the equivalent of transition revenues through the retail stability rider. This is a significant win for customers, estimated to result in a \$310 million reduction to customers.

In another case also authored by Justice Kennedy dealing with AEP's capacity-pricing mechanism, the [court found](#) in favor of AEP, stating that the PUCO erred by failing to adequately explain the method it used to calculate credits used to reduce the capacity charge. The court did not find that the capacity charge collected was incorrect, just that the PUCO had not adequately explained its decision.

Both cases were sent back to the PUCO.

[PUCO Chairman to Exit?](#)

April 29, 2016

This Columbus Dispatch [report](#) indicates that that PUCO Chairman [Andre Porter](#) will depart the agency soon for a position out-of-state. He has not been chair very long.

[SCOTUS Protects Wholesale Electricity Markets](#)

April 22, 2016

In a decision with major implications for the recently approved, customer-punishing power purchase agreement (PPA) cases of AEP and FirstEnergy, the U.S. Supreme Court [ruled unanimously](#) that a Maryland Public Service Commission (Maryland PSC) plan to boost in-state generating capacity with subsidies paid by ratepayers unlawfully intruded on the Federal Energy Regulatory Commission's (FERC) jurisdiction over wholesale rates.

The court affirmed that FERC has the exclusive authority to set wholesale energy and capacity prices and oversee whether those rates and charges are just and reasonable.

An OMA Energy Group [analysis of the decision](#) notes: "The Court's decision bolsters OMA Energy Group's position in the AEP and FirstEnergy PPA cases before FERC. Just like in the Maryland case, the PPAs in the AEP and FirstEnergy cases guarantee a rate that is distinct from the clearing price set in PJM's capacity auction. The PPAs at issue in the AEP and FirstEnergy cases guarantee a payment to the generators different from the clearing price set in the PJM auction."

OMA Energy Group has argued that this type of arrangement, just like in Maryland, impermissibly interferes with FERC's authority to oversee wholesale rates as the guaranteed revenue stream from customers will make the affiliate generating units agnostic to wholesale-market prices, distort wholesale-market price signals, and deter new entry from competitive generation suppliers.

Read more in this [energy blog](#) by OMA counsel Bricker & Eckler.

[Tracking U.S. Energy Efficiency Performance](#)

April 22, 2016

The American Council for an Energy-Efficient Economy (ACEEE) has posted a new web page of national indicators of energy efficiency in the U.S. The web page shows energy efficiency trends by sector.

According to ACEEE metrics, nationally, energy productivity is trending upward over a five-year period. Productivity is the amount of service or useful work produced by a unit of energy.

Similarly, the energy intensity of the U.S. industrial sector (manufacturing, agriculture, mining, and construction) has been improving steadily. Nationally, less energy is needed per dollar of goods produced.

[See the data here.](#)

[Costly PPA Provisions Summarized](#)

April 15, 2016

OMA energy counsel, Carpenter, Lipps & Leland, has summarized the provisions of the power purchase agreement (PPA) cases of both [AEP](#) and [FirstEnergy](#).

OMA general counsel, Bricker & Eckler, has drafted a summary of the renewable and advanced energy provisions of both cases [here](#). Bricker also put together a one-pager on what's next on the matters, which you can read [here](#).

The OMA Energy Group has filed a complaint with the Federal Energy Regulatory Commission (FERC), asking FERC to void the decisions as illegal, customer-punishing incursions into the operation of wholesale electricity markets. The Energy Group is also evaluating legal options to stop implementation.

[OMA Energy Committee Heads to Akron](#)

April 15, 2016

In response to member interest in more regional opportunities, the OMA [Energy Committee](#) will meet in Akron on [Wednesday, May 26](#) from 10:00 a.m. until 1:00 p.m., and includes lunch.

The meeting will be held at Ariel Corp., 3194 Massillon Rd., Akron, OH 44312

As usual, a call-in option will be available at: (866) 362-9768, 940-609-8246#

In addition, members are invited to a networking dinner the evening prior, [Wednesday, May 25](#), at Bender's Tavern, 137 Court Ave SW, Canton, OH 44702.

Please [register here](#) for in-person or call-in attendance, and dinner option. Or call us at (800) 662-4463.

[Senate Republicans Prepare to Extend Energy Standards Freeze](#)

April 15, 2016

Senator Bill Seitz (R – Cincinnati) shared with interested parties [draft legislation](#) to revise Ohio's renewable and energy efficiency standards. Senate Bill 310 from the prior session, instituted a freeze of escalating standards. That freeze is slated to go back into effect in early 2017.

The Senate bill draft would extend the freeze for both renewable energy and energy efficiency for an additional three years. The bill also reduces annual benchmarks in out years and expands the ability of business customers to opt-out of the riders.

Columbus Dispatch reporter Dan Gearino posted an [article](#) describing some early reactions to the proposal.

[Webinar: Case Studies in Ohio CHP Success](#)

April 8, 2016

Since 2012, enabled by Senate Bill 315, electricity customers have been able to seek an energy efficiency rebate for Combined Heat and Power (CHP) and Waste Energy Recovery (WER) systems from their electric utility.

This 90-minute webinar on Tuesday, April 12 at 10:30 a.m. EDT will feature presentations from Jon Williams, AEP-Ohio, Manager, Energy Efficiency & Demand Response, and two AEP-Ohio industrial customers, Kraton Polymers and Solvay Specialty Polymers, that have developed qualifying CHP projects. Presenters will discuss project financing, efficiency and savings benefits, as well as challenges and lessons learned.

This webinar is designed for CHP and WER developers and electric customers, clean energy policy advocates, technical experts, policymakers and regulators and their staff. This webinar is free and open to the public, but advance [registration is required](#).

[PUCO Approves Controversial Utility Affiliate Power Purchase Agreements \(PPAs\)](#)

April 1, 2016

This week, the [five-member](#) Public Utilities Commission of Ohio (PUCO) convened a special Thursday meeting to approve two proposals,

advanced by AEP and FirstEnergy, to implement new non-bypassable riders and other cost-driving provisions.

With the approval of these deals, AEP and FirstEnergy will be able to collect costs from all their customers to subsidize uneconomical generation assets, thus placing all operating risk onto their customers, while guaranteeing their profits. Their customers will be saddled with the riders for a term of eight years.

OMA estimates cost impacts to manufacturers will range from tens of thousands of dollars to tens of millions of dollars, depending on the amount of electricity consumed.

Because the deregulated electricity market in Ohio has been working to lower costs and spur innovative, new products, the OMA Energy Group has opposed the PPA proposals in the PUCO proceedings. Many industry leaders have independently expressed concerns to the PUCO.

The OMA Energy Group has filed a complaint before the Federal Energy Regulatory Commission (FERC) to prevent the ruling from going into effect.

[OMA Reacts to PUCO PPA Decision](#)

April 1, 2016

Eric Burkland, president of The Ohio Manufacturers' Association (OMA), issued a statement yesterday commenting on the Public Utility Commission of Ohio's (PUCO) decision to approve Power Purchase Agreement (PPA) plans for FirstEnergy and American Electric Power (AEP).

Burkland said, "Today's decision by the PUCO to approve requests from FirstEnergy and AEP to impose billions of dollars in new customer costs to fund the utilities' power purchase agreements with their deregulated affiliates is a setback for electricity consumers in Ohio. If implemented, the agreements will serve essentially as new taxes on families and businesses, which will become a drag on the state's economy."

Read the [full statement](#).

[OMA Asks PUCO for a Stay in PPA Cases](#)

March 25, 2016

The OMA Energy Group joined the Ohio Consumers Counsel this week to [file a motion](#) with the Public Utilities Commission of Ohio (PUCO) to stay a

decision in litigation initiated by electric utility companies, AEP and FirstEnergy. If approved, the stay would delay the PUCO's ability to issue a decision in the controversial utility affiliate power purchase agreement (PPA) cases until the Federal Energy Regulatory Commission (FERC) has a chance to rule on a related case.

The outcome of the pending FERC case is expected to determine the legality of Ohio regulators being able to approve a utility affiliate PPA.

Belden: PPAs are Regulatory Taxation

March 25, 2016

The Canton Repository published an [op-ed](#) this week from [OMA Energy Group](#) Chairman Brad Belden, Director, Support Services, The Belden Brick Company, the largest family-owned and operated brick company in America. He warned of "regulatory taxation" by the Public Utilities Commission of Ohio.

Belden wrote of the riders proposed in the AEP and FirstEnergy "purchase power agreement" (PPA) cases: "We estimate that Belden Brick's share of the additional costs of this new rider to approach \$1 million over the eight-year term of the agreement. The construction industry is still feeling the effects of the real estate collapse of several years ago, and our company is still struggling to turn a profit. Belden Brick did not have the government to turn to during this recent downturn. AEP and FirstEnergy should not have this option either ..."

He said: "The markets for electricity in Ohio have been working to the benefit of consumers, but these proposed deals are a massive setback to the consumer-friendly efficiency of those markets. The impact would surely be felt by our employees and shareholders. Since Ohio deregulated its utilities, we have been able to shop for the best price on electricity generation, and that has helped keep costs down. ... Lower energy prices mean more money to invest back into the business, into employee salaries and our community. That's how the American free market works."

DP&L Proposes New Rate Plan to PUCO

March 4, 2016

Dayton Power & Light (DP&L) filed its electric security plan this week. The proposal seeks, among other things, a ten-year power purchase agreement (PPA) with its generating affiliate, to be funded by a Reliable Electricity Rider. The proposal also includes a Distribution Investment Rider and a Clean Energy Rider.

DP&L maintains that the Reliable Electricity Rider is needed "to promote the reliability of electric supply and the stability and growth of Ohio's economy" and is consistent with the criteria used by the Public Utilities Commission of Ohio to evaluate AEP's PPA rider proposal.

The [OMA Energy Group](#) will be intervening in the case to protect manufacturing competitiveness.

Energy Legislation

Prepared by: The Ohio Manufacturers' Association
Report created on June 14, 2016

- 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: 11/18/2015 - Senate Ways and Means, (First Hearing)
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: 6/30/2015 - **SIGNED BY GOVERNOR**; eff. 6/30/15; certain provisions effective 9/29/2015, other dates
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: 11/18/2015 - **REPORTED OUT**, House Finance, (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 create an alternative wind farm setback in cases where a process has been initiated to interconnect the wind farm to a transmission system and the wind farm is in the Ohio wind corridor.

Current Status: 5/18/2016 - **SUBSTITUTE BILL ACCEPTED**, House Public Utilities, (Third 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: 5/24/2016 - House Energy and Natural Resources, (Third Hearing)

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

HB349 STATE EMISSIONS PLAN (SMITH R, GINTER T) To require the Environmental Protection Agency to submit a state plan governing carbon dioxide emissions to the General Assembly prior to submitting it to the United States Environmental Protection Agency, and to declare an emergency.

Current Status: 12/8/2015 - House Energy and Natural Resources, (Third Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-349>

HB390 NATURAL GAS-ET AL (SCHAFFER T, RETHERFORD W) To provide authorization and conditions for the operation of state programs and to make appropriations.

Current Status: 5/25/2016 - Consideration of Senate Amendments; House Does Concur, Vote 69-26

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-390>

- HB472 RENEWABLE-EFFICIENCY ENERGY REQUIREMENTS (STRAHORN F)** To unfreeze the requirements for renewable energy, energy efficiency, and peak demand reduction, to permit changes in and Public Utilities Commission action on electric distribution utility portfolio plans in 2016, to revise the setback requirement for economically significant wind farms, and to repeal the setback requirement for wind farms of fifty megawatts or more.
Current Status: 2/23/2016 - Referred to Committee House Public Utilities
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-472>
- HB473 UTILITY SERVICE TAX-LEVY (AMSTUTZ R)** To require voter approval before a county may levy a new utilities services tax, to allow small businesses to count employees of related or affiliated entities towards satisfying the employment criteria of the business investment tax credit, to permit a bad debt refund for cigarette and tobacco product excise taxes paid when a purchaser fails to pay a dealer for the cigarettes or tobacco products and the unpaid amount is charged off as uncollectible by the dealer.
Current Status: 5/17/2016 - House Ways and Means, (Fourth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-473>
- HB489 MINE FUNDS (CERA J)** To credit a portion of the money derived from the Kilowatt-Hour Tax Receipts Fund to the Abandoned Mine Reclamation Fund, the Acid Mine Drainage Abatement and Treatment Fund, and the Mine Safety Fund and to make other changes to those funds.
Current Status: 5/10/2016 - House Ways and Means, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-489>
- HB515 HEATING FUELS-SALES TAX (PATTERSON J, CERA J)** To exempt from sales and use taxation the bulk sale of firewood and certain other heating fuels, and to reimburse the Local Government Fund and Public Library Fund and county and transit sales tax collections for the resulting revenue losses.
Current Status: 4/26/2016 - Referred to Committee House Ways and Means
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-515>
- HB522 INJECTION WELLS (PHILLIPS D)** To prohibit injection of brine and other waste substances except in class I injection wells, to prohibit the conversion of oil and gas wells, to require municipal or township approval prior to the issuance of an oil or gas well permit, and to levy a fee on the injection of brine and other waste substances into a class I injection well.
Current Status: 4/26/2016 - Referred to Committee House Energy and Natural Resources
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-522>
- HB540 OIL-GAS WELL FUND REVENUE (CERA J)** To limit the amount of revenue that may be credited to the Oil and Gas Well Fund and to allocate funds in excess of that amount to local governments and fire departments.
Current Status: 5/17/2016 - Referred to Committee House Finance
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation->

[summary?id=GA131-HB-540](https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-540)

- HB541 STATE AGENCY-CLEAN POWER PLAN (LANDIS A)** To prohibit any state agency from implementing the federal "Clean Power Plan."
Current Status: 5/4/2016 - Referred to Committee House Energy and Natural Resources
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-541>
- HB554 RENEWABLE ENERGY REQUIREMENTS (AMSTUTZ R)** To revise the requirements for renewable energy, energy efficiency savings, and peak demand reduction and to revise provisions governing which customers can opt out of related programs.
Current Status: 5/11/2016 - House Public Utilities, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-554>
- 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: 5/11/2016 - **ADOPTED BY SENATE**; Vote 33-0
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HCR-7>
- HCR9 SUSTAINABLE ENERGY-ABUNDANCE PLAN (BAKER N)** To establish a sustainable energy-abundance plan for Ohio to meet future Ohio energy needs with affordable, abundant, and environmentally friendly energy.
Current Status: 6/17/2015 - **ADOPTED BY SENATE**; Vote 32-1
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HCR-9>
- SB45 LAKE ERIE SHORELINE IMPROVEMENT (SKINDELL M, EKLUND J)** To authorize the creation of a special improvement district to facilitate Lake Erie shoreline improvement.
Current Status: 3/17/2015 - Senate Energy and Natural Resources, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-45>
- 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: 5/11/2016 - Senate Energy and Natural Resources, (First Hearing)
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: 5/11/2016 - Senate Energy and Natural Resources, (First Hearing)
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: 10/7/2015 - Senate Energy and Natural Resources, (First Hearing)

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

SB185 SPECIAL IMPROVEMENT DISTRICTS (SEITZ B) To revise the law governing special improvement districts created for the purpose of developing and implementing plans for special energy improvement projects.

Current Status: 5/25/2016 - **REPORTED OUT AS AMENDED**, Senate Energy and Natural Resources, (Fifth Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-185>

SB320 RENEWABLE ENERGY (SEITZ B) To revise the requirements for renewable energy, energy efficiency, and peak demand reduction, to permit property owners to petition municipal corporations and townships for the purpose of developing and implementing special energy improvement projects.

Current Status: 5/11/2016 - Senate Energy and Natural Resources, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation->

[summary?id=GA131-SB-320](https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-320)

- SB325** **ELECTRICAL DISTRIBUTION-RENEWABLE REQUIREMENT** (JORDAN K) To repeal the requirement that electric distribution utilities and electric services companies provide 12.5% of their retail power supplies from qualifying renewable energy resources by 2027.
Current Status: 5/4/2016 - Referred to Committee Senate Energy and Natural Resources
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-325>
- SB327** **OIL-GAS LAW REVISION** (BALDERSON T) To revise provisions in the Oil and Gas Law governing unit operation and to specify that the discounted cash flow formula used to value certain producing oil and gas reserves for property tax purposes is the only method for valuing all oil and gas reserves.
Current Status: 5/11/2016 - Referred to Committee Senate State and Local Government
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-327>
- SCR6** **EXPORT-CRUDE OIL** (BALDERSON T) The urge the U.S. Congress to lift the prohibition on the export of crude oil from the United States.
Current Status: 12/8/2015 - **ADOPTED BY HOUSE**; Vote 67-24
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SCR-6>

TO: OMA Government Affairs Committee
FROM: Ryan Augsburger / Rob Brundrett
RE: Environment Public Policy Report
DATE: June 15, 2016

Overview

The General Assembly finished up its legislative work for the first half of 2016 at the end of May. Among the many pieces of legislations being debated, two Ohio EPA Mid-Biennium Review bills were introduced with one passing.

The General Assembly is out until after the November elections. However Ohio EPA and its regulatory arm can still be influenced over the summer months through the extensive rules process.

General Assembly News and Legislation

Senate Bill 51 - Multiple Chemical Sensitivity Month

Senator Skindell (D-Lakewood) introduced SB 51, which would designate May as “Multiple Chemical Sensitivity Month.”

Senator Skindell justified the bill citing research in 2003 indicating that more than 12% of the U.S. population was affected with severe multiple chemical sensitivity.

Manufacturers interested in this legislation are encouraged to participate in the OMA Environment Committee.

Senate Bill 269 – Public Water System Lead Contamination

Senate Minority Leader Schiavoni introduced SB 269 in response to the Sebring water crisis. The bill would require a public water system to provide notice of lead contamination not later than thirty days after becoming aware that lead contamination may affect the system's drinking water, requires the Director of Environmental Protection to provide the notice if the public water system fails to provide it, requires employees of the Environmental Protection Agency to provide continuing assistance to a public water system that fails to provide the required notice of lead contamination, and requires the Director to adopt rules that increase the monitoring frequency for lead and copper under specified circumstances. The bill had its first hearing in mid-April.

Senate Bill 333 – Water MBR II

Senator Hite (R-Findlay) introduced the second Ohio EPA MBR late in May. The bill has not been referred to a committee. The agency wanted to get the bill introduced before the legislature left for the summer and campaign season. The bill builds on House Bill 512 and the state's combatting of lead and other water issues.

House Bill 349 – State Emissions Plan

Representatives R. Smith (R-Bidwell) and Ginter (R-Salem) introduced HB 349 which requires the Environmental Protection Agency to submit a state plan governing carbon dioxide emissions to the General Assembly prior to submitting it to the United States Environmental Protection Agency, and to declare an emergency. There is a concern if this bill gets enacted that the General Assembly may not approve the agency's plan. If that happens there is a real chance Ohio would be forced to comply with the federal plan. The bill had a third hearing in December. It did not receive any attention during the first half of 2016.

House bill 512 – Water MBR I

Representative Tim Ginter (R-Columbiana County) introduced HB 512 which established requirements governing lead and copper testing for community and nontransient noncommunity water systems, revised the law governing lead contamination from plumbing fixtures, made appropriations to the Facilities Construction Commission for purposes of providing grants for lead fixture replacement in eligible schools, and revised the laws governing the Water Pollution Control Loan and Drinking Water Assistance Funds. The bill which is considered Ohio EPA MBR I was heavily focused on combating the increased levels of lead in Ohio's drinking water. The bill was passed last week and is awaiting Governor Kasich's signature.

House Bill 541 – Clean Power Plan Implementation

Representative Landis (R-Dover) introduced HB 541. The bill would prohibit any state agency from implementing the federal "Clean Power Plan." This is a model bill that is being introduced around the country to prevent any state from implementing the federal CPP. While the bill has not had any hearings, it is mostly seen as a symbolic gesture. Currently the plan has been stayed by the Supreme Court until litigation is settled.

Regulations

Ozone – U.S. EPA

Last fall the Obama administration and U.S. EPA announced the final ozone rule which established a new ground-level ozone standard for the country. The rule tightened the already stringent standard of 75 parts per billion (ppb) down to 70 ppb.

The National Association of Manufacturers has sued U.S. EPA over the regulations.

U.S. EPA 111(d)

Last August the U.S. EPA proposed its final 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 by 2030, from a base year of 2012. This means a 37% reduction for Ohio.

EPA revised the building block model in response to legal uncertainties. The new "building blocks" are: reducing the carbon intensity of electricity generation by improving the heat rate of existing coal-fired power plants; substituting increased electricity generation from lower-emitting existing natural gas plants for reduced generation from higher-emitting coal-fired plants; and substituting increased electricity generation from renewable energy sources.

The original timetable for implementing these vast rules was aggressive: States will be required to submit a final plan, or an initial submittal with an extension request, by September 6, 2016. Ohio EPA has indicated it will be seeking an extension from the federal government, which would set Ohio's rulemaking a year behind the federal schedule as currently published.

The Supreme Court of the United States granted a stay of the Obama administration's Clean Power Plan (CPP) regulation of greenhouse gas (GHG) emissions from the electric utility sector. That decision delays the implementation of the rule until the courts have the opportunity to determine the plan's legality.

The OMA joined more than 160 business groups throughout the country in filing an amicus brief in the U.S. Court of Appeals for the D.C. Circuit in support of a lawsuit by states and industry to overturn U.S. EPA's "Clean Power Plan."

In an unusual and surprising move, the D.C. Circuit Court of Appeals last week decided to bypass oral arguments scheduled on the case for June 2nd and instead hear the case before the full court (as opposed to a three person panel) on September 27th. It should be a relatively quiet summer regarding the CPP.

The court is likely to issue a decision later this year. From there, the challenge is expected to make its way to the U.S. Supreme Court, which previously issued a stay to halt all implementation and enforcement actions on the rule until it has the opportunity to hear the case.

Due to the stay Ohio EPA has decided against holding its regional meetings in 2016 as it initially had planned.

Waters of the U.S. Stay

A divided Sixth Circuit issued a nationwide stay against the enforcement the so-called “waters of the United States” regulation. The regulation was issued by the U.S. EPA and the U.S. Army Corps of Engineers. The regulations defined the scope of “waters of the U.S.” to be subject to federal regulatory jurisdiction under the Clean Water Act.

Industrial Storm Water Permits

In response to the last OMA environment committee presentation and meetings with the agency, the OMA sent a letter to Ohio EPA’s Division of Surface Water Chief, Tiffani Kavalec, outlining manufacturers’ priority issues for the agency’s consideration as it undertakes a review of the general industrial storm water permit. The current permit expires this year.

The letter focused on regulatory expansion, background, sampling, benchmarks, and best management practices.

Regarding EPA’s regulation of “best management practices,” Rob Brundrett wrote: “(O)verly or highly prescriptive best management practices eliminate the flexibility manufacturers need to comply with rules and operate efficiently. A too prescriptive practice certainly does not work the same way for all manufacturers. Flexibility is key in responding to permits and protecting the environment.”

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. Last year the OMA put together a working group to work with Ohio EPA on this topic.

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.

Director Butler told the OMA Board in March that he remains fully committed to getting the universal waste rules completed in 2016. The latest update from EPA indicates stakeholder meetings as early as July.

National Pollutant Discharge Elimination System (NPDES) permit program

Ohio EPA has announced its Early Stakeholder Outreach (ESO) process for Chapter 3745-33 of the Ohio Administrative Code which contains the administrative and technical requirements for writing and obtaining wastewater discharge permits under the National Pollutant Discharge Elimination System (NPDES) permit program.

Ohio EPA will begin drafting rules in the near future.

Other Notes

Ohio EPA Open Houses

Ohio EPA announced they will begin holding open houses in each of the district offices. These meetings will be led by Director Butler. The first meeting was held at the central district office in March. It was well received and had great attendance from manufacturers. The future events have not been scheduled but the OMA was told the agency remains committed to holding them.



TRANSFORMING OHIO FOR JOBS + GROWTH

2016 MID-BIENNIUM REVIEW

PROTECTING OHIOANS FROM LEAD IN DRINKING WATER

Proposals Include Tighter Deadlines for Public Water Systems to Inform and Educate Homeowners about High Lead Levels and New Funding Help for Communities to Replace Lead Service Lines and Fixtures

The federal framework that guides states in protecting the public against exposure to lead in their drinking water is flawed and the Kasich Administration is working with Ohio's congressional delegation to seek changes. Here at home, the governor's Mid-Biennium Review proposes new state standards to protect public health – backed by tighter deadlines and administrative fines to make public water systems notify and educate the public in a much timelier manner. The MBR also provides new funding mechanisms to help communities replace lead service lines and help schools identify and replace outdated, lead-based water-service fixtures. Among these reforms:

Expediting Public Notice of Lead Contamination in Drinking Water: When test results show unacceptable levels of lead, current federal requirements allow water systems 30 days to alert those homeowners whose water supplies were tested and 60 days to complete a system-wide educational program for all customers. Those turnaround timeframes are clearly too long. The governor's Mid-Biennium Review takes important steps to ensure that homeowners get the timely public notice they deserve whenever high levels of lead are found in drinking water. These changes will expedite public notice and education to consumers, while empowering Ohio EPA to take on that role quickly if the water system fails to meet the new deadlines.

- **Ensuring that Communities Get Information When There May Be Lead in Their Water:**
 - **Getting Households Their Test Results:** Public water systems often partner with homeowners who volunteer to have their water sampled as part of that community's periodic water-quality testing. Ohio will now require water systems to provide homeowners their test results within two business days, instead of the current 30 days. If the water system fails to meet the tighter timelines, Ohio EPA will intervene to notify homeowners itself and will have the authority to impose an administrative penalty on the noncompliant system.
 - **Jumpstarting Public Education When Lead Is Found in a Water Supply:** Under existing law, when a community exceeds the federal threshold for lead, the required system-wide public education comes far too late. With the MBR proposals, Ohio will significantly tighten the timeframe allowed for a community to conduct a public education campaign by requiring system-wide notification within two business days – and then cutting in half the current 60-day deadline to 30 days for completing the more in-depth public education.

Providing Financial Assistance to Communities and Schools to Fight Lead: To strengthen local lead prevention efforts, Ohio intends to leverage a number of state grant and loan programs that help communities and schools address their infrastructure needs:

- **Helping Communities Address Lead:** Today, through its drinking water revolving loan fund programs, Ohio EPA is making low-interest loans available to eligible public water systems to conduct corrosion control

studies, optimize treatment technologies, identify lead service lines and design/engineer additional capital improvements to their treatment plants. Ohio EPA also will work with eligible communities to help fund longer-range activities, including infrastructure improvements, upgrades to their public drinking water plants and replacement of lead service lines that pose a risk to water quality.

- **Identifying and Replacing Outdated Water-Service Fixtures in Ohio Schools:** The Ohio Water Development Authority, in partnership with Ohio EPA, will make funding available to help Ohio's public schools identify sources of lead in drinking water from outdated, lead-based fixtures. The Ohio Facilities Construction Commission will provide funding to identify sources of lead in private schools and to replace fixtures not covered by a recall in public and private schools.
- **Helping Communities Replace Lead Service Lines:** In 2014, Governor Kasich helped champion State Issue #1, which significantly increased Ohio's public works program to help communities address their infrastructure needs. Communities can seek grant and loan assistance from the Ohio Public Works Commission, through their district Public Works Integrating Committees, to replace lead service lines that pose a risk to water quality.

Reducing Lead in New Construction: The governor's MBR lowers the "lead free" definition of how much lead can be in plumbing – from 8 percent to 0.25 percent – which will conform to federal law.

Tightening Community Water Testing Requirements: The MBR will give the Ohio EPA director authority to set water testing requirements for a system based on the age of its water infrastructure and whether or not the system has an active corrosion control program that reduces lead from seeping into old, lead-based household lines and fixtures.

Requiring Corrosion Control Studies and Plans in Certain Situations: Ohio will require a corrosion control study whenever a water system changes its water source, makes substantial renovations, repairs its system or water treatment plant, or experiences any other event that potentially impacts the quality or corrosiveness of water in the system.

Extending Loan Terms to Provide Flexibility to Communities: Through changes proposed in the MBR, Ohio EPA would be able to extend wastewater loan terms from 20 to 30 years. Additionally, extended-term loan financing up to 45 years would be available to larger communities for particularly expensive wastewater and drinking water capital projects with a very long (i.e., 50+ years) design life. Finally, by allowing structured payments for wastewater and drinking water loans, communities may structure repayments to the Water Pollution Control Loan Fund as needed to keep their customer's user charges affordable while easing any cash flow concerns.

BOTTOM LINE: Ohio has first-hand experience with shortcomings of the federal Safe Drinking Water Act. By pursuing improvements at the federal level while at the same time strengthening standards for state action, we can better help our communities safeguard their drinking water from lead.





TRANSFORMING OHIO FOR JOBS + GROWTH

2016 MID-BIENNIUM REVIEW

IMPROVING WATER QUALITY IN OHIO

Protecting Lake Erie and All Our Drinking Water Sources, Providing Community and Business Assistance and Streamlining Government

Under the Kasich Administration, Ohio has invested more than \$3.5 billion to tackle key infrastructure issues in order to improve water quality statewide. Protecting Lake Erie and Ohio's other drinking water sources continues to be a priority. Provisions in Governor Kasich's 2016 Mid-Biennium Review will strengthen that commitment.

Strengthening Efforts to Protect Lake Erie: The Lake Erie Commission can be an effective catalyst in helping Ohio meet its commitments under the binational Great Lakes Water Quality Agreement to reduce phosphorus in Lake Erie's Western Basin 40 percent by 2025 and in efforts to identify and support programs to enable the beneficial use of dredged materials. MBR provisions update the Lake Erie Commission's existing statutes to achieve these goals, while refocusing the commission's efforts on its Lake Erie Protection and Restoration Strategy.

Encouraging Better Use of Dredge Materials: The MBR provides a straightforward regulatory framework for the safe and beneficial reuse of material dredged from federal navigation channels. Potential users and marketers of dredged material will have defined criteria for classifying this material.

Requiring Financial Assurance for Privately Owned Water Systems: When the owner of a private water system shows an unwillingness or inability to make repairs to ensure safe drinking water, the Ohio EPA will be provided tools to fix the problem, while requiring financial assurance from new or modified private water systems that ensures they have the ability to make needed repairs.

Strengthening Ohio's Certified Water Quality Professional Program: Based on consultation with stakeholders, the MBR will further strengthen the new Certified Water Quality Professional provisions that were established in last year's operating budget.

Giving the Ohio EPA Director Authority to Address Water Quality Certification: The MBR clarifies the Ohio EPA director's authority to waive, transfer, revoke or – at the request of the permit holder – to modify a 401 water quality certification. Currently, state statute allows only for approval and denial.

Aligning State and Federal Laws for Approval of Certain Pretreatment Permits: To make Ohio statutes consistent with federal law, MBR language will allow the state EPA director, in lieu of the U.S. EPA, to issue a permit to an entity discharging into a privately owned treatment works.

Requiring Ongoing Asset Management Efforts by Public Water Systems: The MBR addresses recurring asset management problems seen at some public water systems, including deferred maintenance, lack of management oversight and inadequate historical records of water lines or maps of service areas. These issues too often result in extended periods of water-use restrictions or having no water at all available for system users. MBR language requires public water systems to demonstrate ongoing technical, financial and managerial capability by implementing an asset management program. This is a priority to ensure safe and reliable drinking water for Ohio citizens.

PROTECTING OHIO'S ENVIRONMENT

Ensuring Responsible Disposal of Construction and Demolition Debris: Over the past several years, a large number of illegal construction and demolition debris (C&DD) disposal sites have begun operating under the premise of “processing” C&DD materials to then be resold, an activity that is currently unregulated in Ohio. However, many times in these instances the material is being collected and then abandoned, leaving local communities and the state to bear the cost of cleanup and mitigation of potential hazards. Provisions in this MBR legislation will establish regulatory oversight of C&DD processing facilities to ensure these materials are properly managed and disposed of in an environmentally responsible manner.

Strengthening the State's Ability to Clean Up Abandoned Landfills: To strengthen the Ohio EPA's ability to evaluate and clean up abandoned landfills, this MBR language will clarify the agency's authority to – among other things – gain site access, conduct investigations, and take samples at these sites.

BOTTOM LINE: Government regulations should first protect Ohioans from acute threats to water quality, such as lead in drinking water supplies or private water system owners who do not provide a dependable or safe water supply. At the same time, a common sense approach is needed to provide balance between helping communities and businesses address water quality issues and streamlining burdensome rules while protecting public health and the environment.





May 2, 2016

Ms. Tiffani Kavalec
Ohio Environmental Protection Agency
50 West Town Street, Suite 700
Columbus, OH 4321

Re: Ohio's General Industrial Storm Water Permit Review

Dear Ms. Kavalec:

The Ohio Manufacturers' Association (OMA) would like to thank you and your team for recently meeting to discuss the timeline, process, and early thoughts Ohio EPA has regarding the renewal of Ohio's general industrial storm water permit later this year. At that meeting you indicated Ohio EPA would appreciate any feedback, comments, and concerns OMA and its members might have at this early juncture. We appreciate this opportunity to share some early thoughts regarding the permit.

Regulatory Expansion

The OMA opposes Ohio adopting the U.S. EPA multi-sector storm water general permit (MSGP) as-is. Using the federal permit as a starting point could start a precedent of adopting the federal permit for each iteration of the state renewal. The conversation at our recent meeting seemed to indicate that while Ohio EPA would be reviewing the newest iteration of the federal permit, it would not wholly adopt the U.S. EPA MSGP but rather use it as guide. There is concern about regulatory 'creep' in which each iteration of the permit would continue to add new requirements and tighten limits regardless of scientific proof or proven necessity to protect the environment.

Background

Currently the Ohio permit only allows "natural background" to be considered. This natural background can be loosely defined as substances that are naturally occurring in soils or groundwater (and do not include legacy pollutants or pollutants in run-on from neighboring sources which are not naturally occurring). Please consider taking into account "non-natural background." This is background associated with items that are not industrial activity but are simply in building materials or run-on from neighbors.

Sampling

Consider limiting benchmark sampling to four quarterly samples for the term of the permit. The current permit allows for an entity to choose four quarterly samples in the first three years of the permit, while U.S. EPA MSGP requires quarterly benchmark sampling for the first four quarters. In the federal scenario, if the averages are below the benchmark, the benchmark portion of the permit is fulfilled. If not, a regulated entity must review the control measures and make modifications and then perform four more quarters; this could go on for the entire five years of

the permit. Clarity needs to be provided in how to fulfill and exit the benchmark monitoring requirements as quickly as possible.

In regards to the timing of the sampling, we would suggest that the storm water sampling strategy transition away from “first flush” to “event duration.” Low benchmark levels are more in line with the average storm water quality over the course of a storm event, rather than the high spike at the start of a storm. Other states (e.g. California, Oregon, and Washington) with such benchmarks allow for sampling periods up to twelve hours after the start of the storm event. We would also suggest that this be daytime grab sampling which is a safety improvement issue for manufacturers.

Benchmarks

The OMA would strongly urge Ohio EPA to not lower the current benchmarks. We would appreciate a chance to review the data sets which were discussed at our above-referenced meeting to determine the appropriateness of the current benchmark standards.

Best Management Practices

The OMA suggests that overly or highly prescriptive best management practices eliminate the flexibility manufacturers need to comply with rules and operate efficiently. A too prescriptive practice certainly does not work the same way for all manufacturers. Flexibility is key in responding to permits and protecting the environment.

In closing, again, thank you for considering our input. As Ohio EPA develops these rules or convenes work groups or interested-party meetings, please include Ohio’s manufacturers in these opportunities, including me and OMA environmental counsel Frank L. Merrill of Bricker & Eckler. We look forward to working with you and Ohio EPA on this issue.

Sincerely,



Rob Brundrett
Director, Public Policy Services

cc: Frank L. Merrill, Esq.

Environment

[Breathe Easy Central Ohio?](#)

June 3, 2016

This week, the State of Ohio [held a public hearing](#) to take comments on a proposal whereby the state would ask U.S. EPA to recognize that air quality in the Columbus region meets the federal air quality standard for ozone.

Data collected from 2012-2014 demonstrates that the region's air quality meets the former 75 parts per billion (ppb) standard, the standard until U.S. EPA lowered it to 70 ppb last fall. The region includes Delaware, Fairfield, Franklin, Knox, Licking and Madison counties.

This action would erase central Ohio's "nonattainment" designation. In nonattainment areas Ohio EPA has a duty to ensure that air quality is improving when issuing new permits. The permitting process is more stringent in nonattainment areas.

If U.S. EPA moves central Ohio into the attainment category, the region's manufacturers will benefit in the permitting process.

[New Ohio Rules for Portable Air Contaminant Source Relocation](#)

May 27, 2016

New revised rules pertaining to portable air contaminant source relocation in Ohio were effective May 1. The full text of the rules are located in [Ohio Administrative Code](#) rule 3745-31-03(B)(1)(p), and can be viewed on [Ohio EPA's web page](#).

Key changes to this rule include:

- One-time relocation approvals are effective for one relocation up to 365 days after approval.
- Relocation site pre-approvals expire three years after the date of approval. Reduction in the required lead time for one-time relocation requests from 30 days to 21 days.
- Elimination of the requirement for advance notice when relocating to a pre-approved location.

- Permit-by-rule sources that are portable are subject to portable relocation approval requirements.
- Addition of the requirement to notify Ohio EPA within 21 days of any relocation.
- Consolidation of rule language in one location (from OAC rule 3745-31-03(A)(1)(p) and 31-05(H) to 31-03(B)(1)(p)).

If you have any questions regarding these rule changes, please contact your [District Office or local air agency](#).

[Ohio EPA Revising Water Quality Rules](#)

May 27, 2016

Ohio EPA is [reviewing the rules](#) regarding the implementation of water quality standards. This review addresses the technical procedures used by the agency to convert water quality standards into watershed allocations that can be used as limits in National Pollutant Discharge Elimination System (NPDES) permits. The review also contains dissolved oxygen modeling and Total Maximum Daily Load (TMDL) procedures.

The following revisions are being considered at this time:

- Consideration of new rule language to provide for the use of alternate statistical techniques to determine background water quality if appropriate.
- Reviewing the intake credit provisions for relevancy.
- Clarifying dissolved oxygen modeling to take into consideration capabilities of current models.
- Update requirements for non-conservative parameters.

Comments are due June 27, 2016. Contact OMA's [Rob Brundrett](#) for more information.

[Ohio EPA Hosts Compliance Conference August 30-31](#)

May 20, 2016

To help Ohio businesses achieve compliance, on August 30-31, 2016, Ohio EPA will host its 9th

Compliance Assistance Conference in Columbus, featuring an improved and expanded agenda.

A large part of the conference is targeted to businesses that need to know the basics about environmental requirements. However, the expanded agenda includes advanced topics including major source/Title V permitting requirements and hazardous waste compliance.

There will be a multi-session course on Spill Prevention, Control and Countermeasure (SPCC) presented by a national technical expert from U.S. EPA and a hands-on session for completing minor source air permit applications.

[See the full schedule and register here.](#)

[OMA Gives Input to EPA on Storm Water Regs](#)

May 13, 2016

Last week the OMA sent [a letter](#) to Ohio EPA's Division of Surface Water Chief, Tiffani Kavalec, outlining manufacturers' priority issues for the agency's consideration as it undertakes a review of the general industrial storm water permit. The current permit expires this year.

The letter focused on regulatory expansion, background, sampling, benchmarks, and best management practices.

Regarding EPA's regulation of "best management practices," Rob Brundrett wrote: "(O)verly or highly prescriptive best management practices eliminate the flexibility manufacturers need to comply with rules and operate efficiently. A too prescriptive practice certainly does not work the same way for all manufacturers. Flexibility is key in responding to permits and protecting the environment."

If you are interested in this issue, please contact [Rob Brundrett](#) at the OMA. [Subscribe here to OMA's Environment Community](#) to receive ongoing environmental updates.

[Bill Would Require Legislative Involvement in CPP](#)

May 6, 2016

This week Rep. [Al Landis](#) (R-Dover) introduced [House Bill 541](#) to prohibit any state agency from

implementing the federal "Clean Power Plan (CPP)."

Earlier this year the U.S. Supreme Court stayed the implementation of the CPP pending the resolution of legal challenges.

The bill would require legislative involvement in the design of Ohio compliance implementation.

[Cash for Recycling Projects](#)

May 6, 2016

Ohio EPA has awarded \$1.35 million in [recycling market development grants](#) to eight projects. As a result of the projects, more material will be diverted from regional waste streams, and more recycled materials will be available for manufacturers.

Businesses are eligible for funding, but must be sponsored by a public entity, such as a municipality, county, township or solid waste management district. Here's a good example: Kitchen Aid, in partnership with the Darke County Solid Waste District, used a \$44,433 grant to purchase eight vertical balers that will allow the company to convert waste material into usable feedstock for their production system.

[New Opportunities for Lake Erie Dredged Material](#)

April 29, 2016

Each year, 1.5 million cubic yards of material is dredged from the federal navigation channels along Ohio's Lake Erie shoreline. Historically, most of the material dredged from Lake Erie has been placed back into the open waters of the lake. Thanks to the enactment of Senate Bill 1, open-lake disposal will no longer be an option as of July 1, 2020.

It's time to stop wasting dredged material and start using it to help Ohio. Ohio EPA is interested in helping find ways to use dredged material in agriculture, construction and engineering, new products, environmental enhancement, and more.

Here's a [good little video](#) about the opportunity.

Join the [Ohio EPA at the Dredged Material Workshop](#) on May 11 at Lorain County Community College. Register by May 3.

[OMA Pushes for Congressional Action on Ozone Rule](#)

April 29, 2016

The OMA joined forces with 214 other national, state, and local organizations in [sending a letter](#) to encourage Congress to pass H.R. 4775, the "Ozone Standards Implementation Act of 2016."

The legislation provides a common-sense approach for implementing national ambient air quality standards, recognizes ongoing state efforts to improve air quality through a reasonable implementation schedule for the 2015 ozone standards, streamlines the air permitting process for businesses to expand operations and create jobs, and includes other reforms that bring more regulatory certainty to federal air quality standards.

[Increased Chemical Regulation Sought](#)

April 22, 2016

Supporters of [Senate Bill 51](#) are calling for [increased regulation](#) on the chemical industry and a reduction of toxic chemicals in the environment. The bill would designate May as "Multiple Chemical Sensitivity Month."

[Senator Mike Skindell](#) (D–Lakewood), sponsor, [justified the bill](#) citing research in 2003 indicating that more than 12% of the U.S. population was affected with severe multiple chemical sensitivity.

Manufacturers interested in this legislation are encouraged to participate in the OMA Environment Committee ([sign up here for the OMA Environment Community](#)) and to contact OMA's [Rob Brundrett](#).

[Ohio EPA Offering Encouraging Environmental Excellence \(E3\) Webinar](#)

April 15, 2016

On April 20, Ohio EPA will be offering a webinar entitled, "[Encouraging Environmental Excellence \(E3\), How to Gain Recognition for Your Organization's Efforts](#)."

Ohio EPA's Encouraging Environmental Excellence (E3) Program recognizes an organization's exceptional achievements in environmental stewardship. Any business, industry, trade association, professional organization or local government of Ohio can be recognized for its commitment to environmental excellence.

[U.S. EPA and the Clean Power Plan Compliance Mess](#)

April 15, 2016

From OMA Connections Partner Jones Day: "The U.S. Supreme Court's recent stay of the EPA's Clean Power Plan prevents the Agency from enforcing the Plan's provisions until certain legal challenges are ruled on by federal courts. Oral arguments before the D.C. Circuit are scheduled for early June 2016, after which a Supreme Court appeal of that decision is almost certain. All of this combines to make delaying the Clean Power Plan's implementation almost inevitable, but the Agency has yet to explicitly acknowledge that state compliance deadlines will be postponed."

Read more about this EPA mess [here](#).

[Governor Introduces Proposal to Combat Lead in Drinking Water](#)

April 1, 2016

To combat lead in Ohioans' drinking water, this week the governor's office announced a package of reforms that will be introduced next week in the General Assembly.

The environmental mid-biennium review (MBR) bill will require water systems to provide homeowners with water quality test results within two business days, a much faster turnaround than the current 30 day requirement.

The bill will also require communities to enact a public education campaign within 30 days if a community exceeds the federal lead threshold.

Finally, the bill will give Ohio EPA flexibility in tightening water testing requirements and extending term loan financing for communities that are attempting to upgrade older systems. [You can read the proposed provisions here.](#)

[Ohio EPA Holds Central Ohio Open House](#)

March 25, 2016



Ohio EPA Director Craig Butler held an [open house](#) this week to help the Central Ohio regulated community learn about the agency's compliance assistance services. We'll keep you posted on any future regional learning opportunities.

Pictured: OMA member Tim Ling, Environmental Engineer, Plaskolite Inc., and Ohio EPA Director, Craig Butler

[OMA Environment Committee Names New Chair](#)

March 11, 2016



This week long-time OMA Environment Committee Chairman Joe Bulzan, Environmental Manager, WestRock, Coshocton, passed the gavel to Julianne Kurdila, Lead Specialist, Environmental Compliance & Policy, for ArcelorMittal in Richfield.

Bulzan earned the OMA staff's Babington Award for his outstanding volunteer service.

In her capacity at ArcelorMittal, Julianne works with trade organizations, consultants, law firms and other interested parties to assess proposed environmental regulations, develop comments and support ArcelorMittal's interests in environmental sustainability in a competitive global market. ArcelorMittal is the largest steel company in the world, and its U.S. operations encompass more than 20 facilities in 10 states.

The OMA Environment Committee meets next on [Wednesday, June 1](#). To be sure you receive your invitation, [sign up for the Environment Community here.](#)

Environment Legislation
Prepared by: The Ohio Manufacturers' Association
Report created on June 14, 2016

- 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: 6/30/2015 - **SIGNED BY GOVERNOR**; eff. 6/30/15; certain provisions effective 9/29/2015, other dates
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: 5/24/2016 - House Energy and Natural Resources, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-214>
- HB349** **STATE EMISSIONS PLAN** (SMITH R, GINTER T) To require the Environmental Protection Agency to submit a state plan governing carbon dioxide emissions to the General Assembly prior to submitting it to the United States Environmental Protection Agency, and to declare an emergency.
Current Status: 12/8/2015 - House Energy and Natural Resources, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-349>
- HB377** **PRIVATE EMPLOYEES-REQUIRED DUES** (BRINKMAN T) To prohibit any requirement that employees of private employers join or pay dues to any employee organization and to establish civil and criminal penalties against employers who violate that prohibition.
Current Status: 12/1/2015 - House Commerce and Labor, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation->

[summary?id=GA131-HB-377](#)

- HB512** **MBR-WATER SYSTEM TESTING** (GINTER T) To establish requirements governing lead and copper testing for community and nontransient noncommunity water systems.
Current Status: 6/9/2016 - **SIGNED BY GOVERNOR**; eff. 90 days
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-512>
- HB522** **INJECTION WELLS** (PHILLIPS D) To prohibit injection of brine and other waste substances except in class I injection wells, to prohibit the conversion of oil and gas wells, to require municipal or township approval prior to the issuance of an oil or gas well permit, and to levy a fee on the injection of brine and other waste substances into a class I injection well.
Current Status: 4/26/2016 - Referred to Committee House Energy and Natural Resources
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-522>
- HB541** **STATE AGENCY-CLEAN POWER PLAN** (LANDIS A) To prohibit any state agency from implementing the federal "Clean Power Plan."
Current Status: 5/4/2016 - Referred to Committee House Energy and Natural Resources
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-541>
- HB551** **SANITARIANS-FOOD INSPECTIONS** (HILL B) To require the Director of Agriculture and the Director of Health to adopt rules governing reviews of registered sanitarians and sanitarians-in-training who conduct inspections of retail food establishments and food service operations.
Current Status: 5/17/2016 - Referred to Committee House State Government
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-551>
- 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: 1/26/2016 - Senate Agriculture, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HCR-11>
- HCR27** **WATER QUALITY IMPROVEMENT** (PATTERSON J, HILL B) To commend Ohio's agriculture community, educational institutions, and environmental advocacy organizations on their efforts to improve the water quality of Lake Erie and its tributaries and to encourage them as well as state, county, and municipal leaders to continue to work towards continued water quality improvement.
Current Status: 9/30/2015 - Referred to Committee House Agriculture and Rural Development
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HCR-27>
- 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**; eff. 7/3/2015

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: 5/11/2016 - Senate Energy and Natural Resources, (First Hearing)
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: 5/11/2016 - Senate Energy and Natural Resources, (First Hearing)
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: 4/13/2016 - Senate Health and Human Services, (First Hearing)
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: 6/24/2015 - Senate Civil Justice, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-150>
- SB269** **PUBLIC WATER SYSTEM-LEAD CONTAMINATION** (SCHIAVONI J) To require a public water system to provide notice of lead contamination not later than thirty days after becoming aware that lead contamination may effect the system's drinking water.
Current Status: 4/12/2016 - Senate Energy and Natural Resources, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-269>
- SB293** **MBR-NATURAL RESOURCES** (BALDERSON T) To revise specified laws relating to natural resources.
Current Status: 6/8/2016 - Sent to Governor for Signature
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation->

[summary?id=GA131-SB-293](#)

SCR18 **U.S. EPA-RACE COMPETITION VEHICLES** (LAROSE F) To urge the Administrator of the United States Environmental Protection Agency to retract proposed regulations concerning competitive race vehicles that are used solely for competition.

Current Status: 4/12/2016 - Referred to Committee Senate Energy and Natural Resources

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SCR-18>

To: OMA Government Affairs Committee
From: Ryan Augsburger / Rob Brundrett
Re: Human Resources Update
Date: June 15, 2016

Overview

Unemployment insurance tax rates remain a hot topic for employers. The General Assembly moved to ensure that the state's unemployment compensation debt will be paid off prior to the next increase in FUTA penalties.

General Assembly News and Legislation

Senate Bill 268 – employment discrimination reform

Senator Bill Seitz (R-Cincinnati), proposes to comprehensively overhaul Ohio's employment discrimination statutes in a manner that would benefit employers and bring Ohio's laws more in line with federal discrimination laws, but would continue to provide individuals avenues to assert state law discrimination violations.

This bill would bring Ohio's statute in line with its federal counterpart by eliminating personal liability for managers and supervisors.

The bill also seeks to reduce the timeframe to file an employment discrimination lawsuit in court to one year and apply it to all discrimination claims. Today, depending on the type of claim, individuals have between 180 days and six years to file. The OMA provided written testimony and verbal testimony at the proponent hearing.

Senate Bill 301 – accommodation bill

Senate Bill 301 is a bill that would require employers to provide certain accommodations for conditions related to an employee's pregnancy.

The association opposes creating a new class of protected employees when the class already has protections under the law. Both the Pregnancy Discrimination Act and the Americans with Disability Act provide protections in current law for conditions related to an employee's pregnancy.

House Bill 350 – autism mandate

The House of Representatives are entertaining a new health care mandate bill. The bill requires autism coverage be expanded to all large group employer health plans and other health plans that were grandfathered and grandmothers under the Affordable Care Act. The OMA provided a letter to the committee outlining concerns with the current bill. The bill was voted out of committee at the end of May.

House Bill 377 – Right to Work

Representative Brinkman (R – Mt. Lookout) introduced HB 377 which would prohibit any requirement that employees of private employers join or pay dues to any employee organization and to establish civil and criminal penalties against employers who violate that prohibition. This is also known as the Right to Work bill. This version of Right to Work had one hearing in December. It was scheduled for a second hearing in February but was removed from the hearing calendar.

West Virginia became our latest neighbor joining Michigan and Indiana to embrace right to work by passing the bill and overriding the governor's veto. There still seems to be no momentum in passing Right to Work in Ohio at least at this time. Once election season passes there might be an opportunity for the bill to have some hearings and movement.

House Bill 394 - Unemployment Compensation Tax Changes

Finally a long anticipated unemployment reform bill was introduced by Rep. Barbara Sears (R – Maumee) as HB 394. As every Ohio manufacturer knows, unemployment taxes are high and have been increasing.

The Ohio unemployment trust fund is insolvent and still owes the federal government \$775 million. This circumstance has for years triggered penalties that employers must pay, and the fund is in a dangerous position in light of any future recession.

House Bill 394 offers a reasonable, balanced package of unemployment insurance law reforms designed to address the current insolvency of Ohio's Unemployment Insurance Trust Fund (UI Trust Fund). The bill contains a combination of unemployment tax, benefit and integrity provisions that in the aggregate will improve solvency by tightening alignment of benefit costs and contribution revenues while building a significant fund balance, over time, that will be sufficient to avoid subjecting Ohio to increased federal taxes and penalties related to unemployment insurance.

Among the major reforms proposed in the legislation are the following:

Temporary Increase in State Unemployment Tax Base. HB 394 would increase the state unemployment tax base from \$9,000 to \$11,000 when the UI Trust Fund balance is below 50 percent of the 1.0 Average High Cost Model solvency level and continue the increase until the UI Trust Fund reaches 1.0 Average High Cost Model. The state tax base will be reduced back to \$9,000 when the UI Trust Fund equals or exceeds the 1.0 AHCM solvency level. If the balance dips below 50 percent of the solvency level in future years, the tax base will automatically return to the \$11,000 level.

Reduction of Number of Potential Weeks of Unemployment Insurance. HB 394 would change the determination of the total number of weeks of unemployment compensation potentially available to twice a year, based on Ohio's seasonally adjusted three-month total unemployment rate, before January and June. A sliding scale would set the number as low as 12 weeks when the rate is 5.5 percent or below, and up to 20 weeks if the rate is 9 percent or above. Ohio currently uses a sliding scale ranging from 20 to 26 weeks.

Temporary Freeze on the Maximum Weekly Benefit Amount. HB 394 would effectively freeze maximum weekly benefit dollar amounts at a level not to exceed 50 percent of the statewide average weekly wage for the first year that the UI Trust Fund was less than the Minimum Safe Level (MSL), and would continue those maximums until the year after the UI Trust Fund was at or above the MSL.

Dependency. To align with the majority of states, HB 394 would repeal Ohio's current dependency provision that increases the weekly benefit amount provided to claimants who have higher wages and dependents.

Drug Testing. HB 394 provides language under which the Ohio Department of Job and Family Services may (a) request information of applicants for unemployment compensation about the

results of past drug tests, (b) conduct drug tests for controlled substances, and (c) disqualify individuals within the narrow limitations of federal law.

Collectively, the HB 394 reforms position Ohio in line with surrounding states and states with whom we compete for investment and jobs.

House Republicans initially indicated they would pass the bill prior to 2016. The bill's passage has been delayed several times. Recently House and Senate leaders indicated an unofficial working group of three House and three Senate members to hash out differences to have the bill ready to move in time for lame duck.

House Bill 390 – unemployment compensation pay off

The General Assembly used HB 390 as the vehicle to address the state's unemployment compensation debt. The General Assembly agreed to a deal with the intention to eliminate the state's recession-era unemployment compensation debt to the federal government. The move supported by the OMA and other business allies will potentially save Ohio's businesses more than \$400 million in FUTA penalties. Without this fix employers were staring at a possible \$168 per employee penalty to be paid in 2017.

The new plan will borrow from the state's unclaimed funds to pay off the debt in November 2016. Then employers will repay the state-backed loan by paying a per employee surcharge in 2017. This surcharge is estimated to be \$50. Overall, the plan will save employers around \$70 per employee in 2017.

This bill is on Governor Kasich's desk for signature.

While the General Assembly addressed the short term debt issue, the new plan does not address the long term solvency of the system due to the structural imbalance that contributed to the heavy borrowing.

House Bill 492 – expansion of workforce voucher program

Representatives Niraj Antani (R-Miamisburg) and Bill Reineke (R-Tiffin) introduced House Bill 429, which would allow automotive technicians and motor vehicle technicians employed at retail stores to be eligible to participate in the state's Incumbent Workforce Voucher Program.

This program is administered by the Ohio Development Services Agency and provides grants to employers for incumbent workforce training.

This bill would create an expansion of the very popular program. It was designed to support targeted growth industries, including advanced manufacturing, automotive, and food processing, among others.

The General Assembly allocated \$7.5 million in fiscal years, 2016 and 2017, for the program.

There is concern by adding more and more jobs to the list of qualifying occupations then the money allocated becomes diluted and ineffective in training in demand jobs.

The bill was passed at the end of May.

that conducts research related to marijuana as part of a research protocol approved by an institutional review board or equivalent entity.

Employment laws

Employment – generally

The bill provides that nothing in the bill concerning medical marijuana does any of the following:

(1) Requires an employer to permit or accommodate an employee's use, possession, or distribution of medical marijuana;

(2) Prohibits an employer from refusing to hire, discharging, disciplining, or otherwise taking an adverse employment action against a person with respect to hire, tenure, terms, conditions, or privileges of employment because of that person's use, possession, or distribution of medical marijuana;

(3) Prohibits an employer from establishing and enforcing a drug testing policy, drug-free workplace policy, or zero-tolerance drug policy;

(4) Interferes with any federal restrictions on employment, including U.S. Department of Transportation regulations;

(5) Permits a person to sue an employer for refusing to hire, discharging, disciplining, discriminating, retaliating, or otherwise taking an adverse employment action against a person with respect to hire, tenure, terms, conditions, or privileges of employment related to medical marijuana;

(6) Affects the authority of the Administrator of Workers' Compensation to grant rebates or discounts on premium rates to employers that participate in a drug-free workplace program established in accordance with rules adopted by the Administrator.¹⁰¹

Under continuing law, the Bureau of Workers' Compensation's Drug-Free Safety Program offers eligible employers a premium rebate for implementing a loss-prevention strategy addressing workplace use and misuse of alcohol and drugs. In addition to satisfying other requirements, the employer's program must include alcohol and drug testing, including (1) pre-employment and new-hire drug testing, (2) post-

¹⁰¹ R.C. 3796.28.



accident alcohol and drug testing, (3) reasonable suspicion alcohol and drug testing, and (4) return-to-duty and follow-up alcohol and other drug testing.¹⁰²

Unemployment eligibility

Under the bill, a person who is discharged from employment because of that person's use of medical marijuana is considered to have been discharged for just cause under the Unemployment Compensation Law if the person's use of medical marijuana violated an employer's drug-free workplace policy, zero-tolerance policy, or other formal program or policy regulating the use of medical marijuana.¹⁰³ If a person has been discharged for just cause in connection with the person's work, for purposes of that Law that person is ineligible to serve a waiting week or receive unemployment benefits for the duration of the person's unemployment. Under current law, failure of a drug test could be "just cause" for purposes of this provision.¹⁰⁴

Workers' compensation – rebuttable presumption

Eligibility

The Workers' Compensation Law compensates an employee or an employee's dependents for death, injuries, or occupational diseases occurring in the course of and arising out of the employee's employment. Under continuing law, an employee or dependent is ineligible if the employee's injury or occupational disease is purposely self-inflicted or is caused by the employee being intoxicated or under the influence of a controlled substance not prescribed by a physician where the intoxication or being under the influence of the controlled substance was the proximate cause of the injury.¹⁰⁵

The bill maintains an employee's or dependent's ineligibility for compensation and benefits if the employee was under the influence of marijuana and being under the influence of marijuana was the proximate cause of the injury. This applies regardless of whether the marijuana use is recommended by a physician.¹⁰⁶

Rebuttable presumption – current law

Under continuing law, a rebuttable presumption is established if an employee is intoxicated or under the influence of a controlled substance not prescribed by a

¹⁰² Ohio Administrative Code 4123-17-58.

¹⁰³ R.C. 3796.28.

¹⁰⁴ R.C. 4141.29, not in the bill.

¹⁰⁵ R.C. 4123.54.

¹⁰⁶ R.C. 4123.54.



physician and being intoxicated or under the influence of that controlled substance proximately caused an injury if either of the following applies:

--A qualifying chemical test is administered and the employee tests above certain levels for alcohol or certain controlled substances, including cannabinoids.

--The employee refuses to submit to a chemical test on the condition that the employee is given notice that refusal to submit to a qualifying chemical test may affect the employee's eligibility for compensation and benefits.¹⁰⁷

Under current law, a chemical test is considered a "qualifying chemical test" if it is administered to an employee after an injury under at least one of the following conditions: (1) when the employee's employer has reasonable cause to suspect that the employee may be intoxicated or under the influence of a controlled substance not prescribed by the employee's physician, (2) at a police officer's request because the officer has reasonable grounds to believe that the employee was operating a vehicle while intoxicated or under the influence of a controlled substance, or (3) at a physician's request.¹⁰⁸

"Reasonable cause" means evidence that an employee is or was using alcohol or a controlled substance drawn from specific, objective facts and reasonable inferences drawn from these facts in light of experience and training. These facts and inferences may be based on, but are not limited to, any of the following:

--Observable phenomena, such as direct observation of use, possession, or distribution of alcohol or a controlled substance, or of the physical symptoms of being under the influence of alcohol or a controlled substance;

--A pattern of abnormal conduct, erratic or aberrant behavior, or deteriorating work performance that appears to be related to the use of alcohol or a controlled substance, and does not appear to be attributable to other factors;

--The identification of an employee as the focus of a criminal investigation into unauthorized possession, use, or trafficking of a controlled substance;

--A report of use of alcohol or a controlled substance provided by a reliable and credible source;

¹⁰⁷ R.C. 4123.54.

¹⁰⁸ R.C. 4123.54.



The Case for Unemployment Insurance Reform in Ohio

EXECUTIVE SUMMARY

Introduction

Ohio's unemployment insurance (UI) system is in a state of crisis. The Ohio Unemployment Insurance Trust Fund, which is funded by employers and pays out benefits to qualifying jobless workers, is insolvent. The benefits the system pays out are substantially out of balance with the tax receipts it takes in to fund it. The system is nearly \$775 million in debt to the federal government – money it borrowed to keep paying benefits during and after the Great Recession of 2008. As a result, Ohio's system is dangerously unstable and a deterrent to economic development. Reforms are urgently needed to update and strengthen Ohio's UI program for the benefit of Ohio's employers, employees and economy. Most specifically, Ohio's Unemployment Insurance Trust Fund is not likely to recover solvency before the next recession unless the state takes action to pay off its outstanding federal unemployment compensation loan balance and better aligns benefits with contributions to build a balance.

How the System Works¹

The Social Security Act of 1935 (SSA) created a federal-state unemployment insurance program to (a) provide temporary, partial wage replacement to individuals out of work, generally through no fault of their own, and (2) promote economic stability by maintaining a steady flow of dollars throughout the economy even when there is widespread unemployment.² The UI system historically has been forward funded – i.e., a sufficient positive balance is needed in the state unemployment trust fund to avoid having to borrow to pay benefits resulting from a reasonably foreseeable economic downturn.

To be eligible for unemployment benefits, jobless workers must demonstrate “workforce attachment,” usually measured by a work requirement (e.g., number of weeks of work) and/or a wage requirement (e.g., dollar amount of wages earned). Individuals also must be able, available and actively seeking work. Each state has a different formula for determining the amount of workforce attachment needed to obtain UI benefits from the state.

The UI program is a federal-state partnership conforming to federal requirements and administered by state agencies under state law. The Office of Unemployment Insurance Operations at the Ohio Department of Job and Family Services (ODJFS) administers Ohio's UI program. Administrative funds for ODJFS are allocated by the federal government from federal payroll taxes employers pay to the Internal Revenue Service.

¹ This section of the document borrows heavily from a U.S. Department of Labor publication, *Unemployment Compensation: Federal-State Partnership*, April 2015.

² <http://www.bizfilings.com/toolkit/sbg/office-hr/managing-the-workplace/unemployment-benefits-system-info.aspx>

Financing the Program

Unemployment compensation paid to unemployed workers is financed largely through both federal and state unemployment taxes paid by employers. Just three states – Alaska, New Jersey and Pennsylvania – collect UI taxes from employees.

UI taxes are based on various factors, including the wages employers pay their employees, the type and size of the business, and the number and amount of unemployment claims filed against the business.

- At the federal level, the Federal Unemployment Tax Act (FUTA) imposes a single flat rate payroll tax on the first \$7,000 of wages employers pay each employee in a year. The current FUTA tax rate is 6.0 percent. However, employers can earn credits against their FUTA tax to reflect the state employment taxes they pay. Employers who pay their State Unemployment Tax Act (SUTA) taxes in a timely manner under an approved state unemployment compensation program can earn a credit of up to 5.4 percent against the 6.0 percent, resulting in an effective tax rate of 0.6 percent. These states are also eligible to receive federal grants to cover the costs of administering the program through federal appropriations. Additionally, funds from the FUTA-funded Federal Unemployment Account reimburse the state unemployment trust fund for 50 percent of charges for “extended” unemployment benefits when extended benefits are triggered by periods of high unemployment.
- At the state level, each state determines its own SUTA tax rates. Some states apply various formulas to determine the taxable wage base; others use a percentage of the state’s average annual wage; and a few simply follow the FUTA wage base of \$7,000. In 2014, SUTA tax rates ranged from 0.0 percent to 2.6 percent for minimum rates, and from 5.4 percent to 10.89 percent for maximum rates. All but a handful of states’ wage bases exceeded the FUTA minimum requirement of \$7,000. In 2014, Ohio’s SUTA base was \$9,000, with a minimum contribution rate of 0.3 percent and a maximum contribution rate of 8.60 percent.

The state assigns or computes a specific individually determined UI tax rate for each employer annually. Every state uses some kind of “experience rating” system to determine the rate. Generally, the fewer the claims, the lower the rate the business pays in state UI taxes.

States lacking sufficient funds to pay their required unemployment benefits are authorized by Title XII of the SSA to request advances (i.e., loans) from the FUTA’s federal loan fund account, the Federal Unemployment Account. If not repaid, these loans carry interest that must be paid from sources other than the state UI trust fund.

Impact of the Great Recession

The Great Recession of 2008 was the nation’s longest and deepest since the Great Depression of the 1930s. A majority of states did not have sufficient balances in their state unemployment trust funds to pay benefits without requesting advances (i.e., loans) from the federal government to assure that unemployment compensation benefits were paid. Ohio was among the states hardest hit by the recession.

The Recession was much greater than expected, wiping out positive unemployment trust fund balances across the country and in Ohio. Automatic tax trigger provisions in Ohio law designed

to address a milder recession were insufficient to meet the increased benefit payout. The size of the deficit after the Recession was too great to make up with benefit cuts or tax increases alone and even years after the Recession, benefit payments each year continue to be nearly as high as unemployment contribution revenue.

The unemployment insurance tax burden in Ohio generally increased as a result of the Recession as claims experience increased, the payroll against which experience was determined was reduced, and Ohio became subject to the FUTA offset credit reductions under federal law. As the economy slowly recovered with increased payrolls and reduced claims experience, experience rates improved and the average state unemployment insurance contribution was reduced. ***However, the FUTA tax has continued to increase as Ohio's Title XII loan has not been repaid.***

The impact in Ohio has been severe. Ohio's unemployment trust fund balance has been a negative number as of the end of the second quarter every year since 2009. ***Today, the Ohio Unemployment Insurance Trust Fund is insolvent.***

Responses to Insolvency

In response to the threat of insolvency, states have taken various actions to bolster tax revenue and reduce benefit outlay, including the following:

- Eliminating outstanding loan debt to the federal government by obtaining bank loans and/or using bonds to finance the debt through the private sector
- Enacting solvency legislation with a combination of benefit cuts and tax increases to eliminate Title XII debt and better align benefit costs with revenue over the long term
- Reducing the number of potential weeks of unemployment compensation
- Increasing tax bases
- Revising contribution rate schedules
- Reducing maximum weekly benefit amounts
- Enacting more aggressive integrity measures to identify and collect additional revenue through benefit overpayment recovery and contribution collection improvements

Ohio, however, is one of a small number of states with significant outstanding federal debt that have chosen not to enact solvency measures, instead allowing automatic FUTA penalties to continue to increase to provide the revenue needed to reduce the state's outstanding debt.

This is a dangerous path to follow. Failure to pay off a state's outstanding FUTA debt has costly consequences. Under federal law, if a state has an outstanding Title XII loan balance on January 1 for two consecutive years, and the full amount of the loan is not repaid by November 10 of the second year, the 5.4 percent FUTA tax credit for employers in that state will be reduced annually by 0.3 percent for each succeeding year until the loan is repaid. From the third year onward, additional reductions in the FUTA offset credit may be imposed. States that continue to have outstanding loan balances over five years in a row are subject to an even greater FUTA tax increase as a penalty for not having addressed solvency through increases in taxes and/or cuts in benefits.

Why Ohio Needs Unemployment Insurance Reform

Currently, Ohio ranks poorly on many important unemployment insurance program metrics. For example:

- Ohio's Unemployment Insurance Trust Fund is insolvent.
- Ohio's outstanding Title XII debt is approximately \$775 million – nearly equal to the cost of unemployment insurance benefit payments for an entire year. Only California has a larger unpaid Title XII loan debt balance.
- Ohio is one of a small number of states with significant outstanding federal debt that have chosen not to enact solvency measures.
- Employers in Ohio currently pay higher total costs associated with unemployment compensation than employers in most other states, while benefit payment amounts in Ohio are higher than the national average. This makes Ohio a high-cost, high-benefit state.
- The FUTA tax paid by Ohio employers has continued to increase as Ohio's Title XII loan has not been repaid.
- Ohio is one of just four states currently subject to higher FUTA penalty rates and potentially subject to an additional Benefit Cost Rate (BCR) penalty in 2015 for having outstanding loan balances five years in a row and failing to address insolvency.
- Ohio failed to pay off the state's outstanding FUTA debt before November 10, 2015, triggering an additional reduction in the FUTA offset credit for employers in Ohio. This will result in Ohio employers paying higher FUTA taxes for 2015 – at least an additional \$105 per employee, on top of the normal \$42 per employee.

Ohio's UI trust fund is not likely to recover solvency before the next recession unless the state takes action to pay off its outstanding federal loan balance and better align benefits with contributions to build a balance in anticipation of the next recession.

Conclusion

Ohio's Unemployment Insurance Trust Fund must be made solvent before the next recession – not only to manage the repayment of Ohio's remaining Title XII loan balance but also to align benefit and contributions to build an adequate unemployment trust fund balance. The best solvency plan is one that also includes a focus on job creation because increased employment not only increases contributions but also reduces benefit payout. For that reason, rates also should be in line with surrounding states and states with which Ohio competes to attract and retain new business.

Unemployment insurance policy reform priorities should focus on eliminating the state's current unemployment trust fund debt, aligning benefit payout with contribution revenue, and building a balance in the unemployment trust fund sufficient to avoid triggering automatic FUTA tax increases that have significantly increased unemployment taxes for Ohio employers since the Great Recession of 2008. A vital first step for Ohio should be to pay off of the remaining Title XII loan balance to eliminate the FUTA tax increase as soon as possible.

#



House Bill 394: Selected Major Provisions at Glance

House Bill 394 offers a reasonable, balanced package of unemployment insurance law reforms designed to address the current insolvency of Ohio's Unemployment Insurance Trust Fund (UI Trust Fund). The bill contains a combination of unemployment tax, benefit and integrity provisions that in the aggregate will improve solvency by tightening alignment of benefit costs and contribution revenues while building a significant fund balance, over time, that will be sufficient to avoid subjecting Ohio to increased federal taxes and penalties related to unemployment insurance.

Among the major reforms proposed in the legislation are the following:

- **Temporary Increase in State Unemployment Tax Base.** HB 394 would increase the state unemployment tax base from \$9,000 to \$11,000 when the UI Trust Fund balance is below 50 percent of the 1.0 Average High Cost Model solvency level and continue the increase until the UI Trust Fund reaches 1.0 Average High Cost Model. The state tax base will be reduced back to \$9,000 when the UI Trust Fund equals or exceeds the 1.0 AHCM solvency level. If the balance dips below 50 percent of the solvency level in future years, the tax base will automatically return to the \$11,000 level.
- **Reduction of Number of Potential Weeks of Unemployment Insurance.** HB 394 would change the determination of the total number of weeks of unemployment compensation potentially available to twice a year, based on Ohio's seasonally adjusted three-month total unemployment rate, before January and June. A sliding scale would set the number as low as 12 weeks when the rate is 5.5 percent or below, and up to 20 weeks if the rate is 9 percent or above. Ohio currently uses a sliding scale ranging from 20 to 26 weeks.
- **Temporary Freeze on the Maximum Weekly Benefit Amount.** HB 394 would effectively freeze maximum weekly benefit dollar amounts at a level not to exceed 50 percent of the statewide average weekly wage for the first year that the UI Trust Fund was less than the Minimum Safe Level (MSL), and would continue those maximums until the year after the UI Trust Fund was at or above the MSL.
- **Dependency.** To align with the majority of states, HB 394 would repeal Ohio's current dependency provision that increases the weekly benefit amount provided to claimants who have higher wages and dependents.
- **Drug Testing.** HB 394 provides language under which the Ohio Department of Job and Family Services may (a) request information of applicants for unemployment compensation about the results of past drug tests, (b) conduct drug tests for controlled substances, and (c) disqualify individuals within the narrow limitations of federal law.

HB 394 addresses a number of additional issues that impact UI Trust Fund solvency, including constructive lockout exceptions in labor disputes, standards for determining just cause for termination and quits without just cause, coordination of unemployment compensation benefits with Social Security retirement benefits, enhanced fraud penalties and collection, and improved non-fraud overpayment collection, among others. Collectively, the HB 394 reforms position Ohio in line with surrounding states and states with whom we compete for investment and jobs.

Chairman of the Board
WILLIAM E. SOPKO
President, William Sopko & Sons Co., Inc.



President
ERIC L. BURKLAND

May 17, 2016

The Honorable Kevin Bacon
Chairman
Ohio Senate Civil Justice Committee
Senate Building
1 Capitol Square, Ground Floor
Columbus, OH 43215

RE: Senate Bill 268 – Written Proponent Testimony

Dear Chairman Bacon:

The Ohio Manufacturers' Association (OMA) appreciates the opportunity to provide written proponent testimony on behalf of Senate Bill 268. As Senator Seitz noted in his sponsor testimony, Ohio is at a competitive disadvantage with employment discrimination laws that are meaningfully dissimilar than federal laws. These differences between the state and federal laws create an administrative burden for Ohio's manufacturers and other Ohio employers. Bringing Ohio's laws in line with their federal counterparts creates a more predictable and consistent system for employers and employees alike, and does not disrupt individuals' avenues to assert discrimination violations.

In the critical areas of statute of limitations, dual actions, individual supervisor liability, non-economic and punitive damages, affirmative defenses, mediation, and age discrimination, the bill improves Ohio's laws. We agree with other proponents that the bill encourages predictability, stability, and administrative efficiency for Ohio manufacturers. This legislation gives human resources professionals the first opportunity to resolve personnel complaints and rectify detrimental workplace behavior before it results in costly litigation.

The OMA appreciates the time and effort Senator Seitz has invested in crafting this legislation and we encourage a swift, affirmative vote of the esteemed committee.

Sincerely,

A handwritten signature in blue ink, appearing to read "Robert Brundrett". The signature is fluid and cursive.

Robert Brundrett
Director, Public Policy Services
The Ohio Manufacturers' Association

Chairman of the Board
WILLIAM E. SOPKO
President, William Sopko & Sons Co., Inc.



President
ERIC L. BURKLAND

May 17, 2016

The Honorable Kevin Bacon
Chairman
Ohio Senate Civil Justice Committee
Senate Building
1 Capitol Square, Ground Floor
Columbus, OH 43215

RE: Senate Bill 301 – Written Opponent Testimony

Dear Chairman Bacon:

The Ohio Manufacturers' Association (OMA) appreciates the opportunity to provide written opponent testimony to Senate Bill 301. Senate Bill 301 requires an employer to make certain accommodations for conditions related to an employee's pregnancy.

The OMA has historically opposed bills that would create a new class of protected individuals when these classes already have adequate workplace protections under the law. Both the Pregnancy Discrimination Act and the Americans with Disabilities Act provide protections in current law for conditions related to an employee's pregnancy.

By creating new state laws which are duplicative of federal laws, the state not only increases administrative burdens for employers, but also runs the risk of setting precedent for allowing more and other conditions to have their own separate considerations under the law. This defies the administrative certainty businesses rely upon when managing employment issues.

The OMA thanks you and the committee for considering our position on this matter. We urge the Senate to review current law and refrain from creating duplicative state laws that administratively burden employers and provide no indicated relief to employees.

Thank you, Chairman. We would be happy to discuss this matter further.

Sincerely,

A handwritten signature in blue ink, appearing to read "Robert A. Brundrett".

Robert Brundrett
Director, Public Policy Services
The Ohio Manufacturers' Association

Human Resources

[Q1 Lightweighting Jobs Report Released](#)

June 10, 2016

This week the OMA released a [first quarter report](#) on Ohio jobs in advanced manufacturing related to lightweighting.

The report finds:

- Advanced manufacturing employers in Ohio posted 23,027 online ads for jobs related to lightweighting in Q1 2016.
- Maintenance and repair workers represented the most in-demand lightweighting-related occupation in Ohio during Q1 2016, with 3,100 online job postings.
- LIFT estimated that the 140 occupations used in this analysis employed more than 735,500 Ohio workers in 2015.

The report was conducted by [Lightweighting Innovations for Tomorrow](#) (LIFT). Ohio is LIFT's state partner.

[EEOC Sets Rules for Employer Wellness Programs](#)

June 3, 2016

OMA Connections Partner, Frantz Ward, reports that the Equal Employment Opportunity Commission (EEOC) issued final regulations regarding employers' use of wellness programs. Such programs seek to promote healthy behavior by employees, often through financial incentives such as reduced healthcare benefits premiums or reduced gym membership costs. However, the legality of wellness programs under the Americans with Disabilities Act (ADA) had been uncertain.

Before these new regulations, the EEOC had been taking the position that many wellness programs violated the ADA because the financial incentives associated with those programs essentially discriminate against those with disabilities.

Under the new regulations, the EEOC has set limitations on the financial incentives employers may provide for participation in wellness programs.

These regulations are slated to apply to any wellness programs that run in conjunction with health plans that begin on or after January 1, 2017. [Read more from Frantz Ward.](#)

[A Look at the Sweeping Changes in Overtime Rule](#)

May 27, 2016

OMA Connections Partner, Clark Schaefer Hackett posts this: "The U.S. Department of Labor (DOL) has released a final rule that makes dramatic changes to the determination of which executive, administrative and professional employees — otherwise known as "white-collar workers" — are entitled to overtime pay under the Fair Labor Standards Act (FLSA). The rule will make it more difficult for employers to classify employees as exempt from overtime requirements. In fact, the DOL estimates that 4.1 million salaried workers will become eligible for overtime when they work more than 40 hours in a week.

"The changes will have a tax impact as well: Employers' payroll tax liability will increase as they pay overtime to more employees who work in excess of 40 hours a week or pay higher salaries to maintain overtime exemptions."

[Read more from Clark Schaefer Hackett](#) and watch your email for OMA's webinar on the topic on June 29.

[Crawford Co. Employers: Help with Drug-free Workplace Issues](#)

May 27, 2016

The Crawford-Marion Board of Alcohol, Drug Addiction and Mental Health and the Crawford Economic Development Board have partnered with OMA Connections Partner, Working Partners®, to help area employers deal with substance abuse issues in the workplace.

The 'Front Line at Work' program provides:

- Education about how to protect your business
- Technical assistance to update or create your policy
- Resources for current employees who are dealing with substance abuse issues
- Access to discounted drug-testing, employee education, and supervisor training

Application deadline is June 1. Scholarships are available. Contact Working Partners' [Katie Lemke](#) at (614) 337-8200.

[U.S. House Subcommittee Fights Egregious Reporting Proposal](#)

May 27, 2016

This week, at the urging of the National Association of Manufacturers (NAM) and others, the House Appropriations Subcommittee on Commerce, Justice and Science, proposed to block funding to implement the Equal Employment Opportunity Commission's (EEOC) proposal that would require employers to annually disclose employee pay. The language to block the funding was offered by Congressman Andy Harris (R-MD).

This proposal is a form change to the current Employer Information Survey or EEO-1 and would require employers to not only categorize each employee by gender, race, ethnicity, and job description, but also by pay band. The EEO-1 form currently has 180 data cells to complete; the proposal would increase the number of cells to 3600.

The administration believes this will help identify and target companies who are not paying employees equally.

In March, the NAM testified before the EEOC expressing deep concerns with the changes and also filed written comments to the EEOC. The proposal is still being reviewed by the agency, but is likely to take effect before the end of the year unless the current efforts by the House can stop it.

[White House Releases New Overtime Rule](#)

May 20, 2016

OMA Connections Partner, [Frantz Ward](#), reported that the White House this week released a new rule that could make more than four million Americans eligible for overtime pay.

According to its post, Frantz Ward wrote: "The rule will become effective in December, and will do the following:

- Immediately double the minimum salary threshold for most white collar exempt classifications to \$47,476 per year (\$913 per week)
- Adjust the minimum salary threshold for most white collar exempt classifications for inflation every three years
- Change the way that the minimum salary is calculated so that employers can count bonuses and commissions toward as much as 10 percent of the salary threshold

"Although the changes in the new rule are significant, many employers will be very relieved to learn that the White House decided not to make changes to the duties tests for the white collar exemptions at this time. Some observers, however, believe that changes to the duties tests are inevitable, and that the timing of those changes will depend largely on the outcome of the election in November."

A copy of the new rule, along with a summary from the White House of the basis for the rule, [can be found here](#).

To help employers understand what actions they should take to prepare for the December effective date of the new rule, OMA and Frantz Ward will offer a webinar on June 29. Watch your inbox in the coming weeks for details.

[OMA Weighs in on Employment Discrimination Law Improvements](#)

May 20, 2016

The OMA [provided testimony](#) this week on [SB 268](#), which makes numerous improvements to Ohio's employment discrimination law.

As OMA employment counsel Joelle Khouzam of Bricker & Eckler testified on behalf of the Ohio Alliance for Civil Justice Reform: "S.B. 268 is much-needed in Ohio, for at least four reasons: First, it will promote more consistent results and predictability in employment discrimination cases; Second, it limits the forum shopping that currently occurs; Third, it limits the use of the individual-claim anomaly to harass and humiliate individuals and to force settlements; And fourth, it will allow the state to better use taxpayer dollars to support investigative and mediation resources for the Ohio Civil Rights Commission investigators, hearing examiners, and Assistant Attorneys General."

[OMA Opposes Creating New Class of "Protected Employees"](#)

May 20, 2016

The OMA [testified](#) against [SB 301](#) this week, a bill that would require employers to provide certain accommodations for conditions related to an employee's pregnancy.

The association opposes creating a new class of protected employees when the class already has protections under the law. Both the Pregnancy Discrimination Act and the Americans with Disability

Act provide protections in current law for conditions related to an employee's pregnancy.

House Passes Medical Marijuana Bill

May 13, 2016

The House sent its medical marijuana legalization bill, [HB 523](#), over to the Senate this week. The Senate began hearings immediately, so that it might pass the bill prior to adjournment at the end of May.

Polls show medical marijuana legalization is overwhelmingly supported by Ohio voters. Initiatives are headed to the November ballot, pushed by national marijuana advocacy groups.

HB 523 seeks to address Ohioan's apparent support for the concept of medical marijuana, but builds in regulatory controls that are missing from two citizen-initiated measures that hope to gain enough signatures to be on the November ballot. The bill also includes a number of employer safeguards that OMA counsel [Joëlle Khouzam](#) of Bricker & Eckler sought in testimony to the House in March.

Read an analysis of the bill prepared by Joëlle [here](#).

New DOL "Persuader Rule" in Effect

May 13, 2016

OMA Connections Partner, Bricker & Eckler, reports: "The Department of Labor's (DOL's) recently issued "persuader rule," which took effect April 25, 2016, requires employers and their consultants to report to the DOL any activities that they undertake to persuade employees about organizing and bargaining collectively. This rule will apply to arrangements and agreements, as well as payments made to attorneys and consultants, on or after July 1, 2016."

[Read more](#) from Bricker about the direct or indirect activities that employers and their consultants, including attorneys, must report, and additional cautions for employers.

"Release of Final Overtime Rule Imminent"

May 6, 2016

OMA Connections Partner, Frantz Ward, [writes](#): "Based upon information received from a number of sources, it now appears that the Department of Labor's controversial changes to the rules governing the white collar exemptions under the Fair Labor Standards Act will be finalized and

published in the coming weeks – potentially as early as next week. Once published, it is expected that employers will have only 60 days before the new rules take effect.

"The DOL initially released its proposed changes to the FLSA's regulations in July 2015. The proposed rules contained a number of controversial changes, including an increase in the minimum salary threshold for the white collar exemptions from an annualized level of \$23,660 to \$50,440, as well as automatic, annual updates (increases) to the minimum threshold.

"... it is clear that the final rules will impact millions of traditionally exempt positions."

Watch for an OMA webinar on the compliance requirements.

Tips for Your Company-Sponsored Recreational Events

May 6, 2016

OMA Connections Partner, Dinsmore, says an employee's injury at a company-sponsored recreational event or fitness program or activity may be covered under your workers' compensation plan unless the employee signs a recreational waiver prior to engaging in the activity.

[Read more from Dinsmore here](#).

Of Interest to Certain Food Manufacturers

May 6, 2016

The Ohio Senate voted unanimously to pass [Senate Bill 245](#) which creates a new government commission charged with studying malnutrition among older adults. The commission will sunset after it fulfills its mission.

The legislation [is supported](#) by some food and drug manufacturers. The bill now moves to the House of Representatives.

Food manufacturers have unique needs and challenges. Be sure to mark your calendar and attend the annual OMA Food Manufacturers & Suppliers meeting on June 14 in Columbus. [Download this flier for details](#). [Register here](#) or call us at (800) 662-4463.

[Internwire Helps Students and Employers Find Each Other](#)

April 29, 2016

[Internwire](#) is an online resource where employers can post available internships and students can search for internships. Students can also rate internship experiences for others to view. Employers can choose from no-charge listings as well as buy-up for preferred content placement and features.

This service was developed in Ohio by an OSU engineering student.

To learn more about this opportunity for your company, contact Internwire's [Michael Fearer](#).

[Medical Marijuana Bill on Fast Track](#)

April 22, 2016

The House is conducting several hearings a week on [HB 523](#), the medical marijuana bill that was recommended by a House task force. The House aims to get the bill off the floor and to the Senate by the end of the month. There are indications that the Senate wants to get the bill to the governor by Memorial Day or so.

This week, the Ohio State Medical Association testified that the bill is much preferable from a medical standpoint to proposed constitutional amendments, particularly its control by prescription of licenced physicians, its prohibition of home growing, and its focus on continuing research on medical efficacy.

Cleveland.com ran a good summary of the physician [perspectives](#).

[Pregnancy "Reasonable Accomodation" Bill Gets Hearing](#)

April 22, 2016

The Senate Civil Justice Committee took sponsor testimony on [SB 301](#), which would require employers to make "reasonable accommodations" for employees who are pregnant or breastfeeding.

In her [sponsor testimony](#), [Senator Shannon Jones](#) (R-Cincinnati) said: "The federal Pregnancy Discrimination Act of 1978 outlawed discrimination against pregnant workers across the nation. Reasonable accommodations were not part of the 1978 law and we have found that there is a gap in the law to address a pregnant workers needs. In 1990,

the Americans with Disabilities Act was passed, which requires reasonable accommodations such as you see in Senate Bill 301. Unfortunately, the language regarding reasonable accommodations did not include pregnant women, leaving the gap that we continue to see today."

She testified that "the legislation defines a "reasonable accommodation" as including, but not limited to, more frequent or longer breaks; acquisition or modification of equipment, seating or uniforms; assistance with manual labor; light duty; modified employment schedules; job restructuring; temporary transfer to a less strenuous or less hazardous position; break time and a private, non-bathroom space to express breast milk, and time off to recover from childbirth."

[Medical Marijuana Bill Introduced](#)

April 15, 2016

This week the House Medical Marijuana Task Force proposed a bill that would provide tightly regulated patient access to medical marijuana under physician supervision.

On the task force, the proposal emerged as a consensus among the medical community, law enforcement, employers, and labor. These interests all worked together to defeat Issue 3 at the ballot last year, and are concerned about two new efforts to use the Ohio constitution to legalize medical marijuana, and allow home growth of marijuana. Medical marijuana legalization polls extremely popularly among Ohio voters.

The [proposal](#) contains provisions sought by the OMA to protect workplace safety: It clarifies that employers are not required to accommodate an employee's use of medical marijuana; it allows an employer to refuse to hire, discharge, or take adverse employment action against a person because of that person's use of medical marijuana; and, disqualifies from eligibility for unemployment compensation benefits an individual who is discharged from employment because of that person's use of medical marijuana.

The proposal would establish a Medical Marijuana Control Commission. The commission would be charged with regulating and licensing growers, dispensaries, labs, processors and physicians. Home cultivation would be prohibited.

OMA chairman Bill Sopko, President, William Sopko & Sons Co., Inc., sits on the 15-member task force, which held seven hearings, and heard more than 100 witnesses for more than 23 hours. A select

committee established by the House Speaker will have jurisdiction over the bill.

[Employment Discrimination Reform Bill Gets First Hearing](#)

April 15, 2016

[Senator Bill Seitz](#) (R-Cincinnati) provided sponsor testimony this week on OMA-supported [Senate Bill 268](#). The bill proposes to comprehensively overhaul Ohio's employment discrimination statutes in a manner benefiting employers and bringing Ohio's laws more in line with federal discrimination laws, while continuing to provide individuals avenues to assert discrimination violations.

Senator Seitz stated in his testimony, "Drastically differing state and federal laws create an administrative burden for employers and human resource professionals. Shaping Ohio law to mirror federal law will create greater predictability in matters of workplace discrimination for both employers and employees."

OMA counsel Betsy Swift and Jill Bigler of Bricker & Eckler have highlighted the key provisions in [this summary](#).

["Ohioans for Medical Marijuana" Allowed to Collect Signatures](#)

April 8, 2016

Last week, the Ohio Ballot Board [certified](#) the proposed constitutional amendment known as "Ohioans for Medical Marijuana" as a single ballot issue.

Petitioners will now need to collect 305,591 signatures, which is equal to 10% of the total vote cast for governor in 2014, in order to place the issue on the ballot.

As part of the total number of signatures needed to place the measure on the ballot, petitioners must also have collected signatures from at least 44 of Ohio's 88 counties, and within each of those counties, collect enough signatures equal to 5% of the total vote cast for governor in the most recent gubernatorial election, 2014.

[Columbus State Offers Info Briefing & Tour for New Maintenance Training Program](#)

April 8, 2016

Columbus State Community College (CSCC) presents its new non-credit Maintenance Training Program, developed by Columbus State's Engineering Department and housed within its Integrated Systems Technology (IST) lab.

There is an [info briefing and lab tour](#) on Friday, May 20 from 7:30 – 10:00 a.m.

This program offers multiple levels of study, starting with the basics and rapidly building into more sophisticated technology applications. It blends individual, self-paced, computer-assisted training with traditional lecture and discussion, hands-on activities, and simulation exercises.

Courses include: AC&DC Electrical Systems, Motor Controls, Electronic Drives, Electrical Wiring Systems, PLC, Hydraulics, Pneumatics, Mechanical Systems, Vibration Analysis, Electronic Sensors, Pump Systems, and Thermal Process Control.

[Analysis of the New "Persuader Rule"](#)

April 1, 2016

OMA Connections Partner, Frantz Ward, provides [this analysis](#) of the Department of Labor's recently released revisions to the rules for reporting employer engagements with third parties to provide services designed to influence employees' choices of collective bargaining representation, known as "persuader activity."

Franz Ward writes: "The logical and logistical problems with the new rule are substantial. As drafted, it raises freedom of speech issues that the prior interpretation (in effect since 1962) avoided. The forms have been revised to require electronic filing under a "check the box" format that may not reflect reality or the nuances of what actually occurred. The distinction between advising an employer to make a particular argument and engaging in persuader activity by describing the argument to the employer is impossible to draw. Since the forms must be filed correctly under penalty of a felony violation, the consequences of such new vagueness are frightening, especially for the CEO's and Treasurers who must sign the reports.

"Meanwhile, starting July 1 (unless the rule is enjoined), employers and their labor relations advisors will need to review their arrangements carefully to ensure that there is no persuader activity or, if there is, that reports are timely made."

[Obama Administration Releases Labor Organizing “Persuader Rule”](#)

March 25, 2016

This week the Department of Labor (DOL) released the anticipated [Persuader Rule](#), which reinterprets longstanding requirements on how employers can seek advice regarding labor organizing activities and when an entity has to disclose its activity to the DOL.

Under the former rules, only those entities who have direct contact with employees regarding labor organizing campaigns had to disclose their activity to DOL.

According to the [administration’s fact sheet](#): “The Persuader Rule requires employers and their hired consultants to report when the consultants directly persuade workers or when the consultants in one of the following four categories: 1) Plan, direct, or coordinate managers to persuade workers; 2) Provide persuader materials to employers to disseminate to workers; 3) Conduct union avoidance seminars; and 4) Develop or implement personnel policies or actions to persuade workers.

And “The Persuader Rule still exempts agreements by which the consultant agrees to merely provide “advice” to the employer, defined as “recommendations regarding a decision or course of conduct.” The Rule also exempts any agreement that involves only the provision of legal services.”

The rule will go into effect 30 days post publishing in the Federal Register, in late April, and will be applicable to arrangements and agreements on persuader type activity made on or after July 1, 2016. National Association of Manufacturers is exploring all options on Capitol Hill and through the courts to push back on this latest regulation.

[Outside Salespeople are Still Exempt from Minimum Wage Under Ohio Law](#)

March 25, 2016

On March 17, 2016, the Ohio Supreme Court held that Ohio’s minimum wage law, which exempts outside salespeople from the definition of “employee,” does not conflict with a 2006 voter-approved amendment to the Ohio Constitution and, therefore, remains good law.

This decision is favorable to Ohio employers who can continue to exempt their outside salespeople from minimum wage under both Ohio and federal law.

[Read more about the case](#) from OMA Connections Partner, Bricker & Eckler.

[Supreme Court Holds Employees May Use Representative Evidence to Establish Employer Liability](#)

March 25, 2016

OMA Connections Partner, Barnes & Thornburg LLP, [reports that the U.S. Supreme Court affirmed](#) the use of representative statistical evidence as proof of liability in a labor and employment law class action.

Tyson Foods, Inc. v Bouaphakeo et al grew out of a wage and hour class action suit initiated by Tyson’s employees, who alleged the company failed to adequately pay them overtime pay for donning and doffing protective gear at a pork processing plant. The case went to trial, and based largely upon a statistical sample offered by an expert witness for the plaintiff, the jury awarded the class of 3,344 participants \$2.9 million in damages.

As a result, Barnes & Thornburg cautions that employers should prepare for the possibility of a further increase in wage and hour class actions, particularly in connection with issues involving recordkeeping violations.

[OMA Testifies on Medical Marijuana](#)

March 11, 2016

Joëlle Khouzam of OMA counsel Bricker & Eckler [testified](#) on behalf of the OMA before the House Task Force on Medical Marijuana. The task force, on which OMA chairman Bill Sopko sits, is studying the issue of medical marijuana with the intent of making recommendations to the full House on possible legislation.

Khouzam said: “The OMA respectfully asks this Task Force to consider the employment-related implications that have surfaced in medical-marijuana states, and that create potential concerns for the well-being and safety of Ohio workers.”

She discussed safety issues, confidentiality issues, potential concerns about increased lawsuits, and the concerns about additional costs that may be shifted to manufacturers if medical marijuana is legalized in Ohio.

“In sum, employers need to understand a lot more about what such legislation might entail so that they can continue to make safety-oriented business decisions without fear of lawsuits.

The lack of understanding about what the term “medical marijuana” even means — even the lack of knowledge about what form it would be in, extracted oils, food products (“edibles”), or in smoked form, impacts many other workplace policies,” Khouzam concluded.

Human Resources, Health Care & Employment Law Legislation

Prepared by: The Ohio Manufacturers' Association

Report created on June 14, 2016

- 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: 6/30/2015 - **SIGNED BY GOVERNOR**; eff. 6/30/15; certain provisions effective 9/29/2015, other dates
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-64>
- HB350 AUTISM TREATMENT-COVERAGE** (GROSSMAN C, TERHAR L) To mandate coverage of autism treatment.
Current Status: 5/25/2016 - **REPORTED OUT**, House Government Accountability and Oversight, (Fifth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-350>
- HB355 EMPLOYEE DEFINITION** (RETFERFORD W) To create a generally uniform definition of employee for specified labor laws and to prohibit employee misclassification under those laws.
Current Status: 11/4/2015 - House State Government, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-355>
- HB368 HEALTH INSURANCE LIMITS-EXCLUSIONS** (SEARS B) To make changes to the health coverage benefit limits and coverage exclusions for life and health insurance guaranty associations.
Current Status: 11/4/2015 - House Insurance, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-368>
- HB429 AUTOMOTIVE TECHNICIANS-TRAINING** (ANTANI N, REINEKE W) To allow employers of automotive technicians and motor vehicle technicians to participate in the Incumbent Workforce Training Voucher Program, to revise what constitutes treatment of hazardous waste, to define and regulate autocycles for purposes of the Motor Vehicles Law, and to amend the versions of sections of the Revised Code that are scheduled to take effect January 1, 2017, to continue the provisions of this act on and after that effective date.
Current Status: 6/8/2016 - Sent to Governor for Signature
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-429>
- HB467 UNEMPLOYMENT COMPENSATION FUND** (BUTLER, JR. J) To establish a loan from the Budget Stabilization Fund to the Unemployment Compensation Fund, to require the Director of Job and Family Services to recommend a program to incentivize the purchase of private unemployment insurance, and to require a study on the solvency of the Unemployment Compensation Fund.
Current Status: 4/13/2016 - Referred to Committee House Insurance
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-467>
- HB486 MINIMUM WAGE** (SMITH K, CRAIG H) To increase the state minimum wage to ten dollars

and ten cents per hour beginning January 1, 2017.

Current Status: 4/13/2016 - Referred to Committee House Commerce and Labor

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-486>

HB500 **CASE MANAGEMENT EMPLOYMENT PROGRAM** (ARNDT S) To revise the Comprehensive Case Management and Employment Program, to establish a case management pilot program, to transfer cash from the Economic Development Program Fund (Fund 5JC0) to the Case Management Pilot Program Fund (Fund 5SK0), and to make an appropriation.

Current Status: 4/26/2016 - House Finance, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-500>

HB511 **FAMILY-MEDICAL LEAVE ACT** (KUHNS C, BOYD J) To establish family and medical leave insurance benefits to provide paid leave to allow an individual to address the individual's own serious health condition, to care for a family member, or to bond with a new child and to exempt those benefits from personal income tax.

Current Status: 4/26/2016 - Referred to Committee House Insurance

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-511>

HB523 **MEDICAL MARIJUANA** (HUFFMAN S) To authorize the use of marijuana for medical purposes and to establish the Medical Marijuana Control Program.

Current Status: 6/8/2016 - **SIGNED BY GOVERNOR**; eff. in 90 days

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-523>

HB535 **EMPLOYMENT PROTECTION-NATIONAL GUARD** (PERALES R) To extend employment and reemployment protection to a person who is a member of another state's national guard or organized militia and who is employed in Ohio.

Current Status: 5/24/2016 - **REPORTED OUT**, House Commerce and Labor, (Third Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-535>

HB537 **DISCRIMINATION-SEXUAL ORIENTATION** (HAYES B) To make discrimination in housing or employment on the basis of sexual orientation an unlawful discriminatory practice; to provide specified protections for religious expression and beliefs about marriage, family, and sexuality; and to prohibit an elected official who solemnizes marriages from refusing to solemnize a marriage of two persons who have been granted a marriage license.

Current Status: 5/10/2016 - House Community and Family Advancement, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-537>

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: 6/24/2015 - Senate Transportation, Commerce and Labor, (First Hearing)

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>
- SB180** **ANTI DISCRIMINATION-EMPLOYMENT** (UECKER J) To prohibit an employer from discharging or otherwise discriminating against a person who exercises a constitutional or statutory right within the person's private real property or motor vehicle.
Current Status: 10/7/2015 - Senate Civil Justice, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-180>
- SB245** **MALNUTRITION PREVENTION COMMISSION** (MANNING G) To create the Malnutrition Prevention Commission to study malnutrition among older adults.
Current Status: 5/4/2016 - **PASSED BY SENATE**; Vote 33-0
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-245>
- SB268** **STATUTE OF LIMITATIONS-EMPLOYER** (SEITZ B) To modify Ohio civil rights laws related to employment and the statute of limitations for other specified claims against an employer.
Current Status: 5/18/2016 - Senate Civil Justice, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-268>
- SB301** **PREGNANCY REASONABLE ACCOMMODATION ACT** (JONES S, CAFARO C) To enact the "Pregnancy Reasonable Accommodation Act" to generally require employers to make reasonable accommodations for employees who are pregnant or breastfeeding.
Current Status: 5/18/2016 - Senate Civil Justice, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-301>
- SB307** **FAMILY-MEDICAL LEAVE ACT** (CAFARO C) To establish family and medical leave insurance benefits to provide paid leave to allow an individual to address the individual's own serious health condition, to care for a family member, or to bond with a new child and to exempt those benefits from personal income tax.
Current Status: 5/11/2016 - Senate Transportation, Commerce and Labor, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-307>
- SB318** **OHIO CIVIL RIGHTS LAW** (SKINDELL M, TAVARES C) To prohibit discrimination on the basis of sexual orientation or gender identity or expression.
Current Status: 4/27/2016 - Referred to Committee Senate Civil Justice
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-318>

TO: OMA Government Affairs Committee
FROM: Ryan Augsburger / Rob Brundrett
RE: Safety and Workers' Compensation Report
DATE: June 15, 2016

Overview

The General Assembly wrapped up session for the first half of 2016 in late May. The legislature will go on a campaigning hiatus until November. The "lame duck" session held after the elections is expected to be one of the most action packed in recent history. There is a lot of pending legislation that has been put on hold due to the campaign season.

Administrator Buehrer stepped down in early April, taking a job at a law firm in Columbus. Chief Legal Officer Sarah Morrison was promoted to Administrator.

Legislation and Rules

Senate Bill 5 – mental / mental

State Senators Tom Patton (R-Strongsville) and Edna Brown (D-Toledo) 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). The bill was referred and passed unanimously from the Senate Finance Committee. However the bill has been re-referred to Senate Finance for further consideration. There have been two contentious interested party meetings with both sides entrenched with their positions.

Senator Patton remains focused on passing the bill.

Senate Bill 27 / House Bill 292 – firefighter cancer

Senator Tom Patton (R-Strongsville) and Representative Christina Hagan introduced companion bills that would assume a firefighter with certain types of defined cancers contracted those cancers within their working conditions.

Last month Senate Bill 27 passed unanimously through the Senate Insurance Committee and off the Senate floor 32-1. The bill provides that a firefighter who is disabled as a result of specified types of cancer is presumed to have incurred the cancer

while performing his or her job duties, thus creating eligibility for workers' compensation benefits.

The bill allows that the presumption can be rebutted if it can be proven that the cancer was directly caused by working conditions. This is the opposite of Ohio's asbestos statute which has become a national model. Originally the cancers covered under the bill include: cancers of the lung, brain, kidney, bladder, rectum, stomach, skin, or prostate; Non-Hodgkin's lymphoma; leukemia; multiple myeloma; and testicular or colorectal cancer. In committee, an amendment was added to include, breast, cervical, and uterine cancers to the bill.

BWC estimated an additional 568 claims annually at an approximate cost of \$75 million. Much like Senate Bill 5, this bill would create a major shift in Ohio's workers' compensation laws. The House has indicated that they might pass the bill in lame duck.

Senate Bill 149 – Loss of use

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. The minority sponsored bill has not had a hearing and is not expected to move.

House Bill 205 – Private Insurance

Rep. Mike Henne introduced HB 205 which would allow employers with more than 1,000 employees, as well as workers' compensation groups managed by third party administrators to purchase workers' compensation coverage in the private market.

In the fall Rep. Henne introduced a sub bill. The sub bill deletes all the language of the original bill and replaces it with a provision that would totally eliminate the employee threshold for self-insurance. Currently the BWC can already waive this provision for companies with strong financials due to an OMA budget amendment several years ago. The provision is unneeded. This was amended into House Bill 207.

House Bill 206 – Industrial Commission Statistics

Rep. Henne introduced HB 206 which requires the Industrial Commission to compile and maintain statistics on workers' compensation hearing decisions and hearing officers. The IC is adamant this is problematic and is searching for allies to fight Rep. Henne on the bill.

House Bill 207 – Subrogation

Reps. Henne and Robert McColley introduced HB 207. The bill enables claims costs to be charged to the Bureau of Workers' Compensation (BWC) surplus fund rather than a state fund employer's experience when a motor vehicle accident-related workers' compensation claim is likely to be subrogated by a third party.

House Bill 207 cleared both the Senate floor and House concurrence. The OMA was a supporter of the legislation. OMA Safety and Workers' Compensation Chairman Larry Holmes, Sr. V.P., Finance, Fort Recovery Industries, Inc., provided proponent testimony on behalf of the OMA last fall during committee hearings.

The Senate added an amendment which would assign a true experience rating to companies who leave a self-insured PEO or self-insured status and are returning to the

state fund. A second amendment was added that eliminated the 500 person threshold for self-insured status.

House Bill 355 – employee misclassification

Rep. Wes Retherford (R – Hamilton) has introduced a bill, HB 355, that would turn the Bureau of Workers' Compensation (BWC) into an agency that would police businesses in their classifications of employees and independent contractors.

Under the bill, the BWC would be authorized to enter and inspect all of the offices and job sites maintained by an employer who is the subject of a complaint that an employer is misclassifying an employee. The BWC would be authorized to issue stop work orders and fines.

For many many years, organized labor has attempted to create a de facto Department of Labor at the state level. That's what this one is after. It is a really bad idea.

The OMA participated in an interested party meeting and reiterated its position that the bill is a bad idea and should be shelved.

House Bill 523

On May 10, 2016, the Ohio House of Representatives voted 71 to 26 to legalize medical marijuana in Ohio. This vote follows a series of public meetings held by the House's Medical Marijuana Task Force earlier this year, the bill's introduction on April 14, 2016, and vigorous committee debate and amendments.

The Senate passed the bill in late May 18-15, needing bipartisan support to push the bill over the finish line. The measure seeks to address Ohioan's apparent support for the concept of medical marijuana, but builds in regulatory controls that are missing citizen-initiated measures that hope to gain enough signatures be on the November ballot.

While not the best scenario for manufacturers, the legislations is a much more responsible step with the opportunity to improve the law compared to the irresponsible actions of getting marijuana enshrined in the Ohio constitution. Passage of the bill which is much more business friendly then the ballot options convinced the greatest ballot threat (MPP) to suspend their campaign.

BWC Agency Notes

BWC CEO Stepping Down

BWC Administrator and CEO Steve Buehrer stepped down from his position on April 15 after more than five years of leading the agency.

In the announcement the governor cited Buehrer's achievements at the BWC as \$4.3 billion in rate cuts, rebates and credits since 2011, tripling of safety grants and additional investments in safety research, and reducing Ohio's workplace injury rate below the national average, among others.

Gov. Kasich appointed Steve Buehrer as Administrator/CEO of the BWC in January 2011.

Sarah Morrison, the bureau's chief legal officer, was appointed the new administrator and CEO.

OMA highly respects Buehrer's leadership and accomplishments, which have positioned the Ohio workers' compensation system for the future. We wish him well.

BWC Board Approves 8.6% Average Premium Reduction

The Ohio Bureau of Workers' Compensation (BWC) board of directors approved an 8.6% reduction in overall average rates for the state's private employers. The move will decrease projected annual premiums by \$113 million next year.

Over the past five years, Ohio's private and public sector employers have benefited from \$4.3 billion in rate cuts, rebates and credits.

The latest cuts for private employers will begin July 1. The reduction is an overall statewide average. The actual premium paid by individual private employers depends on a number of factors, including the expected future costs in their industry, their recent claims history, and their participation in various programs.



OHIO MEDICAL MARIJUANA LEGALIZATION– SUB. H.B. 523

On June 8, 2016, Ohio Gov. John Kasich signed a medical marijuana bill, Sub. H.B. 523, into law, making Ohio the 25th state to adopt some form of approval and regulation of medical marijuana.

Sub. H.B. 523, which underwent robust discussion and numerous amendments, attempts to balance a perceived acceptance by Ohioans to approve medical marijuana while getting ahead of various groups' efforts to permanently incorporate medical marijuana measures into the Ohio Constitution.

Following extensive House committee review, the House version introduced in April 2016 passed by a 70 to 25 vote. It incorporated many concepts discussed during a series of public meetings convened by the House's Medical Marijuana Task Force earlier this year. Although the Senate version passed by a much narrower version, the Senate amendments also incorporated public input. The highlights of the final version include the following components:

Legislative intent

Sub. H.B. 523 is intended to tax and regulate medical marijuana use and distribution, to recommend to Congress that marijuana be reclassified as a schedule II controlled substance, and to establish incentives for academic and medical research relating to medical marijuana.

Definition of medical marijuana

"Medical marijuana" is defined as marijuana (as currently defined by Ohio law) cultivated, processed, dispensed, tested, possessed, or used for a medical purpose.

Who will regulate medical marijuana in Ohio?

The governor will appoint a Medical Marijuana Advisory Commission within the state Board of Pharmacy to make recommendations to the Department of Commerce, the Pharmacy Board, and the Medical Board for a medical marijuana control program.

Within one year of the effective date of this law, the Department of Commerce will make rules, set standards, and establish best practices for this program. The program shall, in part:

- Establish application procedures, fees, disqualifying factors, and number of licenses for cultivators, processors, and retail dispensaries, based on population, number of patients, and geographic distribution, within 240 days of the effective date. Further, 15% of cultivators, processors, or labs are to be owned or controlled by residents who are members of economically disadvantaged groups;
- Determine how licenses will be renewed, suspended, or revoked, and how a suspension may be lifted;
- Regulate activities from taking place within 500 feet of schools, churches, libraries, playgrounds, parks;
- Create confidential databases to monitor medical marijuana from seed source through dispensing.

The state's existing Automated Rx Reporting System will be used to track the movement of dispensed medical marijuana.

The Pharmacy Board will regulate testing laboratories, and will also require licensed dispensaries to have a pharmacist on staff.

The Medical Board will regulate physicians who may recommend use.

Who may use medical marijuana?

The State Medical Board may determine additional conditions, but those who suffer from the following conditions may apply to become registered users: AIDS; amyotrophic lateral sclerosis; Alzheimer's disease; cancer; chronic traumatic encephalopathy; Crohn's disease; epilepsy or another seizure disorder; fibromyalgia; glaucoma; hepatitis C; inflammatory bowel disease; multiple sclerosis; pain that is chronic, severe, and intractable; Parkinson's disease; positive status for HIV; post-traumatic stress disorder; sickle cell anemia; spinal cord disease or injury; Tourette's syndrome; traumatic brain injury; and ulcerative colitis.

Before the implementation of sales of Ohio-grown product (*i.e.*, between September 2016 and sometime in late 2017 or early 2018), the Pharmacy Board may negotiate reciprocity agreements with other states where medical marijuana is legal to enable registered users and caregivers to purchase medical marijuana and transport it back into Ohio for use.

Registered users and caregivers are immune from arrest and prosecution for consuming medical marijuana in the form of edibles, oils, tinctures, patches, and vaporization (vaping will be limited to extracts from plants by approved sources with THC content of less than 70%). However, driving or using a vehicle while under the influence is not authorized.

Medical Recommendations

A qualifying physician may recommend – *not prescribe* -- that a patient consider medical marijuana to patients with whom a documented physician-patient relationship exists. Qualifying physicians may not personally furnish/dispense medical marijuana, or have any involvement in a medical-marijuana cultivating or retailing enterprise.

Physicians who wish to recommend medical marijuana will be registered and controlled through the Ohio State Medical Board, which will issue and may revoke certificates to recommend. They will be required to confidentially track the use and outcomes of medical marijuana recommendations. They will also be required to participate in continuing education courses.

A patient recommendation cannot be renewed more than three times for 90 days each, absent a physical examination. The physician must conform to confidential reporting requirements that track the effectiveness of use during the year covered by the recommendation and renewals.

Dispensing, Content Limits, Labeling, and Safety

The law permits dispensation of up to 90-day supplies of medical marijuana from licensed dispensaries, but prohibits cultivation for personal use.

Labeling must specify the tetrahydrocannabinol (THC) and cannabidiol ratios. The law imposes prohibitions on making products attractive to minors, and requires that dispensed product be inaccessible to minors.

Labs regulated by the Board of Pharmacy will test for potency, homogeneity, and contamination, and must report results.

The Pharmacy Board shall establish a toll-free line to respond to patients and medical providers about adverse reactions to medical marijuana.

Employment Considerations

Employers may test and take disciplinary action against employees who test positive for use of marijuana.

There is no requirement to accommodate an employee's use of medical marijuana, or to prohibit an employer from refusing to hire, discharging, or taking an adverse employment action because of a person's use of medical marijuana. Moreover, there is no provision for suing an employer who takes such actions.

A termination based on using medical marijuana is a discharge for just cause for unemployment purposes if it violates a written policy of the employer (i.e., a zero-tolerance substance abuse policy, or comparable policy against use of drugs), and would render the applicant for benefits ineligible.

The workers' compensation rebuttable presumption, allowing an employer to initially deny a claim in the event of a positive drug test and allowing the employee to dispute that denial at a hearing, could render an employee ineligible if being under the influence of marijuana was the proximate cause of the injury, regardless of whether its use is recommended by a physician.

The Ohio BWC can continue to grant premium rebates/discounts to employers that participate in the drug-free workplace program.

Zoning

Municipalities and townships may regulate or prohibit licensed retail dispensaries. Counties and townships may apply agricultural-use zoning limitations to regulate retail dispensaries in unincorporated territory.

Banking Services

The bill authorizes financial institutions to conduct business with licensed cultivators, processors, retail dispensaries, or labs.

Post-script

One day after the General Assembly passed Sub. H.B. 523, Ohioans for Medical Marijuana, the group seeking to place the medical marijuana issue before voters in November as a proposed constitutional amendment, suspended its effort to collect petition signatures. The group, backed by the national Marijuana Policy Project, said the changes made to the legislation were acceptable, despite not permitting smoking or home growing of medical marijuana.

Safety & Workers' Compensation

[How Does Ohio's Medical Marijuana Law Impact Your Drug-free Policy?](#)

June 10, 2016

Here's a post from OMA Connections Partner, [Working Partners®](#): "... Governor Kasich signed Ohio H.B. 523 into law, legalizing marijuana as "medicine under certain circumstances." The law will officially go into effect in 90 days, but the bill allows two years for the state to complete the infrastructure and specifications to grow, sell and regulate the use of marijuana.

"It is important for you to know there are SEVERAL elements in law that protect you, the employer, and your drug-free workplace (DFWP) program:

1. Employers do NOT have to permit or accommodate an employee's use, possession, or distribution of "medical" marijuana.
2. Employers are NOT prohibited from refusing to hire, discharging, disciplining or otherwise taking adverse action against a person who uses "medical" marijuana.
3. Employers CAN drug test and have a drug-free workplace program, even if it is a zero tolerance policy.
4. The law will NOT interfere with or change: alcohol/drug testing requirements mandated by the Department of Transportation (DOT); the BWC Drug-Free Safety Program, including H.B. 80; Ohio HB 223 (rebuttable presumption for workers' compensation
5. Nothing in the law permits a person to sue an employer for refusing to hire, discharge, disciplining, retaliating or otherwise taking an adverse employment action related to "medical" marijuana.

A person who is discharged from employment because of their medical use of marijuana is considered to have been discharged "for cause" if their use violated an employer's policy."

[What Employers Should Know about Drug Tests \(video\)](#)

June 10, 2016

Here's a good [3 minute video](#) from OMA Connections Partner, Working Partners®, that explains the various drug tests employers might consider. Good to know!

[BWC Offers Occupational Safety & Hygiene Fellowship](#)

June 10, 2016

The Ohio Bureau of Workers' Compensation (BWC) is [taking applications](#) for a new fellowship program. The fellowship is an opportunity for college graduates in the fields of occupational safety and health, engineering, industrial hygiene, and/or or physical/ natural sciences to receive on-the-job training in the fields of occupational safety and health, ergonomics, industrial hygiene and risk management.

The positions last two years and are fulltime with pay and benefits. During the two years, the fellows will be working alongside BWC safety, ergonomics and industrial hygiene consultants.

Interested individuals with an undergraduate degree in occupational safety & health, industrial hygiene, engineering, environmental health or closely related field of study (i.e. physical/natural science) can complete an employment application by searching for "Occupational Safety & Hygiene Fellow" [at this website](#).

[BWC Develops Opioid Prescribing Rule](#)

June 3, 2016

The Ohio Bureau of Workers' Compensation (BWC) board of directors [approved a new opioid prescribing rule](#) aimed at preventing opioid dependence and encouraging physicians to employ current best medical practices when treating injured workers with opioids.

Under the rule, BWC will not reimburse for opioid prescriptions written by physicians who fail to use best medical practices. Best practices include the development of an individualized treatment plan, risk assessment and monitoring of the progress and improvement in function of the worker.

The new rule also allows BWC to provide treatment for opioid dependence that arises from the use of opioid medications covered by BWC.

BWC began making improvements to its pharmacy program in 2010 to ensure injured workers receive medications necessary for their recovery without endangering their health. Since the creation of BWC's first-ever formulary, opiate prescriptions have steadily fallen, dropping by 23.8 million doses, or 41 percent, since 2010.

The rule now moves to the Ohio General Assembly's Joint Committee on Agency Rule Review. If approved there, it becomes effective October 1 this year.

[Is it Hot in Here?](#)

June 3, 2016

Forecasters are calling for above-average temperatures across much of the country this summer. Are you prepared to beat the heat?

Every year, thousands of workers become ill from working in the heat, and some even die.

Heat-related illnesses and deaths can be prevented. Employers and supervisors can save the lives of workers in hot environments by following these [eight simple steps](#).

[BWC Offers Machine Safety for Maintenance and Production, Chillicothe](#)

May 27, 2016

The Bureau of Workers' Compensation (BWC) is offering a no-charge full day class on machine safety, Thursday, June 16, 8:30 a.m. – 4:30 p.m. in Chillicothe at the Adena PACCAR Center. Those who attend will receive Industry Specific Safety Program (ISSP) credit and this will count as External Safety Council Meeting attendance.

Up to four participants from any one employer can attend and there are 70 spots available.

Go to the BWC Learning Center ([see flyer](#)) to register (use "Special Topic 2" as the keyword search) or call Phyllis Jenkins at (740) 353-3419.

Who should attend? Individuals responsible for performing maintenance and or production operation(s). Also, supervisors responsible for employees conducting these activities and other safety and management staff who need the skill and knowledge necessary to understand, recognize, and mitigate the risks. Topics include: machine guarding; lock out tag out; and electrical safety for machine service and maintenance.

[House Hears Firefighter Cancer Bill](#)

May 27, 2016

The House held its first hearing this week on [Senate Bill 27](#) which would create a presumption that a firefighter who is disabled as a result of specified

types of cancer incurred the cancer while performing his or her job duties, thus creating eligibility for workers' compensation benefits.

Senator [Tom Patton](#) (R-Strongsville) provided [proponent testimony](#). The OMA previously [submitted this letter](#) containing cautions about the precedent setting nature of this bill to the Senate committee, which affirmed the bill.

[BWC Announces \\$15M Rebate to Ohio Counties](#)

May 27, 2016

This week, citing strong investment returns, Ohio Bureau of Workers' Compensation (BWC) Administrator/CEO Sarah Morrison [announced](#) a one-time \$15 million rebate to Ohio's 88 county governments. The rebate was approved by BWC's board of directors.

All Ohio counties will receive rebates ranging from around \$100 to more than \$1 million, with exact amounts to be determined after May 31.

[New BWC Administrator Visits OMA Safety & Workers' Comp Meeting](#)

May 20, 2016



Pictured – Committee chairman, Larry Holmes, VP – Finance, Ft. Recovery Industries, Inc. and Sarah Morrison, BWC Administrator & CEO

Governor Kasich this week [named](#) Sarah Morrison as administrator and CEO of the Ohio Bureau of Workers' Compensation (BWC). She'll lead the agency that has more than 1,800 employees and serves more than 250,000 Ohio employees. She has served in the position in an interim capacity since the BWC's former administrator and CEO, Steve Buehrer, stepped down last month.

Sarah and Dave Sievert, Interim Director – Self Insured Department, Ohio BWC, updated members on agency developments at this week's OMA Safety & Workers' Compensation meeting.

To receive meeting notices and related information, go to [My OMA](#) and subscribe to the Safety & Workers' Comp. community.

[BWC Gets Employers Ready to “True Up”](#)

May 20, 2016

BWC's first-ever payroll true-up period is coming July 1 for Ohio private employers. This new process is part of BWC's change to prospective billing and requires employers to report their actual payroll for the previous policy year and reconcile any differences in premiums paid.

This important step is necessary for BWC to accurately calculate your premium. It's also important to maintaining your policy and protecting your participation in your current rating plan or discount programs. You must complete the true-up report even if your payroll for the year matches the estimate you receive from BWC.

[View this video tutorial](#) to learn more about the true-up process.

The most convenient way to true-up will be online with a BWC e-account. To create an e-account, go to [BWC's website](#) and click on the “create e-account” link on the home page (under the login area). This [video tutorial](#) explains the process for creating an e-account.

Visit the [BWC website](#) if you already have an e-account but don't remember your password. If you are otherwise unable to access your account, contact the BWC at (800) 644-6292.

[OMA Supported Subrogation Bill Clears General Assembly](#)

May 13, 2016

This week [House Bill 207](#) cleared both the Senate floor and House concurrence. The bill enables claims costs to be charged to the Bureau of Workers' Compensation (BWC) surplus fund rather than a state fund employer's experience when a motor vehicle accident-related workers' compensation claim is likely to be subrogated by a third party.

OMA Safety and Workers' Compensation Chairman Larry Holmes, Sr. V.P., Finance, Fort Recovery Industries, Inc., provided proponent testimony on behalf of the OMA last fall during committee hearings. The bill now goes to the desk of Governor Kasich for his signature.

We'll discuss this and many BWC updates at the [May 19 OMA Workers' Compensation committee meeting](#). [Register here](#).

[BWC Drug-Free Safety Program Enrollment Deadline is May 31](#)

May 13, 2016

Once a year, employers are able to enroll in the Ohio Bureau of Workers' Compensation Drug-Free Safety Program (DFSP). Qualifying enrollees can receive a premium rebate of 4% or 7% and subsidize the majority of start-up and operational costs (e.g., policy development, employee education and supervisor training) with BWC SafetyGRANT\$ funding.

This year's enrollment deadline is May 31, 2016.

When program development is facilitated by knowledgeable consultants, an efficient and well thought-out program benefits your employees, your business and your community. Employees who think it is okay to use substances can be deterred; employees with problems are encouraged or required to get help; non-abusing employees are protected; and customers can feel confident in the services they receive from your company.

Visit OMA Connections Partner, [Working Partners@DFSP Help Zone](#), for information about the BWC Drug-Free Safety Program and how to enroll. Or call Working Partners at (866) 354-3397.

[OSHA Releases New Reporting Rule](#)

May 13, 2016

This week, the Occupational Safety and Health Administration (OSHA) [released its anticipated “Improve Tracking of Workplace Injuries and Illnesses” final rule](#), which will require businesses with 250 or more employees, per facility, to electronically report to the agency annually all of the company's injury and illness logs for that year starting in 2017.

Companies with 20-249 employees, per facility, in “designated industries,” including manufacturing, will also have to report annually.

While the agency states it will not report any specific employee information, “OSHA intends to post the establishment-specific injury and illness data it collects under this final rule on its public Web site,” which means company’s records will be available for public consumption.

The National Association of Manufacturers issued this statement on the rule: “ ... this administration put a target on nearly every company and manufacturer in the United States. Manufacturers are supportive of regulations aimed at increasing transparency, and we pride ourselves on creating safe workplaces for the men and women who make things in America. However, this regulation will lead to the unfair and unnecessary public shaming of these businesses. This is a misguided attempt at transparency that sacrifices employee and employer privacy, allows for distribution of proprietary information and creates burdens for all manufacturers. We will look at all options to protect manufacturers from this certain threat to the modern shop floor.”

[Workers’ Compensation MCO Open Enrollment Underway](#)

May 6, 2016

The open enrollment period for Ohio state-fund employers to select a different workers’ compensation Managed Care Organization (MCO) started this week and runs through Friday, May 27. The BWC offers an open enrollment period every two years to allow employers to evaluate the services of their current MCO and determine if they would like to make a change.

The role of the MCO is to manage medical treatment for workers injured on the job.

MCOs are contracted suppliers to the Bureau of Workers’ Compensation (BWC) who are paid by the BWC with a portion of employer premiums. Ohio’s 15 MCOs are the primary link between injured workers, medical providers, employers and BWC. MCOs manage claim filing and medical treatment and assist employers with the implementation of recovery and return-to-work programs.

Employers who are satisfied with their MCO do not need to do anything. However, those considering a change must complete the MCO Selection Form. For employers who select a new MCO, the change will be effective July 4.

OMA’s sole endorsed MCO is [Health Management Solutions, Inc.](#) (HMS). [Read why.](#) To switch, go to [HMS](#) or [use this form.](#)

BWC produces the MCO Selection Guide that provides instructions, and an MCO Report Card that provides limited MCO performance information. The guide and report card are [available here.](#)

[BWC, IC, MCO, TPA ...](#)

May 6, 2016

It can be confusing for employers to keep straight the various acronyms and entities that play a role in the Ohio workers’ compensation system.

We created this [one-page tutorial](#) that summarizes each entity’s specific function.

Questions? Please contact OMA’s [Jeremy SESCO](#) or [Brian Jackson.](#)

[Look for your BWC Notice of Estimated Annual Premium](#)

April 22, 2016

On May 1, the Bureau of Workers’ Compensation (BWC) will mail Notices of Estimated Annual Premium for the policy year that begins July 1, 2016.

Employers can also view policy year 2016 information by accessing the installment schedule through the [My Policy page.](#) Once there, you can also view or change your payment installment schedule for the upcoming policy year. For more information on how to change your installment schedule, view this 40-sec. [video tutorial.](#)

The BWC bases estimated premium on payroll amounts that your company previously provided. If you believe the payroll amount is incorrect, or if you anticipate a change in operations that will affect your payroll for the policy period beginning July 1, 2016, notify BWC at (800) 644-6292.

The first-ever payroll true-up period is coming July 1. This new process requires employers to report their actual payroll for the previous policy year and reconcile any differences in premium paid. Even if your payroll for the year matches the estimate BWC provided or you had zero payroll, you must complete a true-up report.

The quickest and easiest way to true-up will be online with a BWC e-account. To create an e-account, go to [BWC’s website](#) and click on the Create e-account link in the top right corner of the home page.

OMA is holding a [BWC Hot Topics webinar](#) on Tuesday, May 10 to cover billing issues and more. [Register here](#).

[April is Distracted Driving Awareness Month](#)

April 22, 2016

The National Safety Council (NSC) designates April as Distracted Driving Awareness Month, a time to draw attention to the hazards of using cell phones while driving. As the NSC notes, phone use while driving, including texting and reading social media, has contributed to thousands of highway deaths.

Employers can play a big role in protecting workers who drive for their jobs. Download the free NSC employer [cell phone policy toolkit](#). Also, OSHA reminds employers that it is a violation of the OSH Act for employers to require workers to text while driving, create incentives that encourage or condone it, or structure work so that texting while driving is a practical necessity for workers to carry out their job. For more information, see OSHA's [Distracted Driving brochure](#).

[Firefighter Cancer Bill Passes Senate](#)

April 15, 2016

This week [Senate Bill 27](#), sponsored by [Senator Tom Patton](#) (R-Strongsville), passed unanimously through the Senate Insurance Committee and off the Senate floor 32-1. The bill provides that a firefighter who is disabled as a result of specified types of cancer is presumed to have incurred the cancer while performing his or her job duties, thus creating eligibility for workers' compensation benefits.

The bill allows that the presumption can be rebutted if it can be proven that the cancer was directly caused by working conditions. This is the opposite of Ohio's asbestos statute which has become a national model. Originally the cancers covered under the bill include: cancers of the lung, brain, kidney, bladder, rectum, stomach, skin, or prostate; Non-Hodgkin's lymphoma; leukemia; multiple myeloma; and testicular or colorectal cancer. In committee, an amendment was added to include, breast, cervical, and uterine cancers to the bill.

BWC estimated an additional 568 claims annually at an approximate cost of \$75 million. Much like [Senate Bill 5](#), a pending bill that would provide workers' compensation benefits for psychiatric claims of first responders where there is not also a corresponding physical injury/illness, this bill would create a major shift in Ohio's workers' compensation laws.

[BWC CEO Stepping Down](#)

April 8, 2016

Last week Governor Kasich [announced](#) that Ohio Bureau of Workers Compensation (BWC) Administrator and CEO [Steve Buehrer](#) will be leaving state government on April 15 after more than five years of leading the agency.

The governor cited Buehrer's achievements at the BWC as \$4.3 billion in rate cuts, rebates and credits since 2011, tripling of safety grants and additional investments in safety research, and reducing Ohio's workplace injury rate below the national average, among others.

Gov. Kasich appointed Steve Buehrer as Administrator/CEO of the BWC in January 2011.

[Sarah Morrison](#), the bureau's chief legal officer, will serve as interim administrator and CEO.

OMA highly respects Buehrer's leadership and accomplishments, which have positioned the Ohio workers' compensation system for the future. We wish him well.

[BWC on the Road with Destination:Excellence Seminars](#)

April 8, 2016

The Bureau of Workers' Compensation (BWC) has several more free regional seminars in which employers can learn the details of its Destination: Excellence program, including the benefits, eligibility requirements, implementation and financial incentives for enrollment in: Drug-Free Safety Program; Industry-Specific Safety Program; Safety councils; Transitional Work Bonus Program; and Vocational rehabilitation.

See the [remaining schedule here](#). Can't make it? Contact your BWC service office or OMA's [Brian Jackson](#) for information.

[BWC Board Nominee List Sent to Governor](#)

April 1, 2016

The Bureau of Workers' Compensation Board of Directors Nominating Committee has sent to Governor Kasich a [list of nominees](#) for appointment to the board.

By law, the nominating committee sends the governor a list of four names for open seats. The governor is

required to choose a nominee from the list, or request a new list.

The nominating committee sent names for these board seats: actuary, investment & securities, employer representative, and self-insuring employer representative.

OMA president Eric Burkland serves on the nominating committee.

[OSHA Releases Final Silica Rule](#)

March 25, 2016

This week, the Occupational Safety and Health Administration (OSHA) released the long-anticipated Occupational Crystalline Silica Rule. Among other provisions, the final rule:

- Reduces the permissible exposure limit (PEL) for respirable crystalline silica to 50 micrograms per cubic meter of air, averaged over an 8-hour shift.
- Requires employers to: use engineering controls (such as water or ventilation) to limit worker exposure to the PEL; provide respirators when engineering controls cannot adequately limit exposure; limit worker access to high exposure areas; develop a written exposure control plan, offer medical exams to highly exposed workers, and train workers on silica risks and how to limit exposures.
- Provides medical exams to monitor highly exposed workers and gives them information about their lung health.
- Provides flexibility to help employers — especially small businesses — protect workers from silica exposure.
- Allows for use of compressed air, dry sweeping, and dry brushing where other cleaning methods are not feasible.

The rule is effective June 23, 2016; however, companies have anywhere from one to five years to comply based on their category. Manufacturers are considered in the “General Industry and Maritime” category and will have until June 23, 2018 to comply with most provisions.

[Here is OSHA's webpage on the final rule.](#)

[BWC Board Approves 8.6% Average Premium Reduction](#)

March 18, 2016

The Ohio Bureau of Workers' Compensation (BWC) board of directors this week [approved](#) an 8.6% reduction in overall average rates for the state's private employers. The move will decrease projected annual premiums by \$113 million next year.

Over the past five years, Ohio's private and public sector employers have benefited from \$4.3 billion in rate cuts, rebates and credits. An accounting of the \$4.3 billion [can be found here](#).

The latest cuts for private employers will begin July 1. The reduction is an overall statewide average. The actual premium paid by individual private employers depends on a number of factors, including the expected future costs in their industry, their recent claims history, and their participation in various programs.

[OSHA Reports on First Year Results of 'Severe Injury Reporting Program'](#)

March 18, 2016

Since Jan. 1, 2015, employers [have been required](#) by the Occupational Health & Safety Administration (OSHA) to report any severe work-related injury – defined as a hospitalization, amputation or loss of an eye – within 24 hours. (The requirement to report a fatality within 8 hours was unchanged.)

OSHA reports: “During the first full year of a new reporting requirement, employers reported 10,388 severe injuries, including 7,636 hospitalizations and 2,644 amputations. ... In the majority of cases, OSHA asked employers to conduct their own incident investigations and propose remedies to prevent future injuries. OSHA provided employers with guidance materials to assist them in this process. ... At other times, the agency determined that the hazards described warranted a worksite inspection.”

For program statistics and an evaluation of the impact of the new requirements, [see the full report](#).

[BWC Support for Acquiring Another Business](#)

March 18, 2016

If your company is considering purchasing another business, the Bureau of Workers' Compensation (BWC) can help you assess how the transaction might affect your workers' compensation costs.

BWC will provide a limited release of information about the business that may be transferred. A new form, [Request for Business Transfer Information \(AC-4\)](#), which both parties must sign, allows BWC to

release information about the entity that may be purchased, including accounts receivable, payroll and experience modification history, and most-recent quarterly claims costs.

Also, effective Jan. 1, 2016, BWC implemented a new method to determine successorship. This [fact sheet](#) provides a detailed description of the new decision-making process and the factors BWC uses to determine if the purchase, acquisition or merger will result in a successorship.

Questions? Contact OMA's [Brian Jackson](#) or your BWC service office.

[All Safety All the Time at Safety Congress '16!](#)

March 11, 2016



OMA Connections

Partner, Safex, staffs a booth at BWC's Safety Congress, held this week, Wednesday through today, in Columbus.

Many OMA members are familiar with Dianne Grote Adams, the president of Safex, from her popular presentations in the [OMA's monthly safety webinars](#).

OMA's Rob Brundrett, Director, Public Policy Services, stopped by to snap a pic of the Safex team on his way to snagging some free CLE credits at the Congress.

[OMA Member Midmark Corp. Wins Safety Innovation Award](#)

March 11, 2016

Ohio Bureau of Workers' Compensation (BWC) Administrator/CEO Steve Buehrer this week presented five employers with awards in the Safety Innovations Competition. This annual competition recognizes Ohio employers that have developed innovative solutions to reduce workplace injuries and illnesses. The awards were presented during the Ohio Safety Congress & Expo 2016, BWC's annual three-day occupational safety, health and workers' compensation conference.

The five finalists are showcasing 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.

The third place winner is OMA member, Midmark Corporation (Versailles, Darke County), earning a cash award of \$3,000.

Visit [BWC's YouTube Channel](#) to view videos highlighting each company's innovation, and [read more on BWC's website](#).

Workers' Compensation Legislation
Prepared by: The Ohio Manufacturers' Association
Report created on June 14, 2016

- 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: 6/30/2015 - **SIGNED BY GOVERNOR**; eff. 6/30/2015; certain provisions effective 9/29/2015
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: 6/30/2015 - **SIGNED BY GOVERNOR**; eff. 6/30/2015; certain provisions effective 9/29/2015, other dates
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: 6/30/2015 - **SIGNED BY GOVERNOR**; eff. 6/30/15; certain provisions effective 9/29/2015, other dates
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: 2/9/2016 - House Insurance, (Third Hearing)
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: 6/9/2015 - House Insurance, (First Hearing)
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: 5/31/2016 - **SIGNED BY GOVERNOR**; eff. in 90 days
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-207>

- HB292** **FIREFIGHTER COMPENSATION** (HAGAN C) 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: 10/6/2015 - House Insurance, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-292>
- HB355** **EMPLOYEE DEFINITION** (RETFERFORD W) To create a generally uniform definition of employee for specified labor laws and to prohibit employee misclassification under those laws.
Current Status: 11/4/2015 - House State Government, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-355>
- HB510** **PNEUMOCONIOSIS-WORKERS' COMPENSATION** (CERA J) To modify workers' compensation benefit amounts for occupational pneumoconiosis claims and to create the Occupational Pneumoconiosis Board to determine medical findings for such claims.
Current Status: 4/13/2016 - Referred to Committee House Insurance
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-510>
- 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: 10/13/2015 - **REPORTED OUT AS AMENDED**, Senate Finance, (Sixth 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: 5/24/2016 - House 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 15, 2016

Overview

The General Assembly wrapped up their first half work with a flurry of activity the last full week in May. Among the major issues passed in the late evening was a package that would address the near term issues with the state's unemployment compensation debt.

The General Assembly is not expected to return to action until after the November elections. Although the Senate has scheduled two weeks of session in late September / early October. The lame duck session after the general election is predicted to be extremely busy.

The Administration will begin to prepare its final budget in the fall. There is concern there will be a budget hole to the tune of \$1 billion that will need to be filled.

State Financial Condition

First-quarter real GDP growth slowed to 0.5% from 1.4% in the fourth quarter. Recent economic data suggest that growth will pick up during the year.

Ohio nonfarm payroll employment increased by 18,300 jobs in March and the unemployment rate drifted higher to 5.2% as the labor force swelled.

The consumer sector remains strong, while manufacturing continues to face headwinds and construction remains in an uptrend.

Tax Legislation

2020 Tax Policy Study Commission

The Study Commission continues to hold monthly hearings to discuss the various aspects of Ohio's tax climate. The OMA has testified twice before the committee. First the OMA testified on general tax conditions and impacts on manufacturing. The second time, the OMA testified specifically on tax credits.

Co-chairman Jeff McClain from the House is to be replaced by new House Ways and Means Chairman Tim Schaffer.

The Study Commission plans to have some recommendations for the next budget. The OMA tax committee should consider providing a white paper to the Study Commission with its suggestions and observations.

House Bill 9 – tax expenditure review committee

HB 9 was introduced by Representative Boose (R-Norwalk). The bill creates a Tax Expenditure Review Committee that would periodically review existing and proposed tax expenditures. The bill was voted out of the Senate on May 25. However due to an amendment dealing with controlling board, the bill has been held up.

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. Nor is it expected to move.

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. The bill only received a first hearing for sponsor testimony last year.

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 in the previous General Assembly, but stalled in the legislative process. Earlier this year it was passed out of House Ways and Means Committee. The bill was re-referred to Finance Committee and voted out of committee last November.

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. The Senate finished their work at the end of May and the bill was passed by both Chambers.

Senate Bill 198 – non-resident municipal income tax

SB 198 was introduced by Senator Jordan (R-Ostrander). The bill prohibits municipal corporations from levying an income tax on nonresidents' compensation for personal services or on net profits from a sole proprietorship owned by a nonresident. This bill has opposition from Ohio's cities and villages. The bill had one hearing last fall. It is not expected to move.

House Bill 232 – seller use tax collection

HB 232 was introduced by Representatives Grossman (R-Grove City) and Scherer (R-Circleville). The bill prescribes 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 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. The bill has not had a hearing.

Senate Bill 235 – increased value property tax

Senate Bill 235 was introduced by Senators Beagle (R-Tipp City) and Coley (R-Liberty Township) and would exempt from property tax the increased value of property on which industrial or commercial development is planned until construction of new commercial or industrial facilities at the property commences. The bill was passed by the Senate in late May and is supported by local chambers of commerce.

Senate Bill 246 / House Bill 398 – change the CAUV computation

Senator Hite (R-Findley) and Representative Hill (R-Zanesville) introduced companion bills to require that the computation of the capitalization rate for the purposes of determining CAUV of agricultural land be computed using a method that excludes appreciation and equity buildup and to stipulate that CAUV land used for a conservation practice or enrolled in a federal land retirement or conservation program for at least three years must be valued at the lowest of the values assigned on the basis of soil type.

The bill is proving to be controversial due to the fact that agriculture land is already taxed at a reduced rate compared to residential and commercial property. The Senate and House bills have had a combined six hearings to vet the issue.

Senate Bill 264 / House Bill 454 – permanent holiday sales tax

Last year Ohio passed a pilot project to exempt sales tax during one week of back to school shopping. There is interest in making that a permanent tax break. The General Assembly quickly passed the Senate version earlier this year.

Senate Bill 288 – income tax for pass through entities reform

SB 288 was introduced by Senator Eklund (R-Munson Township). The bill revises the law governing how taxes on income from pass-through entities is to be reported and paid by the entities and their investors. The bill has had two official hearings.

Senate Bill 289 / House Bill 475 – increase the motion picture tax credit

The motion picture tax credit companion bills sponsored by Senator Patton (R-Strongsville) and Representative Schuring (R-Canton) would expand the current motion picture tax credit. The bills would be applied against the current credit against the commercial activity tax. A version of HB 475 was amended into HB 390 and passed.

Senate Bill 310 – capital appropriations

SB 310 was introduced by Senator Oelslager (R-Canton). The capital bill is expected to move quickly. It is scheduled to leave the Senate this week after only one week of hearings. It is expected to have strong bi-partisan support. The bill provides funding for capital projects across the state and in all the legislative districts. The bill was quick passed and signed by the Governor in May.

House Bill 343 – remove sale tax on temp employees

HB 343 was introduced by Representatives Romanchuk (R-Mansfield) and Young (R-Leroy Township). The bill would exempt employment services and employment placement services from sales and use tax.

This is a priority tax issue for manufacturers who in Ohio must pay sales tax on their temporary employees. The OMA has strongly advocated for this tax relief for manufacturers over the past two budget cycles.

The bill was finally voted out of House Committee during an extremely busy May.

The OMA and members Whirlpool and Cargill testified in support of the measure last fall.

House Bill 355 – employee misidentification

Rep. Wes Retherford (R – Hamilton) has introduced a bill, HB 355, that would turn the Bureau of Workers' Compensation (BWC) into an agency that would police businesses in their classifications of employees and independent contractors.

Under the bill, the BWC would be authorized to enter and inspect all of the offices and job sites maintained by an employer who is the subject of a complaint that an employer is misclassifying an employee. The BWC would be authorized to issue stop work orders and fines.

For many many years, organized labor has attempted to create a de facto Department of Labor at the state level. That's what this one is after. It is a really bad idea.

There have been two interested stakeholder meetings regarding the bill. The OMA has weighed in on several occasions regarding the provisions in the bill.

House Bill 390 – unemployment compensation pay off

During the May legislative session HB 390 morphed into a catch all for tax and finance provisions. Two bills important to manufacturers were amended into HB 390, and one stand-alone provision was also included.

The bill incorporated the portions of HB 473 that required voter approval before a county may levy a new utilities services tax. The amendment was in response to a controversy that occurred in Hamilton County when the commissioners attempted to levy the tax without the input of the voters.

Second, the bill incorporated HB 475 and expanded the motion picture tax credit. The General Assembly approved the amendment to House Bill 390 which expanded Ohio's current motion picture tax credit. The action would have increased the total amount of credits that may be awarded from \$20 million per fiscal year to \$75 million per fiscal year. The vast majority of the claimed credits are taken against the commercial activity tax (CAT).

The legislature scaled back the proposal, opposed by the OMA, by almost half by reducing the amount of allowable credits to \$40 million per fiscal year and disallowing any carryover of credits if less than \$40 million is awarded in any year.

OMA opposes carve outs and credits to the CAT as they threaten its broad-base and low rate.

Finally the General Assembly used HB 390 as the vehicle to address the state's unemployment compensation debt. The General Assembly agreed to a deal with the intention to eliminate the state's recession-era unemployment compensation debt to the federal government. The move supported by the OMA and other business allies will potentially save Ohio's businesses more than \$400 million in FUTA penalties. Without this fix employers were staring at a possible \$168 per employee penalty to be paid in 2017.

The new plan will borrow from the state's unclaimed funds to pay off the debt in November 2016. Then employers will repay the state-backed loan by paying a per employee surcharge in 2017. This surcharge is estimated to be \$50. Overall, the plan will save employers around \$70 per employee in 2017.

This bill is on Governor Kasich's desk for signature.

While the General Assembly addressed the short term debt issue, the new plan does not address the long term solvency of the system due to the structural imbalance that contributed to the heavy borrowing.

House Bill 394 – unemployment compensation reform

HB 394 was introduced last November by Representative Sears (R-Monclova Township). The bill is a priority for the business community. Ohio is one of two states that continue to carry debt owed to the federal government due to its insolvent unemployment trust fund. The bill offers a balanced package of reforms to pay off the debt and build solvency in the system to prevent another major solvency issue in the next recession.

The bill has had multiple hearings in the House Insurance Committee. The OMA and its business allies hired a national expert to testify and set the record straight regarding the provisions of the bill to the General Assembly.

House and Senate leaders have established a six person work group to tackle the issue with a promise of passing the bill in the lame duck session after the elections. The working group is committed to passing a form of HB 394 as was reiterated during the HB 390 debate.

House Bill 467 – unemployment compensation debt

HB 467 was introduced by Representative Butler (R-Oakwood). The bill establishes a loan from the Budget Stabilization Fund to the Unemployment Compensation Fund, to require the Director of Job and Family Services to recommend a program to incentivize the purchase of private unemployment insurance, and to require a study on the solvency of the Unemployment Compensation Fund. However, while the bill finds a way to pay off the debt prior to November 2016, it does nothing to address the long term solvency issues of the fund.

House Bill 473 – utility service tax levy

HB 473 was introduced by Representative Amstutz (R-Wooster). The bill would require voter approval before a county may levy a new utilities services tax among other issues. The bill is in response to a controversy that occurred in Hamilton County when the commissioners attempted to legally levy the tax without the input of the voters. The bill was amended into HB 390.

House Bill 491 – CAT tax credit pilot program

HB 491 was introduced by Representative Anielski (R-Walton Hills). The bill creates a five-year pilot program whereby taxpayers with facilities in this state with activated foreign trade zone status may claim a nonrefundable commercial activity tax credit equal to the amount redeployed by the taxpayer to job creation or other specified projects.

The bill has had two hearings.

Tax News

Tax Foundation Rankings – Ohio 19th in State & Local Tax Rates

According to recently released data from the Tax Foundation, Ohio's combined state and local tax rate is 7.14%. That ranks us 19th among the states (higher ranking = lower rates).

The highest rate in the land? Tennessee at 9.46%. The lowest? Alaska at 1.78%.

The foundation calculates a population-weighted average of local sales taxes as of January 1, 2016 in an attempt to give a sense of the average local rate for each state.

CAT Amicus

The OMA worked with allies in filing an amicus brief on behalf of the state. The issue revolves around three online/catalogue retailers who have failed to pay CAT although they do business in the state of Ohio. The coalition is producing a brief outlining the importance of the CAT to Ohio and Ohio businesses. A real threat exists if these types of companies are excluded from the CAT; the base erodes and more pressure is put on the low rate, resulting in a possible rate increase. These cases were argued before the Court on May 3, 2016.



Ohio Legislative Service Commission

Jean J. Botomogno

Fiscal Note & Local Impact Statement

Bill: H.B. 343 of the 131st G.A. **Date:** May 31, 2016
Status: As Reported by House Economic and Workforce Development **Sponsor:** Reps. Romanchuk and Young

Local Impact Statement Procedure Required: Yes

Contents: To exempt sales of employment services and employment placement services from the sales and use tax beginning July 1, 2017

State Fiscal Highlights

STATE FUND	FY 2017	FY 2018	FUTURE YEARS
General Revenue Fund			
Revenues	- 0 -	Loss of \$164 million	Loss of \$169 million in FY 2019. Losses are likely to grow in ensuing years
Expenditures	- 0 -	- 0 -	- 0 -

Note: The state fiscal year is July 1 through June 30. For example, FY 2016 is July 1, 2015 – June 30, 2016.

- The bill reduces the sales and use tax base, and thus decreases sales and use tax revenue starting in FY 2018.
- State sales and use tax receipts are deposited in the GRF which would bear the majority of the revenue loss. Any reduction to GRF tax receipts would also reduce the amount distributed to the Local Government Fund (LGF) and Public Library Fund (PLF) as these local funds receive distributions from GRF tax receipts.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2016	FY 2017	FUTURE YEARS
Counties, municipalities, townships, and public libraries (LGF and PLF)			
Revenues	- 0 -	Potential loss	Loss of \$5.6 million in FY 2018. Losses are likely to grow in ensuing years
Expenditures	- 0 -	- 0 -	- 0 -
Counties and Transit Authorities			
Revenues	- 0 -	Potential loss	Loss of \$41.5 million in FY 2018. Losses are likely to grow in ensuing years
Expenditures	- 0 -	- 0 -	- 0 -

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- The bill reduces revenue from local permissive county and transit authority sales taxes. Those taxes share the same base as the state sales and use tax.
 - Receipts from the state sales and use tax are deposited in the GRF. A share of GRF tax revenues is distributed under permanent law to the LGF and PLF. Thus, any reduction to GRF tax receipts would also reduce the amount distributed to the LGF and PLF.
-

Detailed Fiscal Analysis

Under current law, the sale or use of services is generally not taxable unless expressly made subject to the sales tax; and employment services and employment placement services have been explicitly subject to the tax since 1993. Employment services are transactions in which a service provider furnishes personnel to perform work under the supervision or control of the purchaser. The personnel may be assigned to the purchaser for a short period of time or on a long-term basis, and are paid by the service provider or a third party that supplies the personnel to the service provider. Generally, if employment services are supplied by a third party to a service provider, and then by the service provider to a purchaser, only the transaction between the service provider and the purchaser is taxable. H.B. 343 would exempt all taxable employment and employment placement services beginning July 1, 2017, thus affecting sales tax revenue starting in FY 2018.

Sales taxes on employment services are generally remitted by businesses with North American Industry Classification System (NAICS) codes starting with 5613. These would include employment placement agencies (NAICS 561311), executive search services firms (NAICS 561312), temporary help services firms (NAICS 561320), and professional employer organization firms (NAICS 561330). Additionally, certain users of employment services and employment placement services pay use taxes directly to the state. Roughly \$155 million was collected from the state sales and use tax on employment and employment placement services in FY 2015, according to the Department of Taxation.

Separately, data from the U.S. Census Bureau suggest revenue from establishments in the administrative and support services industries (NAICS 561) which declined during the last economic recession grew about 6% per year, on average, in the most recent years.¹ Assuming a revenue growth rate of 3% for firms in the employment and employment placement services in Ohio, the potential revenue from the sales and use tax on employment services might be about \$169 million in FY 2018 and \$174

¹ Nationwide, revenue growth at businesses in the Administrative and Support Services sector (NAICS 561), which includes firms relevant to the bill, was about 6% per year between 2011 and 2014, according to the 2014 Service Annual Survey and administrative data from the Economic Census.

million in FY 2019, and possibly higher depending on the growth of the industry. The amounts above would also correspond to the potential revenue loss from H.B. 343, which is likely to increase in future years, though the magnitude of the increases would depend on the business cycle.²

Receipts from the state sales and use tax are deposited into the GRF. Under permanent law, a portion of GRF tax receipts is subsequently transferred to the Local Government Fund (LGF) and the Public Library Fund (PLF). Under permanent law, the GRF would receive 96.68% of sales tax revenue, and the LGF and the PLF 1.66% each.³ Thus, the GRF loss would be about \$164 million in FY 2018. Reduced distributions to the LGF and PLF would be about \$2.8 million for each local government fund. In FY 2019, estimated revenue losses from the bill would be about \$169 million to the GRF, and \$2.9 million each for the LGF and the PLF.

Local permissive county and transit authority sales taxes share the same tax base as the state sales tax, and are approximately 24.5% of state sales tax revenues. Thus, the revenue loss to local governments from permissive county and transit authority sales and use taxes from H.B. 343 would be about \$41.5 million in FY 2018 and \$42.7 million in FY 2019. Adding those amounts to the potential revenue losses to the LGF and the PLF, revenue reductions to local governments would total \$47.1 million in FY 2018 and \$48.5 million in FY 2019, and are likely to grow in future years.

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² Though a small share of nonfarm payroll employment (2.1% in 2014), the temporary help industry plays an outsized role in workforce adjustment during recessions and recoveries. Generally, during recessions, companies increase their use of temporary help, lengthen existing temporary help assignments, or reduce hiring from their pool of temporary workers in response to economic uncertainty. The reverse tends to occur in periods of economic recovery.

³ Under temporary provision in H.B. 64, the budget act for the current biennium, the PLF share would be 1.70%, instead of 1.66%.

Chairman of the Board
WILLIAM E. SOPKO
President, William Sopko & Sons Co., Inc.



President
ERIC L. BURKLAND

5/16/2016

The Honorable Ryan Smith
Chairman
Ohio House Finance Committee
77 S. High St., 14th Floor
Columbus, OH 43215

RE: House Bill 475 – Motion Picture Tax Credit

Dear Chairman Smith:

The Ohio Manufacturers' Association (OMA) has been an ardent supporter of the 2005 tax reforms including the creation of the commercial activity tax (CAT). Some of the most important aspects of the CAT are its broad base, its low rate, and its broad application to business entities. Those attributes can only be maintained when the state stands firm against individual carve-outs and exemptions.

According to 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 percent of all taxpayers (retail trade is the largest). And, manufacturers pay 26.8 percent of the state's total – far more than any other group (in terms of CAT revenues based only on the 0.26 percent CAT rate for gross receipts in excess of \$1 million). Manufacturers are concerned that any new carve-outs, exemptions, or credits could provide strain on the CAT forcing an increase in its rate.

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.

House Bill 475 expands Ohio's current motion picture tax credit by increasing the total amount of credits that may be awarded from \$20 million to \$75 million per fiscal year and authorizes unallocated credit amounts to be carried forward. The credit can be taken against one of three taxes including the commercial activity tax. Expanding a credit against the CAT gives us pause.

We urge the General Assembly to stay strong against expanding any current credits and exemptions. Otherwise, we risk following the path of the former ineffective and exemption riddled corporate franchise tax with high rates.

Thank you for your time and we would be happy to discuss this matter further.

Sincerely,



Robert Brundrett
Director, Public Policy Services
The Ohio Manufacturers' Association

CC: The Honorable Kirk Schuring



Ohio Legislative Service Commission

Jean J. Botomogno

Fiscal Note & Local Impact Statement

Bill: H.B. 491 of the 131st G.A.

Date: May 23, 2016

Status: As Introduced

Sponsor: Rep. Anielski

Local Impact Statement Procedure Required: Yes

Contents: Authorizes a nonrefundable credit against the commercial activity tax for businesses that have facilities located in active foreign-trade zones

State Fiscal Highlights

- The bill authorizes a nonrefundable credit against the commercial activity tax (CAT) for expenditures incurred for specified purposes by businesses in Ohio foreign-trade zones.
- The bill reduces revenue from the CAT by an uncertain amount. The potential revenue loss would be dependent on the level of qualifying expenditures, and thus could be sizable.
- CAT revenue is deposited into the GRF and two local government funds used to reimburse school districts and other units of local government for lost revenue from the phase-out in tangible personal property taxes. Under current law, the GRF receives 75% of CAT revenue. The School District Tangible Property Tax Replacement Fund (Fund 7047) and the Local Government Tangible Property Tax Replacement Fund (Fund 7081) receive 20% and 5%, respectively.
- A loss of GRF revenue would reduce distributions to the Local Government Fund (LGF, Fund 7069) and the Public Library Fund (PLF, Fund 7065), which will receive 1.66% and 1.70%, respectively, of GRF revenue in FY 2017. The PLF share reverts to 1.66% in FY 2018 and thereafter under current law.

Local Fiscal Highlights

- The bill reduces revenue from the CAT. A share of CAT revenue is deposited into two local government funds used to reimburse school districts and other units of local government for lost revenue from the phase-out in tangible personal property taxes. Thus the bill reduces revenue to school districts and other local governments.
- A reduction in state distributions to the LGF and PLF would reduce revenues of units of local government and libraries.

Detailed Fiscal Analysis

The bill authorizes a nonrefundable credit against the commercial activity tax (CAT) for businesses that have one or more facilities located in active foreign-trade zones (FTZs) in Ohio.¹ FTZs are areas designated by the Foreign-Trade Zones Board (FTZ Board), pursuant to federal law, for the purpose of storing, exhibiting, assembling, manufacturing, and processing foreign and domestic goods. The credit equals expenditures incurred by the business during the tax period for any of the following purposes: (1) creating jobs at the FTZ facility, (2) providing training or continuing education to employees working at the FTZ facility, (3) making capital improvements to the FTZ facility including, specifically, installation of renewable energy resources, or (4) undertaking initiatives to increase exports to foreign nations of goods or services produced at the FTZ facility.

The credit would be claimed against the CAT due on the business's gross receipts derived from the FTZ facility, but expenditures exceeding the tax due cannot be claimed as a credit in future tax periods. The bill requires businesses claiming the credit to file records of the commitments and expenditures upon which the credit is based with the Tax Commissioner. If the Commissioner and the Director of Development Services determine that a business has failed to comply with the reporting requirement, the Commissioner may make an assessment against the business proportionate to the compliance failure. The assessment may include applicable penalty and interest.

LSC is unable to determine the commitments and expenditures of firms that may be used as the basis of the CAT credit. Therefore, LSC is unable to estimate the potential revenue loss from the bill. Though the revenue reduction is undetermined, it could be sizable depending on the level of qualifying expenditures incurred by firms in the FTZs and their current CAT payments, none of which can be ascertained by LSC.

CAT revenue is deposited into the GRF and two local government funds used to reimburse school districts and other units of local government for lost revenue from the phase-out in tangible personal property taxes. Under current law, the GRF receives 75% of CAT revenue; the School District Tangible Property Tax Replacement Fund (Fund 7047) and the Local Government Tangible Property Tax Replacement Fund (Fund 7081) are credited 20% and 5% of CAT receipts, respectively.

A portion of GRF tax revenue is distributed to the Local Government Fund (LGF, Fund 7069) and the Public Library Fund (PLF, Fund 7065), with the balance retained by the GRF. The LGF and PLF shares are 1.66% each under permanent law, but the PLF instead receives 1.70% during the current biennium. Reduced distributions to these two state funds would lower revenues of units of local government and public libraries.

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¹ The U.S. Foreign-Trade Zone Board reports eight active foreign-trade zones in Ohio with merchandise received and shipments between \$10 billion and \$25 billion in 2014.

Tax

[More Good News for the R&D Tax Credit](#)

June 10, 2016

OMA Connections Partner, Tax Credits Group, posted that: “The recent wave of favorable developments for the R&D tax credit continued earlier this month as a new bill, H.R. 5187, was introduced and referred to the Committee on Ways and Means to increase the Alternative Simplified Credit (ASC) rate from 14% to 20%.

“This bill follows on the heels of the PATH Act of 2015 which granted the R&D tax credit permanent status, after thirty-plus years as a temporary incentive, and introduced several other changes allowing small to mid-size businesses to utilize the credit against Alternative Minimum Tax (AMT) or payroll taxes.”

[Read more from Tax Credits Group about the ASC method.](#)

[Legislature Expands CAT Credit](#)

June 3, 2016

Among a flurry of legislative activity last week before summer recess, the General Assembly okayed an amendment to [House Bill 390](#) which expanded Ohio's current motion picture tax credit. The action, originally included in [House Bill 475](#), would have increased the total amount of credits that may be awarded from \$20 million per fiscal year to \$75 million per fiscal year. The vast majority of the claimed credits are taken against the commercial activity tax (CAT).

The legislature scaled back the proposal, opposed by the OMA, by almost half by reducing the amount of allowable credits to \$40 million per fiscal year and disallowing any carryover of credits if less than \$40 million is awarded in any year.

OMA opposes carve outs and credits to the CAT as they threaten its broad-base and low rate.

[House Hears Testimony on \(Another\) CAT Carve Out](#)

May 27, 2016

This week the House Ways and Means Committee heard proponent testimony on [House Bill 491](#). The bill establishes a five-year pilot program whereby

taxpayers with Ohio facilities in an active foreign trade zone (FTZ) may claim a nonrefundable commercial activity tax (CAT) credit equal to the amount invested by the taxpayer in job creation and a number of other specified activities. Two consultants providing proponent testimony for the bill were questioned heavily by skeptical lawmakers.

The Legislative Service Commission [fiscal analysis](#) which is used to determine the cost impact of such legislation wrote, “Though the revenue reduction is undetermined, it could be sizable depending on the level of qualifying expenditures incurred by firms in the FTZs and their current CAT payments, none of which can be ascertained by LSC.”

Legislators questioned whether it was a good idea to pass legislation when the cost impact is not able to be estimated.

[Can Tool and Die Makers Qualify for the R&D Tax Credit?](#)

May 27, 2016

OMA Connections Partner, Tax Credits Group, says it is often asked if tool and die shops can qualify for the R&D tax credit.

The short answer—absolutely.

The longer answer to whether your work is eligible for the R&D tax credit requires a deep dive into IRC § 41, which outlines a “4-Part Test” which all jobs or projects must meet to qualify for the credit.

[Here's a look at each of these four parts](#) as they relate to the tool and die Industry.

[OMA Warns Against CAT Credit Expansions](#)

May 20, 2016

This week the House Finance Committee had its third hearing on House Bill 475. The bill expands Ohio's current motion picture tax credit by increasing the total amount of credits that may be awarded from \$20 million per fiscal year to \$75 million per fiscal year. Currently the vast majority of the claimed credits are taken against the commercial activity tax (CAT).

The OMA [sent a letter](#) to House Finance Committee Chairman [Ryan Smith](#) (R-Bidwell) that said: “Manufacturers are concerned that any new carve-

outs, exemptions, or credits could provide strain on the CAT forcing an increase in its rate.”

[Supreme Court Takes Up CAT Case in which OMA Filed Amicus](#)

May 6, 2016

This week the Ohio Supreme Court heard the oral argument for three combined commercial activity tax (CAT) cases (Crutchfield, Inc., Mason Companies, Inc., and Newegg, Inc.). Last year the OMA, among others, filed amicus briefs at the high court in support of the Department of Taxation relative to these cases.

The three companies have challenged the state's authority to collect CAT because they do not have a physical presence in Ohio; the three companies in question do sell their products in Ohio.

The OMA et al. amicus brief argued that companies with no physical presence in the state that enjoy the benefits of doing business in Ohio (through various physical connections, such as computers and intermediaries) should pay the tax, as do their competitors that physically operate in Ohio.

You can [watch the oral argument here](#).

[Tax Relief on Temporary Workers Bill Moves Out of Committee](#)

April 29, 2016

This week, [House Bill 343](#), which would exempt employment services and employment placement services from sales and use tax, cleared the House Economic & Workforce Development Committee on a 7-4 vote.

The bill was contentious in committee because of the potential loss of state revenue to local governments. However, the tax was created with no clear tax policy; it became effective in 1993 in order to fill a hole in the state budget.

This continues to be a priority tax issue for Ohio manufacturers who must pay sales tax on their temporary employees.

Use the easy email tools at OMA's [Manufacturing Advocacy Center](#) to ask your representative to support this bill.

[Bill Would Simplify Pass Through Filings](#)

April 22, 2016

A bill affecting all “pass through entities,” [Senate Bill 288](#), sponsored by [Senator John Eklund](#) (R-Munson Township), received proponent testimony this week.

OMA tax counsel Mark Engel OMA writes in an [analysis prepared for OMA members](#): “Senate Bill 288 proposes to require all pass through entities to file either a composite return or an informational return, and to make tax payments with respect to certain owners included in the composite return. The bill also changes the rate at which tax is computed.” The bill, he says, “attempts to simplify the filing process and reduce the cash implications to the individual owners.”

The Ohio Society of CPAs provided [testimony](#) in support of the changes.

Taxation Legislation

Prepared by: The Ohio Manufacturers' Association
Report created on June 14, 2016

- 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: 5/25/2016 - **PASSED BY SENATE**; Vote 33-0
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: 5/25/2016 - **PASSED BY HOUSE**; Vote 71-26
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**; eff. 4/1/2015
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: 11/18/2015 - Senate Ways and Means, (First 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: 6/30/2015 - **SIGNED BY GOVERNOR**; eff. 6/30/15; certain provisions effective 9/29/2015, other dates
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: 11/18/2015 - **REPORTED OUT**, House Finance, (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>

- HB269** **INCOME TAX-SOUND RECORDING** (SMITH K, LATOURETTE S) To authorize a refundable income tax credit for individual investors in a sound recording production company equal to a portion of the company's costs for a recording production or recording infrastructure project in Ohio.
Current Status: 2/16/2016 - House Ways and Means, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-269>
- HB280** **BALANCED BUDGET COMPACT** (KRAUS S, KOEHLER K) To adopt the Compact for a Balanced Budget and to declare an emergency.
Current Status: 6/30/2015 - Introduced
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-280>
- HB308** **TEXTBOOKS-TAX EXEMPTION** (DUFFEY M, STINZIANO M) To exempt from sales and use tax textbooks purchased by post-secondary students.
Current Status: 10/21/2015 - House Ways and Means, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-308>
- HB326** **TAX LAW-JOINT FILING** (AMSTUTZ R, MCCLAIN J) To make technical changes to the state income tax law, to modify the requirements for receiving the joint filing credit, and to provide that, for the 2015 taxable year, any taxable business income under \$125,000 for married taxpayers filing separately or \$250,000 for other taxpayers is subject to the graduated tax rates applicable to nonbusiness income, while business income in excess of those amounts remains subject to the existing 3% flat tax.
Current Status: 10/26/2015 - House Ways and Means, (Fifth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-326>
- HB343** **EMPLOYMENT SERVICES-TAX EXEMPT** (YOUNG R, ROMANCHUK M) To exempt employment services and employment placement services from sales and use tax.
Current Status: 4/27/2016 - **REPORTED OUT**, House Economic and Workforce Development, (Eighth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-343>
- HB358** **TAX DEDUCTION-SAVINGS ACCOUNTS** (DEVER J, CONDITT M) To allow an income tax deduction for contributions to ABLE savings accounts.
Current Status: 4/19/2016 - House Ways and Means, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-358>
- HB369** **BALANCED BUDGET COMPACT** (KOEHLER K, HAMBLEY S) To adopt the Compact for a Balanced Budget and to declare an emergency.
Current Status: 5/24/2016 - House Government Accountability and Oversight, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-369>
- HB390** **NATURAL GAS-ET AL** (SCHAFFER T, RETHERFORD W) To provide authorization and conditions for the operation of state programs and to make appropriations.

Current Status: 5/25/2016 - Consideration of Senate Amendments; House Does Concur, Vote 69-26

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-390>

HB398 CAUV COMPUTATION (HILL B) To require that the computation of the capitalization rate for the purposes of determining CAUV of agricultural land be computed using a method that excludes appreciation and equity buildup.

Current Status: 5/3/2016 - House Government Accountability and Oversight, (Second Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-398>

HB454 SALES TAX HOLIDAY-PERMANENT (PATTERSON J) To provide for a permanent three-day sales tax "holiday" each August during which sales of back-to-school clothing and school supplies are exempt from sales and use taxes.

Current Status: 2/23/2016 - Referred to Committee House Ways and Means

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-454>

HB466 TAX-EXEMPT-DIGITAL ADVERTISING (SMITH R) To specifically exempt digital advertising services from sales and use tax.

Current Status: 5/25/2016 - **PASSED BY SENATE**; Vote 32-1

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-466>

HB467 UNEMPLOYMENT COMPENSATION FUND (BUTLER, JR. J) To establish a loan from the Budget Stabilization Fund to the Unemployment Compensation Fund, to require the Director of Job and Family Services to recommend a program to incentivize the purchase of private unemployment insurance, and to require a study on the solvency of the Unemployment Compensation Fund.

Current Status: 4/13/2016 - Referred to Committee House Insurance

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-467>

HB473 UTILITY SERVICE TAX-LEVY (AMSTUTZ R) To require voter approval before a county may levy a new utilities services tax, to allow small businesses to count employees of related or affiliated entities towards satisfying the employment criteria of the business investment tax credit, to permit a bad debt refund for cigarette and tobacco product excise taxes paid when a purchaser fails to pay a dealer for the cigarettes or tobacco products and the unpaid amount is charged off as uncollectible by the dealer.

Current Status: 5/17/2016 - House Ways and Means, (Fourth Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-473>

HB475 MOTION PICTURE-TAX CREDIT (SCHURING K) To authorize motion picture companies to transfer the authority to claim refundable motion picture tax credits to other persons, to adjust how the credit is calculated, to increase the total amount of credits that may be awarded per year, to remove the limit on the maximum credit amount that may be awarded to a motion picture, and to create a job training program for resident film crew members.

Current Status: 5/24/2016 - **REPORTED OUT AS AMENDED**, House Finance, (Fourth Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-475>

- HB484** **TAX-EXEMPT PRODUCTS** (SYKES E, CERA J) To exempt from sales and use tax the sale of nonprescription human drugs, feminine hygiene products associated with menstruation, and disposable baby diapers, to reimburse the Local Government Fund and Public Library Fund and county and transit sales and use tax collections for any revenue lost due to those exemptions, and to create the Legislative Commission on Middle Class Economic Strength to study proposed income, sales, or use tax legislation that changes the proportionate tax burden among income classes or other classes.
Current Status: 4/13/2016 - Referred to Committee House Ways and Means
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-484>
- HB485** **INCOME TAX DEDUCTION-TUITION** (RAMOS D) To reinstate the state income tax deduction for qualified higher education tuition and fee payments that expired December 31, 2005.
Current Status: 4/13/2016 - Referred to Committee House Ways and Means
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-485>
- HB489** **MINE FUNDS** (CERA J) To credit a portion of the money derived from the Kilowatt-Hour Tax Receipts Fund to the Abandoned Mine Reclamation Fund, the Acid Mine Drainage Abatement and Treatment Fund, and the Mine Safety Fund and to make other changes to those funds.
Current Status: 5/10/2016 - House Ways and Means, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-489>
- HB491** **TAX CREDIT-PILOT PROGRAM** (ANIELSKI M) To establish a five-year pilot program whereby taxpayers with facilities in this state with activated foreign trade zone status may claim a nonrefundable commercial activity tax credit equal to the amount redeployed by the taxpayer to job creation or other specified projects.
Current Status: 5/24/2016 - House Ways and Means, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-491>
- HB492** **CAPITAL IMPROVEMENT-PILOT** (ROGERS J, DRIEHAUS D) To create the Supplemental State Capital Improvements Pilot Program funded by a temporary transfer from the Budget Stabilization Fund and to make an appropriation.
Current Status: 4/13/2016 - Referred to Committee House Finance
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-492>
- HB515** **HEATING FUELS-SALES TAX** (PATTERSON J, CERA J) To exempt from sales and use taxation the bulk sale of firewood and certain other heating fuels, and to reimburse the Local Government Fund and Public Library Fund and county and transit sales tax collections for the resulting revenue losses.
Current Status: 4/26/2016 - Referred to Committee House Ways and Means
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-515>

- HB547** **MBR-OBM** (SMITH R) To provide authorization and conditions for the operation of state programs and to make appropriations.
Current Status: 5/24/2016 - **SUBSTITUTE BILL ACCEPTED**, House Finance, (Fourth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-547>
- HB563** **INCOME TAX-LAYOFFS** (RAMOS D) To provide for payments to municipalities or school districts for their lost income tax revenue after a business lays off 50 or more employees within their jurisdiction.
Current Status: 5/12/2016 - Introduced
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-563>
- HB565** **TAX CREDIT-STUDENT LOANS** (RAMOS D) To allow a credit against the income tax or commercial activity tax for graduates or employers who make payments on student loans obtained by the graduate to earn a degree from an Ohio college or university.
Current Status: 5/12/2016 - Introduced
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-565>
- 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: 2/14/2016 - **SIGNED BY GOVERNOR**; eff. 2/14/2016
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: 4/27/2016 - Senate Ways and Means, (First Hearing)
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: 6/10/2015 - Senate Ways and Means, (First Hearing)
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>

SB198 **NON-RESIDENT MUNICIPAL INCOME TAX** (JORDAN K) To prohibit municipal corporations from levying an income tax on nonresidents' compensation for personal services or on net profits from a sole proprietorship owned by a nonresident.

Current Status: 9/29/2015 - Senate State and Local Government, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-198>

SB208 **STATE INCOME TAX** (BEAGLE B) To make technical changes to the state income tax law, to modify the requirements for receiving the joint filing credit.

Current Status: 11/15/2015 - **SIGNED BY GOVERNOR**; Eff. 2/15/2016, Certain provisions effective 11/15/2015
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-208>

SB209 **OHIO RURAL JOBS ACT** (HITE C) To enact the "Ohio Rural Jobs Act" which authorizes a nonrefundable tax credit for insurance companies that invest in rural business growth funds, which are certified to provide capital to rural and agricultural businesses.

Current Status: 12/8/2015 - House Agriculture and Rural Development, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-209>

- SB235** **INCREASED VALUE-PROPERTY TAX** (BEAGLE B, COLEY W) To exempt from property tax the increased value of property on which industrial or commercial development is planned until construction of new commercial or industrial facilities at the property commences.
Current Status: 5/4/2016 - **PASSED BY SENATE**; Vote 22-11
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-235>
- SB246** **CAUV COMPUTATION-CAPITALIZATION RATE** (HITE C) To require that the computation of the capitalization rate for the purposes of determining CAUV of agricultural land be computed using a method that excludes appreciation and equity buildup.
Current Status: 4/27/2016 - Senate Ways and Means, (Fourth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-246>
- SB260** **CAPITAL REAPPROPRIATIONS** (COLEY W) To make capital reappropriations for the biennium ending June 30, 2018.
Current Status: 2/21/2016 - **SIGNED BY GOVERNOR**; eff. 7/1/2016
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-260>
- SB288** **INCOME TAX-PASS THROUGH ENTITIES** (EKLUND J) To revise the law governing how taxes on income from pass-through entities is to be reported and paid by the entities and their investors.
Current Status: 4/20/2016 - Senate Ways and Means, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-288>
- SB289** **MOTION PICTURE TAX CREDIT** (PATTON T) To increase the overall cap on the motion picture tax credit from \$40 million per fiscal biennium to \$100 million for the current fiscal biennium and \$160 million for all subsequent biennia.
Current Status: 4/12/2016 - Referred to Committee Senate Ways and Means
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-289>
- SB302** **PROPERTY TAX EXEMPTION-MILITARY VETERANS-DISABLED** (SCHIAVONI J, GENTILE L) To exempt from property taxation the primary residence of military veterans who are disabled.
Current Status: 4/12/2016 - Referred to Committee Senate Ways and Means
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-302>
- SB305** **TAX CERTIFICATES-SALE PROHIBITION** (WILLIAMS S) To prohibit the sale of tax certificates for parcels owned by a person sixty-five years of age or older and that include the primary residence of the owner.
Current Status: 4/12/2016 - Referred to Committee Senate Ways and Means
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-305>
- SB310** **CAPITAL APPROPRIATIONS** (OELSLAGER S) To make capital appropriations and changes to the law governing capital projects for the biennium ending June 30, 2018.
Current Status: 5/17/2016 - **SIGNED BY GOVERNOR**; eff. in 90 days

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-310>