

**Government
Affairs
Committee
May 28, 2014**

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

OMA Government Affairs Committee Meeting Sponsor:



Wednesday, May 28, 2014
Wednesday, Aug. 20, 2014
Wednesday, Dec. 3, 2014

OMA Government Affairs Committee
May 28, 2014



AGENDA

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| Welcome & Self-Introductions | Jeff Fritz of DuPont, OMA Committee Chair |
| Federal Minute
Brief Report on National Issues
by National Partners | Amber Best of NewPage Corp., Regional Vice Chair NAM Ohio
Region |
| OMA Counsel's Report | Kurtis Tunnell, Managing Partner, Bricker & Eckler, LLP |
| Staff Reports | Ryan Augsburger, OMA Staff
Rob Brundrett, OMA Staff
Committee Members |
| Discussion / Action Items | Member Discussion Encouraged Throughout Meeting |

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

Thanks to Today's Meeting Sponsor:



Public Policy “Hot Topics” May 28, 2014

Overview

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

The General Assembly will undergo some major changes this fall. Both Speaker Batchelder and Minority Leader Heard will be leaving the legislature due to term limits. Along with the House and a portion of the Senate up for reelection, this fall will also feature elections for Ohio's constitutional offices, and two Ohio Supreme Court races.

Mid-Biennium Review (MBR)

The Governor's mid-biennium review bill was introduced on March 11, 2014. The bill was over 1,600 pages and packed with policy changes across a wide spectrum of state government agencies. Key features of the introduced version were new tax reform proposals, education and workforce transformation ideas, and increased state support for mental illness and addiction.

The House of Representatives promptly divided the bill into 14 new bills. Some of the MBR bills have already passed; others will pass prior to break, while others will be worked on in lame duck. The House removed the tax reform package and announced it would not proceed on the proposal prior to the campaign break.

The main MBR appropriations bill became HB 483. This bill contained miscellaneous policy issues as well, including the manufactured gas plant remediation provisions. The House removed the MGP language from the bill and the Senate did not reinsert the language. Many manufacturers lobbied hard to ensure that those provisions were removed from the bill.

SB 58 / HB 302 / SB 310 Energy Efficiency Standards

A new attempt to revise Ohio's alternative energy standards was introduced by Senator Troy Balderson (R-Zanesville) this spring. The bill with the backing of the Senate President was passed by the Ohio Senate. Following review and analysis of the bill for impact on the manufacturing sector, the OMA has been communicating strong opposition to the bill. The House has scheduled the bill for a vote this week. See energy section.

Workers' Comp & Industrial Commission

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

Tax Policy

The House introduced a new severance tax proposal in December. A sub bill was passed in early May. The House passed version contains a CAT exclusion for pass through entities in the oil and gas industry. The Senate indicated it is not a priority bill to pass prior to the summer break.

House Bill 5, the municipal income tax uniformity bill was voted out of the House in November. The bill has been supported by the business community. The Senate is holding sponsor testimony this week.

A slew of CAT attack bills have been introduced since the beginning of the year. These include CAT credits and deductions for a variety of things including food donations, hiring new employees, purchasing alternative vehicles and contributing to an economic development project. While some of these ideas may have good intentions driving them, the concern is that any deduction or credit puts strain on the low rate. Increased pressure on the rate may entice legislators to raise that rate.

The MBR contained the administration's latest version of tax reform. With the goal of reducing the individual income tax rates, the bill would have increased the CAT rate from .26% to .30%, increased the cigarette tax by \$.60 over two years and increased the severance tax. The House and Senate have set aside the proposal.

Civil Justice

HB 238 (Rep. Jim Butler, R-Dayton) was introduced last summer to require public disclosure of most large contingency-fee contracts between government and personal injury attorneys. Known as the Transparency in Private Attorney Contracting (TiPAC) legislation is intended to address concerns about the propriety of contingency-fee arrangements for the prosecution of public claims. Senator Bill Seitz (R-Cincinnati) also recently introduced SB 344, which differs from HB 238. The OMA will be reviewing the Seitz legislation. The OMA strongly supports the TiPAC concept and will be advocating passage of the best bill for manufacturing.

Representative Kristina Roegner (R-Hudson) introduced her patent troll bill this week. Patent trolls are a person or company who enforces patent rights against accused infringers in an attempt to collect licensing fees, but does not manufacture products or supply services based upon the patents in question. This has become a big issue across the country. A federal solution is preferable for many manufacturers. However in the absence of federal legislation, states are taking up the cause. The Ohio bill has divided the business community on what is the appropriate bill language that would prevent trolls while allowing companies to protect their intellectual property.

Elections

Ohio's primary election was held earlier this month. There was one statewide election ballot issue. Issue one, the renewal of the State Capital Improvements Program was overwhelmingly passed by Ohio voters. Issue one allows the state to issue bonds for state infrastructure improvement projects. The issue received an abundance of bipartisan support throughout the state.

The primary also cleared the way for Ed FitzGerald, Cuyahoga County Executive to take on Governor John Kasich in the fall. FitzGerald easily dispatched his democratic rival.

Several incumbents lost their primaries, including Representative Peter Beck who is facing criminal charges, and Representative Peter Stautberg, who lost to former State Rep Tom Brinkman. See a complete list of the races in your materials.

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

Environment

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

Ohio EPA's push for a comprehensive beneficial use program has come back in the last month. The agency has released the long promised draft permits. It has also sent out an early stakeholder outreach on "co-products" and "by-products". These might eventually be excluded from any beneficial use regulation.

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

Human Resources

There is a major concern among employers regarding Ohio's \$1.6 billion dollar debt to the federal government for unemployment insurance. Until the debt is repaid in full Ohio's FUTA tax rate will continue to climb. The state's trust fund is insolvent and there are real worries that it will not be solvent prior to the next major economic downturn.

Constitutional Modernization Commission

The Constitutional Modernization Commission recently hired an executive director. Steve Hollon was selected to lead the Commission. Mr. Hollon had previously spent the last 15 years at the Administrative Director for the Ohio Supreme Court.

The Commission is looking to fill several administrative positions as its heads into the summer. There is speculation that the group will review possible redistricting reform ideas as one of the biggest issue the Commission will try to tackle.

Leadership

Kasich Lead Widens Over FitzGerald

Governor Kasich is “at or over the critical 50 percentage point mark on a number of measures, including his 50 - 35 percent lead over Cuyahoga County Executive Ed FitzGerald, his Democratic challenger,” according to a Quinnipiac University [poll](#) released this week.

This compares to a 43 - 38 percent Kasich lead in a February 19 survey by Quinnipiac.

“Voters approve 56 - 33 percent of the job Gov. Kasich is doing, his best score since he was elected in 2010, and say 53 - 37 percent that he deserves to be reelected,” say the pollsters. 5/14/2014

Infrastructure Week 2014

The week is “[Infrastructure Week 2014](#),” designed to bring attention to the need for significant infrastructure investment in America, investments that will grow manufacturing jobs in the country.

In the kickoff event for the week, NAM president [Jay Timmons said](#): “Our aging infrastructure and our failure to make adequate investments in it are significant impediments to our nation’s competitiveness and our ability to maintain our mantle of economic leadership,” said Timmons. “Manufacturers can’t afford more delays. Lawmakers must address these challenges and adopt a multiyear, fully funded surface transportation bill that offers certainty and support for infrastructure projects that improve safety, facilitate trade and create jobs. Congress must bring the federal Highway Trust Fund to an improved condition of solvency and long-term sustainability.”

To get involved with the infrastructure development campaign, consider joining “[Building America’s Future](#).” 5/13/2014

State Issue 1 Wins

OMA board-supported State Issue 1 was approved by voters in the May 6 primary and renews for another 10 years the State Capital Improvements Program that will help communities across Ohio complete road, bridge, sewer and other infrastructure projects.

The [Secretary of State](#) reports the “Yes” vote was 65.10% of the 1.2 million votes counted. 5/8/2014

Primary Election Results

Ohioans who voted in Tuesday’s primary election produced these [results](#).

All 16 members of Congress, all 99 members of the Ohio House of Representatives and, according to Ohio’s Constitution, roughly half (17) of the 33 members of the Ohio Senate were on their respective ballots.

While most incumbents won their elections, Rep. Peter Stautberg (R – Cincinnati) was defeated by tea party activist and former state representative, Tom Brinkman. Stautberg is the chair of the House Public Utilities Committee.

In a widely watched congressional contest, Rep. Matt Lynch (R – Chagrin Falls) failed in his bid to challenge Republican incumbent Congressman David Joyce. 5/8/2014

ODOT Seeks Innovation for OH – KY Bridge

The Ohio Department of Transportation will be seeking [statutory changes](#) to allow it to finance the Brent Spence bridge (I-75 connecting Ohio and Kentucky in Cincinnati) with innovative new [tolling technology](#).

According to this [backgrounder](#), “The new Brent Spence Bridge Corridor will more than double the capacity of the current bridge...The project is expected to have a price tag of nearly \$2.5 billion, making it the largest infrastructure project this region has ever seen.

But as it stands today, public sources of funding – whether federal or state – will not be enough. Estimated project costs are approximately five times the State of Ohio and Commonwealth of Kentucky combined annual budgets for new and capacity-driven project budgets. Tolling is being evaluated as a means to produce a new, dedicated revenue source to fund the project.”

Here’s a [fact sheet](#) on the enormous project. It is the 10th most expensive “[mega projects](#)” in the country. It is also one of many nationally proposing to use “[all electronic tolling](#).” 5/8/2014

Chief Justice O’Connor Offers Plan to Strengthen Judicial Elections

Last week during her annual address to the Ohio State Bar Association, Ohio Supreme Court Chief

Justice Maureen O'Connor [called](#) for an amendment to the Ohio Constitution to move all judicial elections together to odd-numbered years as part of a three-point plan to improve judicial elections and strengthen Ohio courts. The [plan](#) includes:

- Holding judgeship elections in odd-numbered years and moving judicial candidates to the top of the ballot. They now appear at the bottom of a crowded even-year ballot.
- Creating a nonpartisan voter information website and program to provide information about candidates at all levels.
- Increasing the minimum requirements for candidates.

O'Connor said: "There are three reasons we must act. One: Polls show that even though Ohioans want to continue to elect judges, they believe that judges are influenced by politics, by contributions, and by other factors. Two: The numbers are clear that at least one quarter of the electorate does not participate in judicial races. Three: The level of knowledge and understanding about the judiciary among the general public is inadequate. Voters do not have easy access to quality information." 5/8/2014

Tort Reform Works

The Ohio Department of Insurance (ODI) released a [report](#) that shows that fewer medical malpractice suits were filed in Ohio in 2012 than in any year since the state began tracking in 2005. The report shows a steady decline in claims against physicians since the state adopted tort-reform laws in 2003.

According to ODI, 2,733 claims were closed in 2012. A total of \$177.3 million was paid to 576 claimants, an average of \$307,852 apiece. Nearly four in five claims resulted in no malpractice payment, although in almost all cases money was awarded for investigation and defense costs, averaging \$29,691 apiece. 5/8/2014

Yes to State Issue 1 in May 6 Primary

The OMA Board of Directors endorses State Issue 1 on the May 6 statewide ballot.

If approved by voters, Issue 1 would renew for another 10 years the State Capital Improvements Program that has helped local communities across Ohio complete more than 11,500 road, bridge, sewer and other infrastructure projects over the last 27 years.

The OMA Board previously released this [statement](#), stating in part: "A sound and modern infrastructure is critical to sustained manufacturing competitiveness.

Continued improvements to Ohio roads, bridges, sewers and other infrastructure investments contribute to a business climate that attracts investment, spurs growth, creates jobs and enhances quality of life.

And: "Infrastructure projects are especially valuable in manufacturing-intensive Ohio. A 'Yes' vote on Issue 1 will benefit Ohio manufacturers who make many of the products required for infrastructure improvements, creating jobs in Ohio and providing economic stimulus to communities across the state." 4/29/2014

OMA Members to Receive Manny Award

Inside Business magazine has [announced](#) its 2014 Manny Award recipients. The annual award recognizes manufacturers in northeast Ohio in a variety of areas including "product development, green initiatives, revenue growth and global business."

Among the 2014 recipients are OMA members: ArcelorMittal, The Timken Company, and Vitamix. 4/29/2014

Industrial Internet Consortium Created

GE, together with Intel, Cisco, AT&T and IBM, recently established [The Industrial Internet Consortium](#) (IIC). The IIC is a not-for-profit organization that "catalyzes, coordinates, and manages the collaborative efforts of industry, academia, and the government to accelerate growth of the Industrial Internet."

The group intends "to accelerate growth of the Industrial Internet by coordinating ecosystems initiatives to connect and integrate objects with people, processes and data using common architectures, interoperability and open standards that lead to transformational business outcomes."

The consortium is an open organization. You can join [here](#).

The term "industrial internet" was coined by GE, which says in this [white paper](#): "The world is on the threshold of a new era of innovation and change with the rise of the Industrial Internet. It is taking place through the convergence of the global industrial system with the power of advanced computing, analytics, low-cost sensing and new levels of connectivity permitted by the Internet." 4/24/2014

Manufacturers' DC Fly-in: June 10-11

Mark your calendar and plan to attend the National Association of Manufacturers (NAM) 2014 Manufacturing Summit in Washington, D.C., June 10-11. Join fellow manufacturers from across the country to meet with legislators and advocate policies that play a critical role in our nation's economic growth.

Find out more [here](#). 4/16/2014

Dealing with Patent Trolls

The OMA and a few members are working with Rep. Tina Roegner (R-Hudson) on legislation that would regulate "patent assertion activities." The bill is intended to curb overreaching practices of a group of patent owners often referred to as "patent trolls."

Patent trolls are business entities that hold an issued patent and derive substantially all their revenue from licensing activities, as opposed to selling products or providing services covered by the patent. A typical course of action for a troll is to create a list of potential infringers of the patent and send demand letters to those businesses on the list.

According to Wayne M. Serra of OMA counsel Bricker & Eckler: "Businesses often choose to take licenses to avoid costly patent litigation in federal court. Additionally, most businesses do not feel free to ignore such demand letters because of the risk of being found to have willfully infringed the patent by continuing to infringe after being put on notice of another's patent rights. Willful infringers can be liable for both up to three times the amount of actual damages and the patent holder's attorneys' fees."

Contact [Ryan Augsburger](#) or [Rob Brundrett](#) if you'd be interested in participating in the development of this legislation. 4/17/2014

Federal GMO Labeling Legislation Introduced

The [Safe and Accurate Food Labeling Act](#) was recently introduced in the U.S. House of Representatives. The federal bill responds to uncertainty created by a potential 50-state patchwork of genetically modified (GM) food safety and labeling laws, while affirming the Food and Drug Administration is the nation's authority on food safety and labeling matters.

The Coalition for Safe and Affordable Food, an organization supported by several [leading food sector organizations](#), points out that "there is no health risk

associated with GM foods or any material difference between GM and non-GM foods."

Members can learn more about the federal legislation and visit the coalition's [action center](#) to gain tools to contact members of Congress. 4/17/2014

Timmons in Europe

Jay Timmons, president of the National Association of Manufacturers, completed a busy trip to Europe with a [speech](#) at the Hannover Messe industrial fair, where he said "the United States and Europe have a vital opportunity to strengthen our international economic policies and to broaden and deepen the world's largest trade and investment partnership."

Linda Dempsey, NAM's international trade leader, who travelled with Timmons, [reported](#): "Throughout this trip we have been advocating for a Transatlantic Trade and Investment Policy (T TIP) agreement that will significantly expand trade and investment between the United States and the EU and address global issues of common concern. A comprehensive T-TIP would strengthen both our economies, which account for nearly half of global output of goods and services and 30 percent of global trade."

Read more about the importance of T-TIP to American manufacturing in [this article](#) written for Forbes by Ohio-native Timmons. 4/9/2014

New Conflict Minerals Reporting Guidance from SEC

As the deadline approaches for publicly traded U.S. companies to file new conflict minerals reports, the Securities and Exchange Commission (SEC) has issued new guidance designed to help companies prepare the mandatory reports. Many companies have had questions about what the new conflict minerals rules mean to them, and the first of the reports required by the rules are due May 31, 2014. The new SEC guidance in the form of FAQs helps resolve several interpretive issues companies have been grappling with.

Read more in [this document](#) developed by OMA Connections Partner Dinsmore. 4/9/2014

Brown's Manufacturing Jobs Bill Clears Committee

U.S. Senators Sherrod Brown's (D-OH) and Roy Blunt's (R-MO) bipartisan manufacturing jobs legislation [moved one step closer](#) to becoming law. During an executive session of the Senate

Commerce Committee, the "Revitalize American Manufacturing and Innovation Act (RAMI) was passed out of committee.

The bill would establish a National Network of Manufacturing Innovation (NNMI), aiming to "create thousands of high-paying, high-tech manufacturing jobs while enhancing the United States' role as the world's leader in advanced manufacturing."

The bill is designed to "accelerate manufacturing innovation in technologies with commercial applications." It would create public-private institutes that "would leverage resources to bridge the gap between basic research and product development."

The bill is supported by the OMA and NAM 4/10/2014

What Do Millennials Think of Manufacturing? (video)

[Watch!](#) 4/3/2014

Governor Signs Capital Bill

The two-year capital bill, House Bill 497, was [signed](#) into law by Governor Kasich this week. After its introduction, the bill was revised by both the House and Senate regarding how the \$2.4 billion budget would be spent on construction, infrastructure and maintenance projects. View a [project](#) list of spending by county. 4/3/2014

OMI Announces New Leadership

The Ohio Manufacturing Institute (OMI) has [announced](#) the appointment of new leadership team members: Glenn Daehn at The Ohio State University College of Engineering returns as executive director; Beth-Anne Schuelke-Leech from the John Glenn School of Public Affairs has been designated director of manufacturing innovation and policy; and Jeff Garlock, associate chief engineer and department manager, Honda North America Engineering Center, will serve as a Honda representative.

OMI is a center at The Ohio State University (OSU) College of Engineering that works with manufacturers to deliver applied engineering solutions for research, development and process support utilizing OSU faculty, student and researcher expertise.

Rich Spivey, executive director, is ending his two-year term as executive-on-loan from Honda of America Mfg., Inc. Contributing 30 years of experience in manufacturing, strategic planning, purchasing and supply chain management, he identified the technical

support structure available to the Ohio manufacturing supply chain and developed strategies to bridge the gap for the many industries not fully leveraging available resources.

The new team will continue the work Spivey pioneered to survey state manufacturers, identify the gaps, and create an industry-led mechanism whereby manufacturing technical support structures can be implemented. 3/31/2014

U.S. Rail Service Gets Mostly "D's"

The American Chemistry Council (ACC) released a [new rail report card](#) this week that the organization says provides evidence that Congress needs to reform U.S. freight rail transportation policy to better serve consumers and businesses. The ACC says that the U.S. is failing to achieve most of the goals established by Congress in the Staggers Rail Act more than 30 years ago.

ACC says its industry lacks access to competitive shipping rates: "Without access to competitive service, shippers are facing skyrocketing freight rail rates and have little recourse, thanks to complex and inefficient government processes. While current policies call for expeditious handling and resolution of all proceedings, it takes a major rate case an average of 3.5 years to resolve and costs shippers more than \$5 million." Read [more](#). 3/26/2014

OMA Endorses State Issue 1

The OMA Board of Directors unanimously voted this week to endorse State Issue 1 on the May 6 statewide ballot.

If approved by voters, Issue 1 would renew for another 10 years the State Capital Improvements Program that has helped local communities across Ohio complete more than 11,500 road, bridge, sewer and other infrastructure projects over the last 27 years.

The OMA Board released a [statement](#), stating in part: "A sound and modern infrastructure is critical to sustained manufacturing competitiveness. Continued improvements to Ohio roads, bridges, sewers and other infrastructure investments contribute to a business climate that attracts investment, spurs growth, creates jobs and enhances quality of life.

And: "Infrastructure projects are especially valuable in manufacturing-intensive Ohio. A 'Yes' vote on Issue 1 will benefit Ohio manufacturers who make many of the products required for infrastructure improvements, creating jobs in Ohio and providing economic stimulus to communities across the state." 3/19/2014

Capital Bill Introduced

Governor Kasich sent his new two-year [capital bill](#), House Bill 497, to the General Assembly. He proposes to spend \$2.4 billion on construction and maintenance projects, \$541 million more than two years ago.

You can see how the funds will be spent by project and by county [here](#). 3/20/2014

House Splits MBR into Fourteen Bills

This week the House of Representatives unveiled its plan to tackle the governor's 1,600-plus page mid-biennium review (MBR) bill.

[Speaker Batchelder](#) (R-Medina) stated, "Governor Kasich presented the House with a comprehensive, policy-rich mid-biennial review that accomplishes a number of goals, from tax reform to veterans issues. To ensure that all aspects of the MBR receive thorough consideration and input by Ohioans, we have split the proposal into 14 separate bills that have been assigned to 11 different committees. This approach ensures that each component of the MBR will receive the time and attention it deserves from individuals with experience on the topic. I encourage Ohioans to share their thoughts and ideas with members of the committees and help to fine-tune these legislative initiatives."

[Here](#) are the components of the MBR and the committees to which they have been assigned. 3/20/2014

NAM Collecting Your Regulatory Cost Info

In the most recent National Association of Manufacturers (NAM)/IndustryWeek "Survey of Manufacturers," the top concern—cited by 79 percent of respondents—was the unfavorable business climate due to taxes, regulations and government uncertainties. These elements have dampened confidence and economic growth.

The NAM has commissioned a study to update the total cost of federal regulations. The study is scheduled to be released over the summer and will be critical for manufacturing advocacy efforts.

Tell NAM about your costs [here](#). Responses are due by Friday, April 4. For more information, contact [Chad Moutray](#), NAM's chief economist. 3/20/2014

MBR: Lots of Change Proposed by the Governor

Governor Kasich unveiled his second "mid biennial review" (MBR) bill this week. The MBR is a Kasich innovation, a review of tax, spending and programs in between the normal biennial state budgeting processes. This is the governor's second MBR.

The 1,620-page bill, [House Bill 472](#), was introduced this week into the General Assembly. Not unexpectedly from the governor, who is intent about making the best use of his time in office, the legislation covers a lot of policy ground. It'll keep the legislature (and the OMA Government Affairs Committee) plenty busy in this election year.

Here's a [summary](#) prepared by the Legislative Service Commission.

Legislative leaders are saying that the big bill will be broken into as many as fifteen separate bills, some introduced in the House and some in the Senate. This follows the pattern taken by the General Assembly when tasked with reviewing the governor's first MBR last session.

Some of the bill's provisions will almost certainly be finished before the legislators go home for campaign season, while others might be taken up during lame duck session after the elections. 3/13/2014

Manufacturing is skilled, cool, clean, united, a family and the future

[Watch!](#) And pass it on! 3/13/2014

Kasich Aims to Help Most Vulnerable

Governor Kasich continued his career-long commitment to helping Ohio's most vulnerable citizens, this time in his 2014 "mid biennial review" bill, House Bill 472.

The governor proposes: "an initiative to increase access to crisis intervention and safe places for Ohioans with mental illness and addiction"; "expanding Ohio's new "Start Talking!" drug abuse prevention campaign"; investments in drug abuse prevention and tobacco cessation programs; and, improved service for individuals with autism.

With an eye to the longer term, Kasich would create a new "Human Services Innovation Office" designed to "begin the process of preparing people for life and the dignity of work by breaking down silos within the state system for those in poverty. The new office will be located within the Department of Job and Family Services."

Read more about "helping Ohioans in need" [here](#). 3/12/2014

Action Coming on Senator Brown's Manufacturing Innovation Bill

Next week, the Commerce Committee of the U.S. Senate is expected to mark up S. 1468, the "[Revitalize American Manufacturing Act of 2013](#)." The bill is co-sponsored by Ohio's Senator Sherrod Brown and Missouri Republican Senator Roy Blunt. It is supported by the OMA and NAM.

The bill is designed to bring together industry, universities and community colleges, and federal agencies to accelerate manufacturing innovation in technologies with commercial applications. It would establish public-private institutes to leverage resources to bridge the gap between basic research and product development.

The bill would build on the development of the federal "National Network of Manufacturing Innovation." Two centers are under development with strong ties in Ohio, the [National Additive Manufacturing Innovation Institute](#), based in Youngstown, and the recently announced [American Lightweight Materials Manufacturing Innovation Institute](#), which will be jointly led by The Ohio State University, the University of Michigan, and the Columbus-based Edison Welding Institute (EWI).

Another center recently announced will be the [Digital Manufacturing and Design Innovation Institute](#) to be based in Chicago. 3/6/2014

Manufacturing.gov

The federal government has launched an advanced manufacturing portal, [Manufacturing.gov](#). It is designed to be a "one-stop shop for news and information on advanced manufacturing programs and related activities under way in federal agencies with science and technology missions."

The site is operated by Advanced Manufacturing National Program Office, which is hosted by NIST. 3/6/2014

Manufacturing at Center of JobsOhio Plan

JobsOhio this week released its [2013 Annual Report and 2014 Strategic Plan](#). The agency announced a focus on "game changers": shale drilling, advanced manufacturing, and "big data."

JobsOhio says: "These game changers not only align well with our target industries, but are also integrated across multiple industries. For example, big data impacts not only IT companies, but also effects financial institutions, health-related organizations, and consumer retail companies. The importance of shale extends beyond energy companies; it influences

chemicals companies, manufacturers, and transportation companies."

The economic development organization says this about manufacturing: "Ohio was built on manufacturing. Manufacturing has been a core industry in Ohio for well over 100 years, leading new innovation that revolutionized the way the world makes products. Not only has Ohio manufacturing continually grown since 2009, it has outpaced U.S. manufacturing growth. With a diverse portfolio of industries, Ohio is poised to grow manufacturing in several segments, including automotive, aerospace, biotechnology, energy, food processing & agribusiness, polymers & chemicals, and advanced manufacturing." 3/6/2014

Ohio 2nd in Capital Investment Projects in 2013

As it did in 2012, Ohio [ranked second](#) among the states with the most capital investment projects in 2013, according to Site Selection magazine. Texas again led the ranking.

Texas had 657 capital investment projects, compared to 480 for Ohio, and followed by Illinois (383 projects), Pennsylvania (348), and Michigan (312).

Qualifying projects must meet at least one of these criteria: a minimum investment of \$1 million; 20,000 square feet of new construction; or creation of 50 or more new jobs.

Site Selection developed a second category this year, ranking states by number of qualifying projects per capita. Nebraska topped that ranking; Ohio placed second. Louisiana, Kentucky, and Kansas were the other states in the top five per capita ranking. 3/4/2014

Governor Lays Out Jampacked Policy Agenda

Governor Kasich continued his unrelenting drive for wide ranging reforms in Ohio in his 2014 State of the State address. The governor delivered the speech in Medina, a tribute in part to the long and distinguished career of Speaker Bill Batchelder, who is in his last year of his term-limited tenure.

As the Cleveland Plain Dealer editorial board noted, the governor "laid out an unusually jampacked agenda of tax cuts, new vocational and job training programs, new initiatives to discourage heroin use, more attention to minority businesses and entrepreneurship, a \$10 million casino-money earmark for school innovation, new legislation to tie college funding more directly to graduation rates, academic credits for military service and restoration of smoking cessation funding."

Of particular note for manufacturers was the governor's focus on workforce development. In his coming Mid-Biennial Review, he will propose: an expansion of technical and vocational education to students as early as the 7th grade; creation of a "Community Connectors" program to mentor students in career pathways; an improved program for a "jump start on college" for students gaining credit toward college from their high school courses; a transition to a new undergraduate formula for state-supported higher education funding that is based entirely on course and degree completion, not enrollment; and assistance to military veterans to reenter the civilian workforce.

In a [statement](#) OMA President Eric Burkland said: "The Governor continues to drive for change to improve the quality of life for Ohioans. His speech tonight laid out a number of initiatives that support the growth of Ohio's manufacturing economy. We commend the Governor for proposing programs to support Ohio's current and emerging manufacturing workforce, particularly by expanding vocational education and helping workers and their families with opiate and other addiction problems. We also welcome the Governor's continuing focus on tax reform and look forward to working on the details of the plans."

Read a [fact sheet](#) on the governor's address. Or, watch the recorded speech on the [Ohio Channel](#). 2/26/2014

Timmons' Delivers Annual State of Manufacturing Address

National Association of Manufacturers (NAM) President and CEO Jay Timmons delivered his annual State of Manufacturing address this week at the Greater Houston Partnership in Houston, Texas.

Timmons said: "Manufacturing output has increased 18 percent since the end of the recession in 2009. Last year, manufacturers contributed a record \$2 trillion to our economy. Our manufacturing sector alone is larger than the entire economies of all but seven countries, and manufacturing exports have reached an all-time high."

His discussed matters of "products, people and policy" and noted that "(m)anufacturing employment can grow by more than 300,000 jobs every year and the economy can grow by an additional \$1.5 trillion if manufacturing's share of the U.S. economy rose from 12 percent to 15 percent—where it was at the beginning of the last decade." He laid out a policy action plan for growth.

Read the speech [here](#). 2/26/2014

What Issues Could be Headed for Ohio Ballots?

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

OMA Connections Partner and legal counsel, Bricker & Eckler, has [compiled](#) a description of the process for certifying an issue and a rundown of the certain and potential issues to be tested by Ohio voters, including: infrastructure capital improvements (*certified for May primary election*), medical marijuana, and same-sex marriage. 2/26/2014

Food Manufacturers and Suppliers Talk GMOs at Annual OMA "Food Day"



This week food manufacturers and suppliers gathered for OMA's annual food manufacturers' meeting to discuss issues impacting the industry.

The group focused on the national discussion surrounding genetically modified organisms or GMOs. Ballot issues and model bills are popping up across the country creating confusion and misinformation about GMOs. [Here](#) is the [Grocery Manufacturers Association](#) (GMA) position on GMOs; GMA staff participated in the meeting.

The group also heard from Ohio Department of Agriculture Director, [Dave Daniels](#), Ohio EPA staff, and Aaron Pitts, Managing Director with JobsOhio, who [presented](#) on Ohio's food industry.

That evening, members dined with Director Daniels, staff from JobsOhio, and Senator [Cliff Hite](#) (R-Findley), who chairs the Senate Agriculture Committee. 2/27/2014

Pictured: Senator Cliff Hite, Jennifer Sweeney of Campbell Soup Company, & Derek Crawford of Kraft Food Groups

OMA in the Courts

OMA Connections Partner and legal counsel, Bricker & Eckler, provides this [summary](#) of the status of Ohio Supreme Court cases in which the OMA has recently appeared as amicus curiae.

When a case has broad applicability to Ohio manufacturers, OMA will opt to invest in the legal work necessary to provide the court with its opinion; in addition, members or groups of members will fund the

legal work if the case has direct applicability to their competitiveness.

Among the cases, the principles OMA has defended include: 1) Companies that are sued should be able to defend themselves based on the facts of the particular case and should not be saddled with testimony from another case in which they did not participate; 2) Established law governing insurance coverage must remain balanced and predictable so that companies can protect against risks inherent in their businesses; and 3) Ensuring that the Ohio EPA follows an appropriate and transparent rulemaking process before making determinations to limit discharge amounts via wastewater discharge permits. 2/26/2013

Miscellaneous Legislation of Interest to Manufacturers

Prepared by: The Ohio Manufacturers' Association
Report created on May 22, 2014

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

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

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

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

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_38

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

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

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_48

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

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

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_51

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

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

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_59

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

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

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_76

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

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

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_77

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

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

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

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_78

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

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

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_82

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

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

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_100

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

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

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_157

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

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

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_174

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

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

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_194

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

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

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_218

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

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

Current Status: 4/10/2014 - **SIGNED BY GOVERNOR**

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_261

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

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

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_278

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

Current Status: 5/21/2014 - **REPORTED OUT AS AMENDED**, Senate State Government Oversight and Reform, (Fourth Hearing)

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_292

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

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

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_295

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

Current Status: 5/22/2014 - House State and Local Government, (Fifth Hearing)

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_321

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

Current Status: 5/22/2014 - House State and Local Government, (Fifth Hearing)

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_322

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

Current Status: 5/22/2014 - House State and Local Government, (Fifth Hearing)

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_323

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

Current Status: 5/22/2014 - House State and Local Government, (Fifth Hearing)

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_324

HB338 **WORKERS' COMPENSATION-UNEMPLOYMENT COMPENSATION COVERAGE (MCGREGOR R, HOTTINGER J)** To establish a test to determine whether an individual

providing services for or on behalf of certain motor transportation companies is considered an employee under Ohio's Overtime, Workers' Compensation, and Unemployment Compensation Laws.

Current Status: 3/12/2014 - House Commerce, Labor and Technology, (Fifth Hearing)

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_338

HB391 BEER MANUFACTURING-SALE (RAMOS D) To allow beer manufacturers to manufacture beer containing not more than 21% of alcohol by volume beginning on the effective date of this act, and, beginning one year after the effective date of this act, to allow the sale and distribution of beer containing not more than 21% of alcohol by volume in this state by increasing the legally permitted alcohol content of beer from 12% to 21% and to generally prohibit the inclusion of caffeine or other stimulants in beer containing more than 12% of alcohol by volume.

Current Status: 1/14/2014 - Referred to Committee House Policy and Legislative Oversight

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_391

HB472 MBR-MID-BIENNIUM BUDGET REVIEW (MCCLAIN J) To make operating and other appropriations and to provide authorization and conditions for the operation of state programs.

Current Status: 3/26/2014 - House Ways and Means, (Third Hearing)

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_472

HB494 TRANSPORTATION IMPROVEMENT PROJECTS (SCHURING K) To authorize counties to undertake regional transportation improvement projects funded by the issuance of securities and by revenue pledges from the state and political subdivisions and taxing districts located within the cooperating counties.

Current Status: 5/20/2014 - **REPORTED OUT AS AMENDED**, House State and Local Government, (Third Hearing)

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_494

HB497 CAPITAL APPROPRIATIONS (AMSTUTZ R) To make capital appropriations and changes to the law governing capital projects and to make reappropriations for the biennium ending June 30, 2016.

Current Status: 4/1/2014 - **SIGNED BY GOVERNOR**

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_497

HB514 SUPREME COURT JUSTICES-NONPARTISAN BALLOT PLACEMENT (LETSON T) To place the office of chief justice of the supreme court and justice of the supreme court first and second, respectively, in order on the nonpartisan ballot.

Current Status: 4/9/2014 - Referred to Committee House Policy and Legislative Oversight

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_514

HB528 RAILROAD COMPANIES-HAZARDOUS MATERIALS TRANSPORTATION (HAGAN R) To provide that if a train will be carrying 80,000 pounds or more of hazardous materials, the railroad company must provide the train crew with notification of that fact at least ten hours prior to the train's scheduled departure time and to require the crews of such trains to consist of not less than two qualified railroad employees and the crews of other freight trains to consist of not less than one engineer and one conductor

Current Status: 5/7/2014 - Referred to Committee House Transportation, Public

Safety and Homeland Security

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_528

- HB533 BRENT SPENCE BRIDGE TOLL** (MCGREGOR R, MALLORY D) To provide that a toll project may include the substantial reconstruction or replacement of an existing toll-free highway, bridge, or tunnel, to amend the law governing public-private agreements relative to transportation facilities, and to provide for the collection of user fees on toll projects by toll project operators.
Current Status: 5/21/2014 - **PASSED BY HOUSE**; Amended on Floor - Bill Vote 86-7
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_533
- HCR11 INDEPENDENT BUSINESS MONTH** (STEBELTON G) To designate July 2013 as Ohio Independent Business Month.
Current Status: 3/12/2014 - Consideration of Senate Amendments; Concurred Vote 96-0
State Bill Page: http://www.legislature.state.oh.us/res.cfm?ID=130_HCR_11
- HCR45 UNMANNED AIRCRAFT SYSTEMS RESEARCH AND TEST SITES** (PERALES R) To strongly urge the Federal Aviation Administration to consider immediately adding additional qualified unmanned aircraft systems research and test sites to the six chosen research and test sites.
Current Status: 2/18/2014 - **REPORTED OUT**, House Transportation, Public Safety and Homeland Security, (Second Hearing)
State Bill Page: http://www.legislature.state.oh.us/res.cfm?ID=130_HCR_45
- HCR46 CONSTITUTIONAL AMENDMENTS** (BATCHELDER W) To delegate to the President of the Senate and the Speaker of the House of Representatives authority to designate groups of members to prepare arguments for and against amendments to the Ohio Constitution proposed by the General Assembly, a person or persons to prepare an argument for any law, section, or item submitted to the electors by referendum petition, and a person or persons to prepare an argument against any constitutional amendment proposed by initiative petition.
Current Status: 2/4/2014 - **ADOPTED BY SENATE**; Vote 30-0
State Bill Page: http://www.legislature.state.oh.us/res.cfm?ID=130_HCR_46
- HJR2 OHIO CONSTITUTION RIGHT TO VOTE** (STINZIANO M) To set forth in the Constitution of the State of Ohio a specific right to vote and requirements attendant thereto.
Current Status: 1/30/2013 - Referred to Committee House Policy and Legislative Oversight
State Bill Page: http://www.legislature.state.oh.us/res.cfm?ID=130_HJR_2
- HJR4 U.S. CONSTITUTION-AMENDMENTS CONVENTION** (RAMOS D) Applying for an amendments convention under Article V of the United States Constitution.
Current Status: 6/18/2013 - House State and Local Government, (First Hearing)
State Bill Page: http://www.legislature.state.oh.us/res.cfm?ID=130_HJR_4
- HJR7 ARTICLE V AMENDMENTS CONVENTION** (HUFFMAN M) Applying for an Article V amendments convention.
Current Status: 10/29/2013 - House Policy and Legislative Oversight, (Third Hearing)
State Bill Page: http://www.legislature.state.oh.us/res.cfm?ID=130_HJR_7

- HJR8** **OHIO CONSTITUTION-TERM LIMITS** (BECKER J) Proposing to amend Sections 2 and 7 of Article II, Section 6 of Article IV, Section 9 of Article V, Sections 3 and 4 of Article VI, and Section 1 of Article XIV; to enact new Section 8 of Article V; to enact Section 5 of Article X and Section 15 of Article XVIII; and to repeal Section 8 of Article V of the Constitution of the State of Ohio to institute term limits for certain elected and appointed officials and to increase the term limits for members of the General Assembly.
Current Status: 10/30/2013 - Referred to Committee House Policy and Legislative Oversight
State Bill Page: http://www.legislature.state.oh.us/res.cfm?ID=130_HJR_8
- SB3** **RULE-MAKING REFORM** (LAROSE F) To reform rule-making and rule-review procedures and regulatory processes.
Current Status: 5/20/2014 - **REPORTED OUT AS AMENDED**, House State and Local Government, (Fifth Hearing)
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_3
- SB6** **TOWNSHIP FISCAL OFFICERS EDUCATION PROGRAMS** (SCHAFFER T) To establish education programs and continuing education requirements for the fiscal officers of townships and municipal corporations, to establish procedures for removing those fiscal officers, county treasurers, and county auditors from office, and to create fiscal accountability requirements for public schools, counties, municipal corporations, and townships.
Current Status: 4/9/2014 - Referred to Committee House State and Local Government
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_6
- SB10** **POLLING PLACES-VOTING MACHINES LAW** (COLEY W, SMITH S) To revise the law regarding polling places and voting machines.
Current Status: 3/26/2013 - **SIGNED BY GOVERNOR**; Eff. 6/26/2013
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_10
- SB20** **ELECTION LAW** (TURNER N) To revise the Election Law.
Current Status: 2/13/2013 - Referred to Committee Senate State Government Oversight and Reform
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_20
- SB32** **PURE FOOD AND DRUG LAW** (SCHAFFER T) To exclude manufacturers and distributors of wine and distributors of beer from regulation as food processing establishments under the Pure Food and Drug Law.
Current Status: 3/12/2013 - Senate Agriculture, (First Hearing)
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_32
- SB35** **SPECIAL ELECTIONS** (JORDAN K) To eliminate the ability to conduct special elections in February and August.
Current Status: 2/13/2013 - Referred to Committee Senate State Government Oversight and Reform
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_35
- SB47** **ELECTION LAW REVISION** (SEITZ B) To revise the Election Law.
Current Status: 3/22/2013 - **SIGNED BY GOVERNOR**; Eff. 6/21/2013
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_47

- SB70** **OHIO CIVIL RIGHTS LAW** (TAVARES C) To specify that discrimination by an employer against any person because of the person's credit history is an unlawful discriminatory practice under the Ohio Civil Rights Law.
Current Status: 10/16/2013 - Senate Commerce and Labor, (First Hearing)
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_70
- SB91** **DRUG MARKETING DISCLOSURES** (SKINDELL M) Regarding prescription drug marketing disclosures.
Current Status: 3/20/2013 - Referred to Committee Senate Medicaid, Health and Human Services
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_91
- SB109** **ELECTION LAW** (OBHOF L) To revise the law regarding election administration, ballots, and candidates.
Current Status: 11/26/2013 - **SIGNED BY GOVERNOR**; Eff. 2/25/2014
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_109
- SB110** **VOTING PREREGISTRATION** (TURNER N) To permit sixteen and seventeen year olds to preregister to vote and to revise the law concerning compensated voter registration workers and petition circulators.
Current Status: 4/17/2013 - Referred to Committee Senate State Government Oversight and Reform
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_110
- SB112** **ENTERPRISE ZONE AGREEMENTS** (BEAGLE B) To extend the authority of municipal corporations and counties to enter into enterprise zone agreements with businesses until October 15, 2014.
Current Status: 7/11/2013 - **SIGNED BY GOVERNOR**; Eff. 10/11/2013
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_112
- SB153** **STATE AGENCY APPROPRIATIONS** (JORDAN K) To require aggregate General Revenue Fund appropriations for state agencies to be reduced by specified amounts for the biennium.
Current Status: 6/26/2013 - Referred to Committee Senate Finance
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_153
- SB182** **OHIO WORKS FIRST DRUG TESTING PROGRAM** (SCHAFFER T) To require the Director of Job and Family Services to operate an Ohio Works First drug testing pilot program and to make an appropriation.
Current Status: 1/22/2014 - Senate Medicaid, Health and Human Services, (First Hearing)
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_182
- SB202** **CONTROL SHARE ACQUISITION ACT** (OBHOF L, KEARNEY E) To provide exceptions to the applicability of the Control Share Acquisition Act, to require board approval for Act opt-out amendments of a corporation's regulations or articles of incorporation, and to apply a three-year look-back period to ownership of shares for purposes of determining applicability of certain shareholder transaction laws.
Current Status: 4/10/2014 - **SIGNED BY GOVERNOR**
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_202

- SB216** **PROVISIONAL BALLOTS** (SEITZ B) To revise the law concerning provisional ballots and to specify permitted procedures for a voting location that serves more than one precinct.
Current Status: 2/28/2014 - **SIGNED BY GOVERNOR**; Eff. 6/2/2014
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_216
- SB235** **COMMERCIAL MOTOR VEHICLE OPERATION** (CAFARO C) To increase the penalties related to operating a commercial motor vehicle on the wrong side of an interstate freeway.
Current Status: 1/28/2014 - Senate Criminal Justice, (First Hearing)
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_235
- SB291** **MARITIME PORTS FUNDING** (MANNING G, LAROSE F) To create a study committee to explore alternative funding mechanisms for Ohio's maritime ports.
Current Status: 4/8/2014 - Senate Ways and Means, (Second Hearing)
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_291
- SB296** **INCOMPATIBLE MOTOR FUEL-ADDITIVES** (HITE C) To create a qualified immunity from liability for the dispensing of incompatible motor fuel when the retail dealer is not involved in the fuel selection, to limit the Product Liability Law with respect to motor fuel and motor fuel additives, and to prohibit an insurer from denying a claim on the basis that an underground storage tank is not compatible with a motor fuel if the State Fire Marshal has determined that the tank and fuel are compatible.
Current Status: 5/7/2014 - Senate Civil Justice, (Second Hearing)
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_296
- SB320** **AMERICAN MADE APPAREL-STATE AGENCIES** (TAVARES C) To require state agencies to purchase only uniforms and other apparel items that are made with American textiles, materials, and supplies.
Current Status: 4/2/2014 - Referred to Committee Senate State Government Oversight and Reform
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_320
- SB335** **BRENT SPENCE BRIDGE TOLL** (SEITZ B, KEARNEY E) To provide that a toll project may include the substantial reconstruction or replacement of an existing toll-free highway, bridge, or tunnel, to amend the law governing public-private agreements relative to transportation facilities, and to provide for the collection of user fees on toll projects by toll project operators.
Current Status: 5/20/2014 - **BILL AMENDED**, Senate Transportation, (Second Hearing)
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_335
- SCR2** **RESHORING MONTH** (BEAGLE B) Declaring March 2013 as Reshoring Month in Ohio.
Current Status: 3/20/2013 - **ADOPTED BY HOUSE**; Vote 92-0
State Bill Page: http://www.legislature.state.oh.us/res.cfm?ID=130_SCR_2
- SJR1** **REDISTRICTING PROCESS** (SAWYER T, LAROSE F) To revise the redistricting process for General Assembly and Congressional districts.
Current Status: 6/25/2013 - **REPORTED OUT AS AMENDED**, Senate State Government Oversight and Reform, (Third Hearing)
State Bill Page: http://www.legislature.state.oh.us/res.cfm?ID=130_SJR_1
- SJR4** **OHIO CONSTITUTION-ARTICLE II** (LAROSE F) Proposing to enact Section 1h of Article II of the Constitution of the State of Ohio to authorize the General Assembly to invalidate

rules proposed or adopted under a statute, and to create and empower one or more joint committees of the Senate and House of Representatives to review rules that have been proposed or adopted under a statute and to make recommendations to the General Assembly regarding those rules.

Current Status: 11/19/2013 - Senate State Government Oversight and Reform, (Second Hearing)

State Bill Page: http://www.legislature.state.oh.us/res.cfm?ID=130_SJR_4

SJR5 **FEDERAL BALANCED BUDGET AMENDMENT** (FABER K) Urging the Congress of the United States to propose a balanced budget amendment to the United States Constitution and applying to the Congress, pursuant to Article V of the United States Constitution, to call a convention for proposing amendments.

Current Status: 11/20/2013 - Consideration of House Amendments; Vote 28-4

State Bill Page: http://www.legislature.state.oh.us/res.cfm?ID=130_SJR_5

SJR6 **GENERAL OBLIGATION BONDS ISSUANCE** (BACON K, MANNING G) Proposing to enact Section 2s of Article VIII of the Constitution of the State of Ohio to permit the issuance of additional general obligation bonds to fund public infrastructure capital improvements.

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

State Bill Page: http://www.legislature.state.oh.us/res.cfm?ID=130_SJR_6



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MEMORANDUM

TO: Ohio Manufacturers' Association Government Affairs
Committee

FROM: Bricker & Eckler LLP

DATE: May 23, 2014

RE: 2014 Legislative Updates

I. 2014 Legislative Updates – Overview.

The 130th General Assembly continues legislative efforts in earnest, and is poised to adjourn for the summer and election season by early June 2014. Below are some highlights of various legislative items we are tracking on behalf of the OMA. Of note, the General Assembly introduced a series of off-cycle budget bills – Governor John Kasich's Midbiennial Budget Review (MBR) in March. Ohio typically manages operating budgets on a two-year basis completing work on the FY2014-2015 budget in 2013. However, the Kasich Administration prefers to off-cycle budget corrections and reappropriations measures in what it calls an MBR.

The 2014 MBRs were broken up into a series of separate bills dealing with issue-specific areas of substance, including: Education (HB 487); Higher Education (HB 484); Taxation (HB 492); General Appropriations (HB 483); Workers' Compensation (HB 493); Workforce Development (HB 486); Environmental (HB 490). At this point, most of the MBR items are still pending in either the House or Senate. Several MBRs are expected to pass before the Summer 2014 legislative break, but the timing of which is still somewhat uncertain with only two weeks of session left before adjournment. We will continue to monitor the various MBRs and will report to you at the next Government Affairs Committee meeting on their respective statuses.

II. Legislative Update.

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

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

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

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

SB 344 – Transparency in Private Attorney Contracts Act (TiPAC): Senator Bill Seitz (R-Cincinnati) introduced SB 344 on Thursday, May 22, 2014 as an Ohio Senate companion bill to Representative Butler's legislation (HB 238). The OMA and the Ohio Alliance for Civil Justice (OACJ) have worked with Senator Seitz for a number of years on myriad tort reform and civil justice issues, and SB 344 is designed to jump start the discussion in both chambers of the Ohio General Assembly on the issue of private attorney contracts.

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

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

HB 225 – Offers of Settlement: HB 225 was introduced by Representative Jim Butler and creates a procedure for settling civil actions between parties and provides for an award of reasonable attorney's fees and litigation expenses in certain situations in which a judgement is entered against a party that has rejected a settlement offer. The legislation also encourages the

Ohio Supreme Court to amend Civil Rule 68 to make it consistent with the bill.

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

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

HB 333 was favorably reported by the House Judiciary Committee on May 21, 2014, and currently is pending approval by the full House of Representatives possibly before the Summer 2014 recess.



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MEMORANDUM

To: Ohio Manufacturers' Association Government Affairs Committee

From: Bricker & Eckler LLP

Re: OMA Amicus Activities

Date: May 23, 2014

This memorandum provides an update of the cases pending in the Ohio Supreme Court in which the OMA has appeared as amicus curiae. The report below reflects the current status of the cases still pending that were included in the February 2014 report.

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

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

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

The OMA filed its amicus brief in support of H.J. Heinz Co. because manufacturers are regularly forced to defend against testimony developed in a prior proceeding when neither they, nor their predecessors in interest, were parties in that proceeding. Even when a predecessor in interest is involved in the prior proceeding, the earlier testimony must be excluded in the subsequent action unless the predecessor had a similar motive in developing the testimony. In determining whether the similar motive requirement is met, the court must do more than make the observation, which the court did here in

H.J. Heinz, that both defendants would benefit if the plaintiff's claims are disproved. This litigation outcome is unfair and precisely the kind of hearsay evidence that is precluded by the Ohio Rules of Evidence.

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

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

Status: The OMA joined with others to file an amicus brief with the Ohio Supreme Court in support of Lincoln Electric and its insurance coverage rights. The OMA amicus brief asked the Court to certify questions of state law from the federal district court handling the underlying case. On September 25, 2013, the Court accepted the certified state law question. ***Briefing has been completed and oral argument occurred on May 14, 2014. We are awaiting a decision.***

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

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

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

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

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

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

Status: On January 16, 2014, the Court agreed to hear all three issues. Briefs were filed on February 5, 2014. Environmental Counsel Frank Merrill filed the amicus effort on behalf of the OMA. *The matter has been fully briefed and oral argument is scheduled for June 25, 2014.*

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

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

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

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



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MEMORANDUM

TO: Ohio Manufacturers' Association Government Affairs
Committee

FROM: Bricker & Eckler LLP

DATE: May 23, 2014

RE: Ohio Constitutional Modernization Commission – Overview.

I. Ohio Constitutional Modernization Commission – Overview.

Under the leadership of current Speaker of the Ohio House of Representatives Bill Batchelder, the Ohio General Assembly established the Ohio Constitutional Modernization Commission (OCMC) with the passage of HB 188 in 2011. The Commission is modeled after the 1970s Ohio Constitutional Revision Commission, which recommended and made various changes to the Ohio Constitution.

The OCMC is required to make reports to the General Assembly on a periodic basis beginning in 2013 and through its conclusion on July 1, 2021, on possible changes to the Ohio Constitutions either on substantive matters or technical changes.

II. OCMC – Specific Issues of Interest.

The OCMC is in the process of examining several items a few of which may be of specific interest to the OMA. It should be noted that there is as of yet no consensus on these issues, no recommendations to the General Assembly, and no current call for a Constitutional Convention to formally address these issues. These are merely items with which the Government Affairs Committee has reviewed and briefed upon over the years.

A. Legislative Term Limits.

One of the more controversial issues the OCMC is taking testimony on and debating the wisdom of is a modification to Ohio's current system for legislative and executive office term limits. Initially enacted in 1992, members of the Ohio General Assembly are limited to a total of 8 years in either the Ohio House (4, 2-year terms) or the Ohio Senate (2, 4-year terms). While members of either the House or Senate, from time to time, "bounce back and forth" between the chambers if election cycles permit, the 8-year term limits on elected members of the General Assembly is viewed by some as anti-democratic (elections occur whereby the electorate can determine if it wants a member to remain or be voted out), to force individuals to retire from the legislature thereby reducing institutional and subject matter expertise in certain areas, and/or to prevent the

next wave of legislators from exploring public office. The opposing views are that term limits help prevent “cronyism,” special interest influence and control over the legislative process, and certain legislators from staying in office for extremely extended periods of time without adding value to Ohio public policy.

The OCMC has heard testimony on the issue of redistricting from a number of viewpoints – to possibly extend the terms to either 12, 14, or 16 years, or to eliminate term limits altogether. While it is yet unknown and unclear the direction the OCMC will take, if at all, the issue of term limits will continue to be debated according to Speaker Batchelder, who chairs the OCMC, as well as OCMC Executive Director Steve Hollon.

B. Constitutional Ballot Initiatives, Initiated Statutes, & Referenda.

The second issue, among many others, being debated by the OCMC relates to Ohio’s Constitutional system for the proposal and consideration of citizen initiated Constitutional Amendments, Initiated Statutes, and the Referendum process for legislation passed by the Ohio General Assembly. Clearly, the OMA and other business groups have been on the front lines of various statewide ballot issues – SB 45 (workers’ compensation referenda), HB 7 (minimum wage), and many others. Typically, Ohio’s business community has not availed itself of the statewide ballot process affirmatively. To the contrary, special interests, organized labor, the trial bar, and other groups have initiated difficult issues for business that the OMA and other business groups have had to raise significant resources to oppose.

Testimony thus far has centered on making the ballot qualification process easier – a reduced number of total required petition signatures and a reduced disbursement of signatures across Ohio’s 88 counties, as is the current process. Some, including the OMA, have previously pointed out that Ohio’s current statewide ballot process – at least for Constitutional Amendment – is a very low threshold and should be made more difficult. The OMA will continue to monitor the OCMC process and debate on statewide ballot issues to ensure the General Assembly and the OCMC understand the business community’s perspective on statewide ballot initiative access and process.

C. Redistricting Reform.

Finally, one of the most hotly-contested issues up for consideration by the OCMC centers around the issue of reform to Ohio’s redistricting process for legislative districts. In Ohio’s current redistricting process, the Ohio Apportionment Board (controlled by either Republicans or Democrats) redraws legislative district lines every 10 years with generally very favorable lines to whatever political party is in control. Many view a more even process with less political influence as creating more competitive districts, less partisan majorities in the legislature, and better policy making opportunities resulting from more compromise and less partisan politics. Redistricting reform has been advanced in the legislature for some time by both Republicans and Democrats, by current Secretary of State Jon Husted, and many other elected officials and outside groups. As with term limits and ballot issues, the future of redistricting reform is unclear, but it is expected to receive serious consideration in the next several years.



TRANSFORMING OHIO FOR JOBS + GROWTH

2014 MID-BIENNIUM REVIEW

The 2014 MBR: Building on What Works

Ohio and the nation are emerging from one of the worst economic periods in our history. But, we're getting Ohio back on track thanks to fiscal restraint, jobs-friendly policies, reforms to K-12 education, job training and higher education, and help for the most vulnerable Ohioans. Ohio now enjoys a balanced budget, a \$1.5 billion surplus, and 238,000 new-private sector jobs. Continuing that progress means building on the policies that we know work.

Across the Board Income Tax Cuts: Ohio's income taxes are still too high and are a barrier to job creation. In his 2014 Mid-Biennium Review, Governor John R. Kasich proposes new income tax cuts for all Ohio taxpayers that will lower state income taxes 8.5 percent over the next three years across all income levels and reduce the top income tax rate below 5 percent. Once enacted, this means that in the past three years Ohio's top marginal income tax rate will have been reduced by 17.6 percent from 5.925 percent in 2011 to 4.88 percent in 2016.

New Tax Relief for Low- and Middle-Income Ohioans: Expanding the state's Earned Income Tax Credit and targeting new increases to the income tax's personal exemption for low- and middle-income families helps ensure that all Ohioans share in our state's on-going economic recovery.

Strengthening Education and Workforce Training: High-quality education and training programs help ensure that Ohioans can take advantage of our state's ever-expanding economic opportunities and that job-creators have the workforce they need to compete and succeed. Highlights of new MBR proposals that help achieve these goals include:

- New efforts to help prevent students from dropping out of high school;
- New mentorship strategies to boost community support for schools and help students get motivated about careers;
- Letting students as young as the 7th grade begin learning about careers via our high-quality vocational education schools;
- Giving more students an early start on college credits while they are still in high school;
- Focusing our colleges more on successful student outcomes rather than just enrollment rates; and
- Giving our veterans an easier transition to the home front with academic credit for military training and experience.

Caring for Ohioans: The governor is committed to making sure that vulnerable Ohioans are not left out of the benefits of our state's ongoing recovery. The MBR therefore increases support for Ohioans with mental illness and addiction, expands Ohio's new Start Talking! drug abuse prevention campaign and dedicates new funds to tobacco cessation.

BOTTOM LINE: Ohio's getting back on track, but we've got more work to do, so we can't let up in continuing to pursue reforms and policies that we know are working. The governor's 2014 Mid-Biennium Review proposes new, needed changes across a range of topics, all designed to keep Ohio moving forward.

###

130th General Assembly
Regular Session
2013-2014

. B. No.

A BILL

To enact sections 2307.66, 2307.67, 2307.68, and 1
2307.69 of the Revised Code to prohibit a person 2
from making a bad faith assertion of patent 3
infringement, to permit a person aggrieved by a 4
bad faith assertion of patent infringement to 5
bring a tort action, and to authorize the Attorney 6
General to investigate and to institute a civil 7
action if the Attorney General believes a person 8
has made a bad faith assertion of patent 9
infringement. 10

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

Section 1. That sections 2307.66, 2307.67, 2307.68, and 11
2307.69 of the Revised Code be enacted to read as follows: 12

Sec. 2307.66. As used in sections 2307.66 to 2307.69 of the 13
Revised Code: 14

(A) "Demand letter" means a letter, email, or other 15
communication asserting or claiming that the target has engaged in 16
patent infringement. 17

(B) "Institution of higher education" has the same meaning as 18
in section 2741.01 of the Revised Code. 19

(C) "Target" means any of the following: 20

(1) A person who has received a demand letter or against whom 21

an assertion or allegation of patent infringement has been made; 22

(2) A person who has been threatened with a tort action or 23
against whom tort action has been filed alleging patent 24
infringement; 25

(3) A person whose customers have received a demand letter 26
asserting that the person's product, service, or technology has 27
infringed a patent. 28

Sec. 2307.67. (A) No person shall make a bad faith assertion 29
of patent infringement. 30

(B) A court may consider the following factors as evidence 31
that a person has made a bad faith assertion of patent 32
infringement: 33

(1) A demand letter does not contain all of the following 34
information: 35

(a) The patent number; 36

(b) The name and address of the patent owner or owners and 37
assignee and assignees, if any; 38

(c) Factual allegations concerning the specific areas in 39
which the target's products, services, and technology infringe the 40
patent or are covered by the claims in the patent. 41

(2) Prior to sending a demand letter, the person fails to 42
conduct an analysis comparing the claims in the patent to the 43
target's products, services, and technology or the analysis was 44
conducted but does not identify the specific areas in which the 45
products, services, and technology are covered by the claims in 46
the patent. 47

(3) A demand letter does not contain all of the information 48
described in division (B) (1) of this section, the target requests 49
the information, and the person fails to provide the information 50

<u>within a reasonable period of time.</u>	51
<u>(4) A demand letter demands payment of a license fee or response within an unreasonably short period of time.</u>	52 53
<u>(5) The person offers to license the patent for an amount that is not based on a reasonable estimate of the value of the license.</u>	54 55 56
<u>(6) The claim or assertion of patent infringement is meritless and the person knew, or should have known, that the claim or assertion is meritless.</u>	57 58 59
<u>(7) The claim or assertion of patent infringement is deceptive.</u>	60 61
<u>(8) The person or the person's subsidiaries or affiliates have previously filed or threatened to file one or more tort actions based on the same or similar claims of patent infringement and either of the following applies to the tort actions and threats to file tort actions:</u>	62 63 64 65 66
<u>(a) The tort action or threat to file a tort action lacked the information described in division (B)(1) of this section;</u>	67 68
<u>(b) The person attempted to enforce the claim of patent infringement in a tort action and the court found the claim to be meritless.</u>	69 70 71
<u>(9) Any other factor that the court finds relevant.</u>	72
<u>(C) A court may consider the following factors as evidence that a person has not made a bad faith assertion of patent infringement:</u>	73 74 75
<u>(1) A demand letter contains the information described in division (B)(1) of this section.</u>	76 77
<u>(2) If a demand letter does not contain the information described in division (B)(1) of this section and the target requests the information, the person provides the information</u>	78 79 80

<u>within a reasonable period of time.</u>	81
<u>(3) The person engages in a good faith effort to establish that the target has infringed the patent and to negotiate an appropriate remedy.</u>	82 83 84
<u>(4) The person makes or has made a substantial investment in the use of the patent or in the production or sale of a product or item covered by the patent.</u>	85 86 87
<u>(5) The person is any of the following:</u>	88
<u>(a) The inventor or joint inventor of the patent or, in the case of a patent filed by and awarded to an assignee of the original inventor or joint inventor, is the original assignee;</u>	89 90 91
<u>(b) An institution of higher education or a technology transfer organization owned or affiliated with an institution of higher education.</u>	92 93 94
<u>(6) The person has done either of the following:</u>	95
<u>(a) Demonstrated good faith business practices in previous efforts to enforce the patent or a substantially similar patent;</u>	96 97
<u>(b) Successfully enforced the patent or a substantially similar patent through a tort action.</u>	98 99
<u>(7) Any other factor that the court finds relevant.</u>	100
<u>(D) It is not a violation of division (A) of this section for a person who owns or has the right to license or enforce a patent to notify a person of that ownership or right of license or enforcement, to notify a person that the patent is available for license or sale, to notify a person of the infringement of that patent pursuant to the provisions of Title 35 of the United States Code, or to seek compensation from a person on account of a past or present infringement of that patent, or for a license, when it is reasonable to believe that the person from whom compensation is sought may owe such compensation.</u>	101 102 103 104 105 106 107 108 109 110

(E) Sections 2307.66 to 2307.69 of the Revised Code do not 111
apply to a demand letter or civil action that includes a claim for 112
relief under 35 U.S.C. 271(e)(2). 113

Sec. 2307.68. (A) A target or other person aggrieved by a bad 114
faith assertion of patent infringement in violation of division 115
(A) of section 2307.67 of the Revised Code may bring a tort action 116
in the court of common pleas of the county of the target's 117
residence or primary place of business. 118

(B) Upon motion by a target and a finding by the court that a 119
target has established a reasonable likelihood that a person has 120
made a bad faith assertion of patent infringement in violation of 121
section 2307.67 of the Revised Code, the court shall require the 122
person to post a bond in an amount equal to a good faith estimate 123
of the target's costs to litigate the tort action and amounts 124
reasonably likely to be recovered under section 2307.69 of the 125
Revised Code, conditioned upon payment of any amounts finally 126
determined to be due to the target. The court shall not order a 127
bond in excess of two hundred fifty thousand dollars. The court 128
shall hold a hearing on the bond if the person or target requests 129
a hearing. The court may waive the bond requirement if the court 130
finds that the person has available assets equal to the amount of 131
the proposed bond or for other good cause shown. 132

(C) (1) A court may award all of the following to a plaintiff 133
who prevails in an action brought under this section: 134

(a) Equitable relief; 135

(b) Compensatory damages; 136

(c) Costs and fees of litigation, including reasonable 137
attorney's fees; 138

(d) Exemplary damages in an amount equal to \$50,000 or three 139
times the total of damages, costs, and fees, whichever is greater. 140

(2) Section 2315.21 of the Revised Code applies to a tort 141
action brought under division (A) of this section if the target 142
makes a claim for both compensatory damages and for punitive or 143
exemplary damages. 144

(D) Division (A) of this section does not limit or affect a 145
target's right to bring a tort action related to patent 146
infringements under any other provision of state or federal law. 147

Sec. 2307.69. (A) If the attorney general, by the attorney 148
general's own inquiries or as a result of complaints, has 149
reasonable cause to believe that a person has made a bad faith 150
assertion of patent infringement the attorney general may 151
investigate. For this purpose, the attorney general may administer 152
oaths, subpoena witnesses, adduce evidence, and require the 153
production of relevant matter. If the relevant matter is located 154
outside the state, the attorney general may designate 155
representatives, including officials of the state in which the 156
matter is located, to inspect the matter on the attorney general's 157
behalf. 158

(B) The attorney general may institute a civil action in 159
accordance with section 109.16 of the Revised Code seeking 160
injunctive and other equitable relief in connection with a bad 161
faith assertion of patent infringement if the attorney general 162
believes that the action would be in the public interest. The 163
attorney general may bring an action to obtain a temporary 164
restraining order, preliminary injunction, or permanent injunction 165
to restrain and prevent a person from taking actions and making 166
assertions or allegations that constitute a bad faith assertion of 167
patent infringement. The court may issue a temporary restraining 168
order, preliminary injunction, or permanent injunction to restrain 169
or prevent the person from taking actions and making assertions or 170
allegations that constitute a bad faith assertion of patent 171

<u>infringement.</u>	172
<u>(C) This section does not limit or affect other rights,</u>	173
<u>duties, privileges, and powers conferred by law upon the courts</u>	174
<u>and the attorney general.</u>	175

May 14, 2014 - **Ohio Gov Roars Past Little Known Challenger, Quinnipiac University Poll Finds; Support For Life Options Outweighs Death Penalty**

Ohio Gov. John Kasich is at or over the critical 50 percentage point mark on a number of measures, including his 50 - 35 percent lead over Cuyahoga County Executive Ed FitzGerald, his Democratic challenger, according to a Quinnipiac University poll released today.

This compares to a 43 - 38 percent Kasich lead in a February 19 survey by the independent Quinnipiac (KWIN-uh-pe-ack) University.

Voters approve 56 - 33 percent of the job Gov. Kasich is doing, his best score since he was elected in 2010, and say 53 - 37 percent that he deserves to be reelected.

Kasich leads FitzGerald 56 - 30 percent among men and 45 - 40 percent among women. He leads 92 - 2 percent among Republicans and 49 - 32 percent among independent voters, while Democrats back FitzGerald 77 - 12 percent.

By a 47 - 29 percent margin, Ohio voters have a favorable opinion of Kasich, while 63 percent of voters don't know enough about FitzGerald to form an opinion of him.

"Ohio Gov. John Kasich has opened up a 15-point lead in his re-election race as voters give him sterling grades for his job performance, especially on the economy," said Peter A. Brown, assistant director of the Quinnipiac University Poll. "He gets plus-50 percent approval ratings from voters on his handling of the economy and the state budget. These numbers are crucial because the economy and jobs are the most important issues in the minds of voters.

"Democratic County Executive Ed FitzGerald remains unknown to many voters. Democratic optimists will argue that with six months until Election Day, FitzGerald has a golden opportunity to reach all those voters. He's going to have to spend a lot of money on that introduction while the better-funded Kasich will introduce FitzGerald to those same voters in a much less flattering way."

In an open-ended question, allowing for any answer, 37 percent of Ohio voters list the economy or jobs as the most important issue in this year's governor's race. Another 9 percent list education or education funding, with 6 percent citing the budget and government spending and 6 percent pointing to taxes.

Ohio voters approve 53 - 38 percent of the way Kasich is handling the economy and jobs and give him positive or split grades on handling other issues:

- 48 - 38 percent on taxes;
- 51 - 35 percent on the state budget;
- 42 - 38 percent on health care;
- 29 - 29 percent on abortion.

The state economy got better in the last four years, 50 percent of voters say, while 18 percent say it got worse and 30 percent say the economy is "about the same."

Looking at Kasich's qualities, voters say 67 - 23 percent that he has strong leadership qualities; 54 - 31 percent that he is honest and trustworthy; 53 - 39 percent that he cares about their needs and problems, and 57 - 30 that he has good judgment.

"Voters think Gov. Kasich deserves another term and two-thirds consider him a strong leader. A small majority says he cares about their needs, a measure on which Republicans, even successful ones, often don't do that well. And perhaps most important for Kasich's re-election, 60 percent of voters are satisfied with the way things are going in the state," Brown said. Death Penalty

Ohio voters favor the death penalty, 69 - 25 percent, for persons convicted of murder.

But when offered a choice, 43 percent of voters favor the death penalty and 40 percent favor life in prison with no chance of parole, while 9 percent favor life in prison with a chance of parole, a total of 49 percent for the two life options.

"Ohioans overwhelmingly support capital punishment, but the option of life in prison without parole tips the balance against the death penalty," said Brown.

From May 7 - 12, Quinnipiac University surveyed 1,174 registered voters with a margin of error of +/- 2.9 percentage points. Live interviewers call land lines and cell phones.

The Quinnipiac University Poll, directed by Douglas Schwartz, Ph.D., conducts public opinion surveys in Pennsylvania, New York, New Jersey, Connecticut, Florida, Ohio, Virginia, Iowa, Colorado and the nation as a public service and for research.

STATE CONSTITUTIONAL OFFICERS

GOVERNOR & LIEUTENANT GOVERNOR:

John Kasich (R)* - Incumbent
& Mary Taylor (R)* - Incumbent

Ed FitzGerald (D) - Cuyahoga County Executive, Ex-Lakewood Mayor, Attorney & Ex-FBI Agent
& Sharon Neuhardt (D) - Attorney & '08/'12 US Rep. Nominee

Anita Rios (Green) - Ex-Green Party National Co-Chair, Feminist Activist & Frequent Candidate
& Bob Fittrakis (Green) - Attorney, Newspaper Editor, Progressive Activist & Frequent Candidate

SECRETARY OF STATE:

Jon Husted (R)* - Incumbent

Nina Turner (D) - State Senate Minority Whip & Ex-Cleveland City Councilwoman

Kevin Knedler (Libertarian) - State Party Chair

ATTORNEY GENERAL:

Mike DeWine (R)* - Incumbent

David Pepper (D) - Ex-Hamilton Co. Commissioner, Ex-Cincinnati Councilman, Attorney & '10 State Auditor Nominee

Steven Linnabary (Libertarian) - Engineering Project Representative, Community Activist & '08 US Rep. Nominee

STATE TREASURER:

Josh Mandel (R)* - Incumbent

Connie Pillich (D) - State Rep., Attorney & USAF Veteran

STATE AUDITOR:

Dave Yost (R)* - Incumbent

John Patrick Carney (D) - State Rep. & Attorney

Bob Bridges (Libertarian) - State Party Vice Chair

Ohio Supreme Court Races

Race Number One

Tom Letson (D)

vs.

Sharon L. Kennedy (R) - Incumbent

Race Number Two

John P. O'Donnell (D)

vs.

Judith French (R) - Incumbent

OHIO HOUSES RACES

1st District

R Amstutz, Ron - Incumbent

2nd District

R Romanchuk, Mark - Incumbent

D Bryant, Don

3rd District

R Brown, Tim - Incumbent

L Eberly, Nathan

4th District

R Cupp, Robert

D Huenke, Robert (Bo)

5th District

D Barborak, Nick - Incumbent

6th District

R Anielski, Marlene - Incumbent

D Fossaceca, Anthony

7th District

R Dovilla, Mike - Incumbent

D Patten, Matt

8th District

R Alterman, Mikhail

D Smith, Kent

9th District

D Boyd, Janine

WI Hopson, Charles

10th District

D Patmon, Bill - Incumbent

11th District

D Howse, Stephanie

12th District

D Barnes, John - Incumbent

13th District

R Anderson, Maria

D Antonio, Nickie - Incumbent

14th District

R Melendez, Anna

D Sweeney, Martin

15th District

R Gascoyne Telischak, Patty

D Celebrezze, Nick - Incumbent

16th District

R Baker, Nan - Incumbent

D LeVeck, Todd

17th District

R Newbern, Mike

D Curtin, Michael - Incumbent

18th District

R Sharrah, Rob

D Stinziano, Michael - Incumbent

19th District

R Gonzales, Anne - Incumbent
D Johnston, Michael
L Monnin, Chad

21st District

R Duffey, Mike - Incumbent
D Valasco, Dawn
G Johnsen, Peter

23rd District

R Grossman, Cheryl - Incumbent
D Redfern, Rick

25th District

R Golding, Seth
D Boyce, Kevin - Incumbent

27th District

R Brinkman, Tom

29th District

R Blessing, Louis - Incumbent
G Lane, Nathan

31st District

R Yeager, Mary
D Driehaus, Denise - Incumbent
L Noble, Queen

20th District

R Mefford, Dan
D Bishoff, Heather - Incumbent

22nd District

R Hall, Andy
D Leland, David

24th District

R Kunze, Stephanie - Incumbent
D Hoff, Kathy
L Noble, Mark

26th District

R Pyles, Dustin
D Craig, Hearcel

28th District

R Dever, Jonathan
D Kamrass, Micah

30th District

R Terhar, Louis - Incumbent
D Childers, Mark

32nd District

R McIntosh, Brian
D Bryant, Christie

33rd District

R Fitzpatric, Mary
D Reece, Alicia - Incumbent

35th District

R Robinson, Linda
D Johnson, Greta

37th District

R Roegner, Kristina - Incumbent
D Worhatch, David

39th District

R Dalton, Jeffrey
D Strahorn, Fred - Incumbent

41st District

R Butler, Jim - Incumbent
D Small, Wayne

43rd District

R Rezabek, Jeffrey
D Winburn, Roland - Incumbent

45th District

R Nowak, Jim
D Fedor, Teresa - Incumbent

47th District

R Sears, Barbara - Incumbent

49th District

D Slesnick, Stephen - Incumbent

34th District

R Blake, Cynthia
D Sykes, Emilia

36th District

D Prentice, Paula

38th District

R Slaby, Marilyn - Incumbent
D Crawford, Tim

40th District

R Henne, Michael - Incumbent
D Richards, Dave

42nd District

R Blair, Terrence - Incumbent
D Johnson, Leonard

44th District

R Inscoe, John
D Ashford, Mike - Incumbent

46th District

R Blaszik, Drew
D Sheehy, Michael - Incumbent

48th District

R Schuring, Kirk - Incumbent

50th District

R Hagan, Christina - Incumbent
D Cain, Deborah

51st District

R Retherford, Wes - Incumbent
D Decresce, Michele

53rd District

R Derickson, Tim - Incumbent
D Rubin, Suzi

55th District

R Manning, Nathan
D Mackin, Brendan

57th District

R Boose, Terry - Incumbent
D Lark, Matthew
L Sherwin, Robert

59th District

R Mitchell, Paul
D Gerberry, Ronald - Incumbent

61st District

R Young, Ron - Incumbent
D Walker, Rick

63rd District

R Stanley, Devon
D O'Brien, Sean - Incumbent

65th District

R Becker, John - Incumbent
D Carlier, Charles

52nd District

R Conditt, Margaret - Incumbent
D Hourani, Cathina M

54th District

R Zeltwanger, Paul
D Smith, Rick

56th District

D Ramos, Dan - Incumbent

58th District

D LaPore Hagan, Michele

60th District

R Phillips, George
D Rogers, John - Incumbent

62nd District

R Maag, Ron - Incumbent
D Schneider, Charlene
L Pettigrew, Scott

64th District

R Law, Randy
D O'Brien, Michael
G Mastromatteo, Elaine

66th District

R Green, Doug - Incumbent
D McNeely, Ken

67th District

R Brenner, Andy - Incumbent
D Hogan, David

69th District

R Hambley, Steve
D Javorek, Rich

71st District

R Ryan, Scott
D Rader, Ann

73rd District

R Perales, Rick - Incumbent
D Ogan, Dave

75th District

R Skeriotis, Nick
D Clyde, Kathleen - Incumbent

77th District

R Schaffer, Tim
D Saunders, Hollie

79th District

R Koehler, Kyle
D Jackson, Darrell

81st District

R McColley, Rob
D Lymanstall, John

83rd District

R Sprague, Robert - Incumbent

68th District

R Ruhl, Margaret Ann - Incumbent
D Skocic, Joyce

70th District

R Hall, David - Incumbent
D Riley, James

72nd District

R Hayes, Bill - Incumbent
D Bowman, Janee

74th District

R Hackett, Bob - Incumbent

76th District

R LaTourette, Sarah
D Lanese, Joseph

78th District

R Hood, Ron - Incumbent
D Fetherolf-Rogers, Laina

80th District

R Huffman, Steve
D Michalski, John

82nd District

R Burkley, Tony - Incumbent

84th District

R Buchy, Jim - Incumbent

D Norris, Gregory

85th District

R Vitale, Nino - Incumbent

87th District

R McClain, Jeff - Incumbent

D Lehart, Jeffrey

89th District

R Kraus, Steven

D Redfern, Chris - Incumbent

91st District

R Rosenberger, Cliff - Incumbent

93rd District

R Smith, Ryan - Incumbent

D Bailey, Josh

L Armstrong, Chris

95th District

R Thompson, Andy - Incumbent

D Daniels, Charles

97th District

R Hill, Brian - Incumbent

L Roe, Nelson

99th District

R McArthur, Nancy

D Patterson, John - Incumbent

86th District

R Pelanda, Dorothy - Incumbent

D Babik, John

88th District

R Reineke, William

90th District

R Johnson, Terry - Incumbent

D Davis, Tom

92nd District

R Scherer, Gary - Incumbent

94th District

R Dennis, Yolanda

D Phillips, Debbie - Incumbent

96th District

R Ferguson, Ron

D Cera, Jack - Incumbent

98th District

R Landis, Al - Incumbent

D Johnson, Jeremiah

OHIO SENATE RACES

1st District

R Hite, Cliff

5th District

R Beagle, Bill

D Gillis, Dee

9th District

R Mikita, Jacqueline

D Thomas, Cecil

13th District

R Manning, Gayle

D Madison, Marcus

17th District

R Peterson, Bob

21st District

D Williams, Sandra

25th District

D Yuko, Kenny

R Crider, Hasani A. (WI)*

29th District

R Oelslager, Scott

D Rubin, Connie

33rd District

D Schiavoni, Joe

3rd District

R Bacon, Kevin

D Johnson, Starshemah

7th District

R Jones, Shannon

D Allen, James

11th District

R McCarthy, Ernie

D Brown, Edna

15th District

R Healy, Joseph

D Tavares, Charleta B.

19th District

R Jordan, Kris

D Patel, Neil

23rd District

R Haren, Tom

D Skindell, Michael

27th District

R LaRose, Frank

D Rusiska, George

31st District

R Hottinger, Jay

Statewide Issue

State Issue 1 – Renewal of the State Capital Improvements Program

Votes % of Votes

Yes 789,367

65.10%

No 423,270

34.90%

Total Votes Cast 1,212,637

BACKGROUND

Moving the Economy,
Creating Jobs



BRENT SPENCE
BRIDGE CORRIDOR

HISTORY OF THE BRENT SPENCE BRIDGE

Originally opened in 1963, the Brent Spence Bridge and its approaches are key elements of the nation's Interstate Highway System. The bridge carries both I-75 and I-71 traffic through the Greater Cincinnati and Northern Kentucky area. Its original design divided six lanes among two, three-lane driving decks; however, renovations in 1986 eliminated the emergency lane in order to widen the bridge to four lanes on each deck.

The National Bridge inventory lists the bridge as functionally obsolete due to significant safety concerns, such as limited driver visibility, narrow lane width and a lack of emergency lanes. In fact, motorists are three to five times more likely to have a wreck on the bridge than on any other portion of the interstate systems of Ohio, Kentucky or Indiana.

These concerns – and the fact that the Brent Spence Bridge Corridor is a major economic driver for the region and nation – make the project a top priority of the Kentucky Transportation Cabinet (KYTC), the Ohio Department of Transportation (ODOT), the Ohio-Kentucky-Indiana Regional Council of Governments (OKI), the Northern Kentucky Chamber of Commerce, the Cincinnati USA Regional Chamber of Commerce and the cities of Covington, Kentucky and Cincinnati, Ohio.

CURRENT STATUS

The Brent Spence Bridge Corridor replacement and refurbishment seeks to drastically improve traffic, service, safety and accessibility of the Brent Spence Bridge. Under the project, the following objectives would be met:

- | | |
|---|--|
| 1 Improve traffic flow and level of service | 3 Improve driver visibility |
| 2 Improve safety | 4 Maintain connections to key regional and national transportation corridors |

Generally, the project focuses on the Brent Spence Bridge, but it is much bigger than that: several miles of highway leading to and from the bridge are also part of the 7.8-mile segment of I-75/I-71 that make up the Brent Spence Bridge Corridor in Greater Cincinnati and Northern Kentucky.

continued on back

KEY FACTS

3 to 5x

Motorists are three to five times more likely to have a wreck along the corridor than on any other portion of the interstate systems of Ohio, Kentucky or Indiana.



1.6 Million Gallons

Roughly 1.6 million gallons of fuel are wasted annually due to traffic congestion, which – under current bridge conditions – will increase to 5.7 million gallons per year by 2030.



3.6 Million Hours

Traffic congestion on the Brent Spence Bridge costs an average of 3.6 million hours of delay for passenger cars every year.

BACKGROUND

Moving the Economy,
Creating Jobs



BRENT SPENCE
BRIDGE CORRIDOR

CURRENT STATUS CONTINUED

The new Brent Spence Bridge Corridor will more than double the capacity of the current bridge to improve accessibility for people who live here, as well as people traveling through the area. Specific lanes in both directions will be dedicated to local and through traffic.

The project is expected to have a price tag of nearly \$2.5 billion, making it the largest infrastructure project this region has ever seen. But as it stands today, public sources of funding – whether federal or state – will not be enough. Estimated project costs are approximately five times the State of Ohio and Commonwealth of Kentucky combined annual budgets for new and capacity-driven project budgets. Tolling is being evaluated as a means to produce a new, dedicated revenue source to fund the project.

If the bridge is to be built, a financial commitment from other sources will be required to complete the project.

.....

A Public-Private Partnership (P3) is an alternative way to deliver the Brent Spence Bridge Corridor project. Leveraging private sector resources while maintaining public sector control will allow the project to be delivered faster, better and cheaper than a traditional approach. A P3 delivery of this project would take advantage of significant cost savings and would accelerate the construction timeline.

.....

P3 project delivery is just one of several options a current Value for Money (VfM) analysis is reviewing. Previous engineering and environmental studies have identified local and through-traffic needs, capacity issues and safety concerns. The VfM study will build upon that previous work to assess how best to meet user needs in the most cost-effective way possible.

KEY FACTS

\$417

Billion or 3% of GDP

Approximately \$417 billion in freight crosses the bridge every year, equivalent to three percent of the Gross Domestic Product.

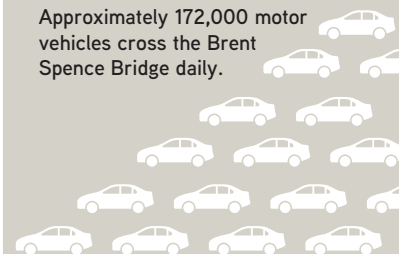
10 States



The Brent Spence Bridge Corridor is a vital commerce connector to 10 states as far north as Michigan and as far south as Florida.

172,000 Vehicles/Day

Approximately 172,000 motor vehicles cross the Brent Spence Bridge daily.



KEY FACTS

Moving the Economy,
Creating Jobs

BRENT SPENCE
BRIDGE CORRIDOR



1 3 to 5x

Motorists are three to five times more likely to have a wreck within the bridge corridor than on any other portion of the interstate systems of Ohio or Kentucky.¹



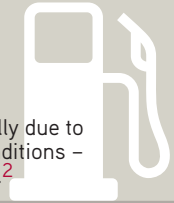
2 3.6 Million Hours

Traffic congestion attributed to the Brent Spence Bridge costs an average of 3.6 million hours of delay for passenger cars every year.²



3 1.6 Million Gallons

Roughly 1.6 million gallons of fuel are wasted annually due to traffic congestion, which – under current bridge conditions – will increase to 5.7 million gallons per year by 2030.²



4 75%

75% of the jobs in this region are within five miles of I-75.³

5 650 Calls

Each year, 650 calls for help are made by motorists stranded in the corridor.⁴



6 16 Lanes Equals = 75% Less Fuel

Expanding the corridor to 16 lanes will reduce wasted fuel by more than 75 percent.¹

7 80% Fewer Traffic Delays

Expanding the corridor to 16 lanes will reduce traffic delays by approximately 80 percent.¹



8 2040

If we don't build it now, a new Brent Spence Bridge won't be built until 2040.¹



9 \$75 Million

Putting a shovel in the ground by 2015 will save taxpayers nearly \$75 million per year in inflation savings alone.⁵



10 \$417 Billion or 3% of GDP

Approximately \$417 billion in freight crosses the bridge every year, equivalent to three percent of the Gross Domestic Product. This number is expected to nearly double to \$830 billion by 2030.²



11 172,000 Vehicles /Day

Approximately 172,000 motor vehicles cross the Brent Spence Bridge daily.³



12 10 states

The Brent Spence Bridge Corridor connects 10 states: Alabama, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Michigan, Ohio and Tennessee.⁶



13 \$18.9 Billion

The Brent Spence Bridge Corridor will yield \$18.9 billion in benefits in the 20 years following completion of the project.²

14 7.8mi

The Brent Spence Bridge Corridor project consists of 7.8 total miles of roadway: 5.1 miles in Kentucky and 2.7 miles in Ohio.¹

CITATIONS

- 1 Kentucky Transportation Cabinet (KYTC) and Ohio Department of Transportation (ODOT)
- 2 Texas Transportation Institute (TTI) Brent Spence Bridge Replacement and Revitalization Study
- 3 Ohio-Kentucky-Indiana (OKI) Regional Council of Governments
- 4 Covington Police Department and Build Our New Bridge Now Coalition
- 5 HNTB and KPMG
- 6 Federal Highway Administration



BrentSpenceBridgeCorridor.com

[facebook.com/TheBrentSpence](https://www.facebook.com/TheBrentSpence)

[@TheBrentSpence](https://twitter.com/TheBrentSpence)



The Need for Legislation:

As Ohio and Kentucky work together to deliver a project that is vital to the health of both states and the region we can't wait or rely on help from Washington. Ohio and Kentucky are taking matters into their own hands and working together to develop a new bridge sooner rather than later. But, there is still work to be done before construction can begin. Ohio needs to make modifications to existing tolling implementation and enforcement statutory provisions. This is needed to permit the installation and implementation of tolling systems that utilize modern tolling technology. In addition, statutory changes need to be made to ensure an effective transparent toll collection system that provides both ease of collection and the transparency that the motoring public expects. These refinements are designed to provide ODOT with necessary tools to finance and construct transportation projects in the most economical and efficient manner possible.

What the Legislation Does:

- Aligning with Federal Standards – Current Ohio law prohibits the tolling of existing capacity. The Brent Spence Bridge project will involve adding some capacity, but the project is not financially viable unless the existing capacity and new capacity are both tolled. The legislation will bring Ohio in-line with definitions used at the Federal level allowing for tolling on projects that are substantially reconstructed as well as provide that the provision applies to the Brent Spence project specifically.
- Implementation of All Electronic Tolling (AET) – Current law does not clearly allow ODOT to implement open road tolling for BSB. Open road tolling is essential for delivery of the project. The project footprint is not sufficient to install traditional toll booths. AET is necessary to maintain free flowing traffic across the bridge.
- Privacy Controls – Establishes a criminal penalty for the disclosure of information for non-user fee purposes without a court order. Sets the amount of time data can be kept passed its administrative value, and clarifies that the information is not a public record.
- AET Enforcement – Current law does not provide for an effective enforcement mechanism for failure to pay AET invoices. To be constitutional, a toll enforcement mechanism must provide for due process to contest a violation for failure to pay.
- Public-Private-Partnership updates –As ODOT moves in a more innovative direction regarding funding for major infrastructure projects, industry leaders have provided input about how to improve ODOT's public-private-partnership (P3) statute. The legislation provides changes that will allow the Brent Spence Bridge Corridor project to be more cost effective and generate the greatest interest from the industry.

What is All Electronic Tolling:

- Traditional toll booths – dropping quarters in a basket – are becoming a thing of the past. With today's technology, two new methods allow drivers to maintain their highway speeds and make travel more seamless:
 - **Automatic vehicle identification systems** use electronic transponders to deduct the toll from a pre-paid account;
 - **Video capture systems** use specialized cameras and lighting units to capture license plate numbers and invoice to the registered owner.
- Both are widely used together around the country. More than 30 All Electronic Tolling systems are currently in operation or the planning stages across 14 states. Of those, Texas has 12 projects either in operation or planned for the near future.
- Reduce congestion and traffic delays to improve safety compared to traditional tolls by eliminating distracted driving and lane changes.
- Significantly lower operating costs than traditional-toll systems.

Public Policy Priorities

2012-2013

Manufacturing is the engine that drives Ohio's economy, and the mission of the Ohio Manufacturers' Association is to protect and grow Ohio manufacturing. In a fiercely competitive global economy—where the need for continuous quality improvement, enhanced efficiency and productivity, and constant innovation is relentless—every public policy decision that affects Ohio's business climate affects Ohio's manufacturing competitiveness.

Ohio manufacturers need public policies that help create global competitive advantage, attract investment and promote growth. These policies span a broad spectrum of conditions that shape the business environment within which manufacturers operate. Major policy goals include the following:

- An Effective, Competitive Ohio Tax System
- An Efficient, Effective Workers' Compensation System
- Access to Reliable, Economical Energy
- A Fair, Stable, Predictable Civil Justice System
- Clear, Consistent, Predictable Environmental Regulations
- A Modernized Transportation Infrastructure
- An Educated, Highly Skilled Workforce

POLICY GOAL:

An Effective, Competitive Ohio Tax System

For Ohio to be successful in a global economy, the state's tax structure must encourage investment and growth and be competitive nationally and internationally. A globally competitive tax system is characterized by (a) certainty, (b) equity, (c) simplicity and (d) transparency. Economy of collections and convenience of payment also are important considerations.

Generally, manufacturers support efforts to broaden the tax base, which enables lower rates. To preserve the integrity of the broad tax base and ensure fairness, credits and exemptions should be reduced and discouraged. Where needed, government incentives are best structured as grants rather than as tax credits. And, in general, earmarking and dedicating tax revenues should be discouraged.

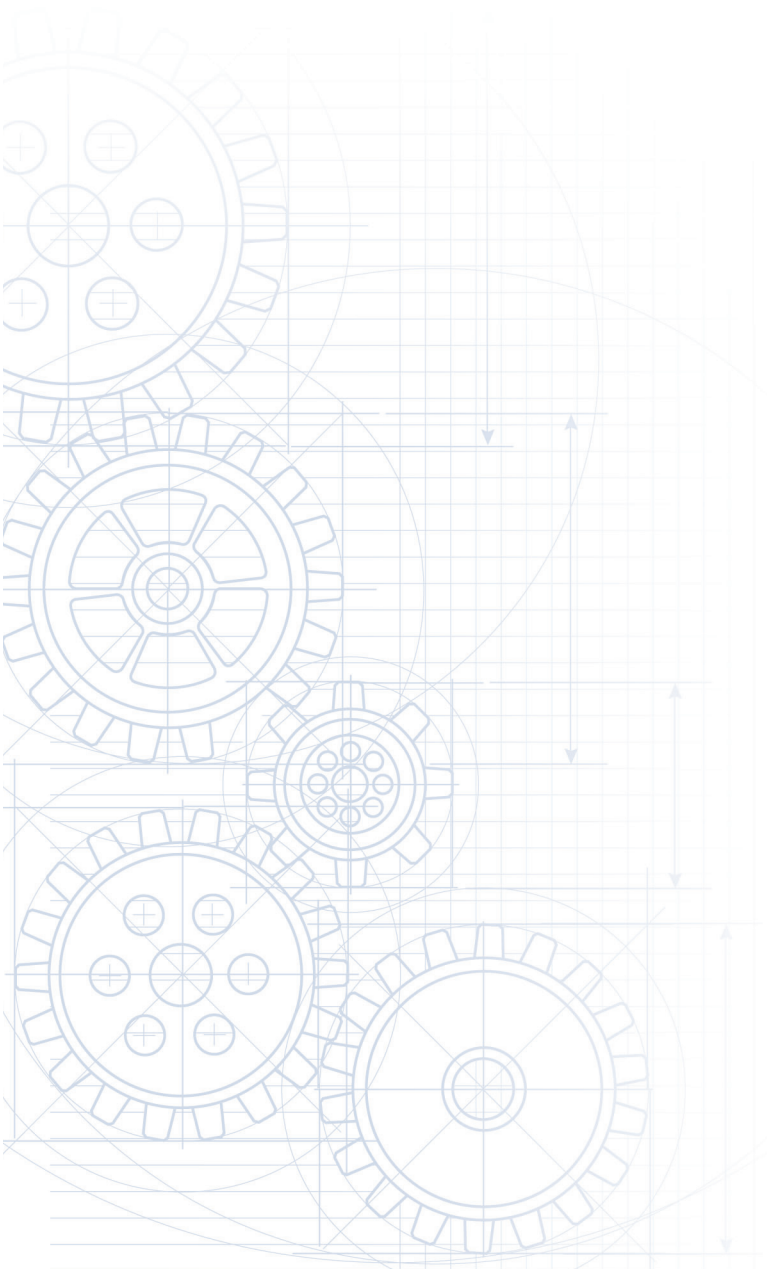
Good tax policy also generates necessary revenues to support the essential functions of government. To ensure transparency regarding the true cost of government and the rate of its growth, however, funding government programs with fee revenue instead of general fund revenue should be discouraged. Good budgeting and spending restraint at all levels of government are vital to ensure a competitive tax environment.

Major tax reforms approved by the Ohio General Assembly in 2005 have led to significant improvements to a tax system that was for many years widely regarded as outdated. Reforms included reducing overall tax rates, eliminating tax on investment, broadening the tax base, providing more stable and predictable revenues, and simplifying compliance. While progress has been made, additional policy reforms are needed to support manufacturing competitiveness, economic growth and prosperity in Ohio.

Tax policy priorities include the following:

- **Preserve the integrity of Ohio's 2005 tax reforms**, including a zero-tolerance response to any efforts via legislation or the court system to carve out exemptions or credits to (a) avoid paying the Commercial Activities Tax (CAT) or (b) earmark any portion of CAT revenues for specific government services.
- **Improve Ohio's tax appeals process**, which due to bad economic conditions and subsequent state budget cuts, staffing cutbacks and increased caseloads, has contributed to such a backlog of cases at the Ohio Board of Tax Appeals that it routinely takes two years to advance from the date of filing an appeal to the date of the first hearing.
- **Preserve the repeal of Ohio's estate tax**, which for so long served as a disincentive for business owners to invest in existing businesses and as an impediment to the capital formation that is so vital to Ohio's economy.
- **Streamline and simplify the sales tax**, which over time has become riddled with exemptions, carve-outs and credits that result in some taxpayers subsidizing exempted taxpayers. Exemptions, carve-outs and credits should be reviewed periodically for economic justification.

- **Promote taxpayer uniformity.** Consolidate and streamline the collection of municipal income tax by creating a uniform statewide municipal tax code, with uniform definitions of taxable income, consistent rules and regulations and a generic municipal income tax form.
- **Lower the effective tax rate in Ohio by reducing the number of government entities that are taxing jurisdictions.** This will help address the problem of pancaking state and local state taxes, which puts Ohio at a competitive disadvantage with many other states.



POLICY GOAL:

An Efficient, Effective Workers' Compensation System

The Ohio Manufacturers' Association works with its member companies, the Ohio Bureau of Workers' Compensation (BWC or Bureau), and the Ohio General Assembly to continually improve processes for injured workers and employers and to drive system costs down. An efficient and effective workers' compensation system is built on the following principles:

- Injured workers will receive fair and timely benefits they need for getting back to work quickly and safely.
- All businesses will pay fair workers' compensation rates commensurate with the risk they bring to the system.
- Workers' compensation rates will be driven by actuarial data, and the state's workers' compensation insurance system will remain stable, solvent and actuarially sound.
- Workers' compensation rates will not be structured in a way that punishes one class of employers to benefit another (such as the historical subsidization of group-rated employers by non-group-rated employers).
- The Ohio Bureau of Workers' Compensation will deploy best-in-class disability management practices to drive down costs for employers and improve service for injured parties.

These outcomes would be good for manufacturers and good for Ohio's overall economy.

Workers' compensation policy priorities include the following:

- **Design and deploy a competitive process that requires Managed Care Organizations (MCOs) to (a) meet rigorous performance standards established by the BWC and (b) compete on price for contracts with the BWC.**
- **Eliminate the "reasonable suspicion" standard from Ohio's rebuttable presumption drug statute.**
- **Incorporate the Louisiana Pacific standards of "voluntary abandonment" for benefits.**
- **Improve claims management processes, transparency and accountability associated with Ohio's Self-Insured Employers' Guaranty Fund.**
- **Require credentialing/certification of all claims management personnel based on accepted private insurance industry standards.**
- **Establish retirement benefit offsets and/or age or number-of-weeks caps for permanent total disability (PTD) awards.**

- **Require claimants to show new and/or changed circumstances when filing for permanent total disability (PTD) or permanent partial disability (PPD) benefits more than once.**
- **Require Industrial Commission hearings to be recorded** to improve consistency in outcomes.
- **Allow telephonic hearings for permanent partial disability (PPD) claims to lower transaction costs.**
- **Establish an impairment standard (no consideration of non-medical factors) for permanent partial disability (PPD) cases.**
- **Terminate the compensation paid for temporary total disability (TTD) effective the date determined by the medical evidence establishing maximum medical improvement.**
- **Specify that if a temporary total disability (TTD) claim is suspended due to a claimant's refusal to provide a signed medical release or attend the employer's medical examination, the claimant forfeits his or her right to benefits during the period of the suspension.**
- **Allow employers to pay compensation and medical bills without losing the right to contest a claim (payment without prejudice).**
- **Require permanent partial disability (PPD) claims to be resolved by choosing either the claimant's medical exam determination or the defendant's medical exam determination—explicitly prohibiting an averaging of, or compromise between, the two.**
- **Require MCOs to demonstrate their medical arrangements and agreements with a substantial number of medical, professional and pharmacy providers participating in the BWC's Health Partnership Program.** These providers should be selected on the basis of access, quality of care and cost, rather than solely claimant preference. The focus should be on getting injured workers back to work quickly and safely, benefitting both the employee and the employer.
- **Allow the BWC to require claimants to pay out-of-plan co-payments for selecting medical providers outside the approved MCO panel of providers,** beginning the 46th day after the date of injury or the 46th day after starting treatment. However, employees should be allowed to use a provider outside the approved panel if they are located in certain parts of the state or outside the state where approved MCO providers cannot reasonably be accessed.
- **Allow the BWC to modify existing rules for the Bureau's Health Partnership Program to include administrative and financial incentives that reward high-performing MCOs and other providers.** Possible incentives include bonus payments to providers who greatly exceed quality benchmarks established by the BWC to help reduce costs without sacrificing quality of services or outcomes.

- **Collect and include in the BWC's healthcare data program annual data measuring the outcomes and savings of MCOs and other providers participating in the Health Partnership Program.** This data should be made available to employers and the public. The more performance data that are collected, the more efficient and effective the system will become.
- **Allow the BWC to recoup treatment costs from claims that ultimately are denied under BWC law.** The Bureau should be able to request that an employee's personal insurance or third-party payer reimburse the BWC for treatment amounts the Bureau paid on behalf of the employee. These payments should be deposited in the Surplus Fund Account. This will ensure injured workers will receive the treatments they need in a timely manner, while providing the Bureau a path to recoup payments that ultimately should not have been paid out by the system.
- **Allow the BWC to develop new rules permitting the BWC to pay for certain medical services within the first 45 days of an injury.** This would ensure that injured employees receive treatment regardless of whether their claims are eventually denied in the process. Also allow the Bureau to create rules allowing for immediate payment of prescriptions in certain circumstances. If a claim is ultimately disallowed, the services paid must be charged to the Surplus Fund Account as long as the employer pays its assessments into the Surplus Fund Account in the State Insurance Fund.
- **Require injured workers to participate in the treatment process in a timely manner.** Employees who refuse or unreasonably delay required treatment such as rehabilitation services, counseling, medical exams or vocational evaluations without a valid reason should forfeit their right to have the claim considered or to receive any compensation or benefits during the period of non-cooperation.

POLICY GOAL:

Access to Reliable, Economical Energy

Energy policy can enhance—or hinder—Ohio’s ability to attract business investment, stimulate economic growth and spur job creation, especially in manufacturing. State and federal energy policies must strike an effective balance between (a) ensuring access to reliable, economical sources of energy and (b) conserving energy to protect and preserve our natural resources.

The Ohio Manufacturers’ Association’s energy policy advocacy efforts are guided by these principles:

- Predictable, stable energy pricing achieved through effective energy rate design attracts job-creating capital investments.
- A modernized energy infrastructure will help maximize energy supplies and stabilize energy pricing and reliability.
- Strategic and operational collaboration among utilities, government and manufacturers and their supply chains produces better economic outcomes than do confrontational and adversarial regulatory proceedings.
- Ohio’s traditional industrial capabilities enable global leadership in energy technology innovation and manufacturing.
- Sustainability requirements can create profitable new market opportunities but must be economically feasible.
- Effective government regulation recognizes technical and economic realities.

Shaping energy policy in Ohio that aligns with these principles will support manufacturing competitiveness, stimulate economic expansion and job creation, and foster environmental stewardship.

Energy policy priorities include the following:

- **Design an economic development discount rate for energy-intensive manufacturers that makes Ohio competitive with other states.** This refers to a discount off an electric utility’s tariff rate to incentivize capital investment and job creation.
- **Revise PUCO rules to remove barriers to the use of self-help strategies and to enhance reliability.**
- **Revise PUCO rules governing energy efficiency – including cogeneration and demand-side management – to achieve least-cost implementation and to incentivize interested parties to undertake innovative and least-cost efficiency projects.**
- **Ensure that electric distribution utilities comply with Ohio’s three percent cost cap for renewable energy in a least-cost manner** so customers are not forced to pay above-market prices for renewable energy.

- **Ensure rigorous PUCO monitoring and regulation of dealings between electric distribution utilities and their affiliates.**
- **Remove/mitigate barriers electric distribution utilities have created to inhibit/prevent shopping and ensure consumers have the information and tools they need to understand and take full advantage of market opportunities.**
For example, utilities should (a) be required to explain how customers' peak load contribution, which is used by suppliers to price competitive generation contracts, is calculated; (b) provide the calculated peak load contribution not just to suppliers but also to customers; and (c) be held accountable for errors that affect the value to customers of competitive supply contracts. The PUCO also should require utilities to develop interactive tools that help demonstrate the "price to compare" and make apples-to-apples comparisons between competitive supply offers.
- **Ensure close coordination among the PUCO, PJM Interconnection, Ohio EPA, the Ohio Power Siting Board and Ohio manufacturers to ensure least-cost and most efficient use of generation and transmission resources.**
- **Adopt a state-level consumer advocacy role with PJM Interconnection regarding critical transmission issues and needs.**

POLICY GOAL:

A Fair, Stable, Predictable Civil Justice System

A state's legal climate can be a major inducement or a major deterrent to business investment, growth and job creation. For manufacturers to invest and grow in Ohio, and to compete globally, Ohio's civil justice system must be rational, fair and predictable. Manufacturers must be free to innovate and pursue market opportunities without fear of unreasonable exposure to costly lawsuits, while injured parties must have full recourse to appropriate measures of justice.

The OMA supports policy reforms that strike a reasonable balance between protecting consumers without overly burdening businesses that provide needed jobs, while also positioning Ohio advantageously relative to other states. We encourage policymakers to evaluate all proposed civil justice reforms by considering these questions:

- Will the policy fairly and appropriately protect and compensate injured parties without creating a “lottery mentality”?
- Will the policy increase—or decrease—litigation burdens and costs?
- Will the policy promote—or reduce—innovation?
- Will the policy attract—or discourage—investment?
- Will the policy stimulate—or stifle—growth and job creation?

Most importantly, we encourage our public-sector partners to ask themselves: “Will my position on critical tort reform issues enhance—or undermine—Ohio's competitiveness in the global economy?”

Civil justice reform policy priorities include the following:

- **Preserve Ohio's tort reform gains of the last decade**, in areas such as punitive damages, successor liability, collateral sources and statute of repose, which have helped strike a reasonable balance between protecting consumers without unduly burdening businesses that provide needed jobs, while positioning Ohio as an attractive state for business investment.
- **Require asbestos claimants to make certain disclosures pertaining to claims that have been submitted to asbestos bankruptcy trusts** to prevent “double dipping” without limiting or delaying the ability of asbestos claimants to seek recovery for their injuries.
- **Enact TIPAC legislation (Transparency in Private Attorney Contracting) that requires public disclosure of most large contingency-fee contracts between government and personal injury attorneys** to address concerns about the propriety of contingency-fee arrangements for the prosecution of public claims.
- **Require consistent language when statutes intend to explicitly create a private right of action** (i.e., a right to file suit) to curtail court rulings that result in unexpected liability for companies.

- **Amend Rule 68 of the Ohio Rules of Civil Procedure to mirror Rule 68 of the Federal Rules of Civil Procedure**, which makes a plaintiff who rejects a defendant's settlement offer liable for the defendant's post-offer costs if the plaintiff does not improve on the offer at trial.
- **Reject any efforts to codify in Ohio statute the *cy pres* doctrine**—an existing tool that permits, but does not require, a judge and the parties to a class action lawsuit to donate all undistributed class action proceeds to a charity or other non-profit organization.
- **Reject legislation to enact a state false claims act.** A bill was introduced in the 129th Ohio General Assembly (SB 143) that would allow individuals with knowledge of possible fraudulent activity to (a) file suit in state courts against companies doing business with public entities and (b) recover a portion of the money recovered by the State. Under this bill, false claims suits could be filed against any business selling services or goods to state government. While fraud against the government is not to be condoned, there are preferable alternatives to creating a whole new category of state-level lawsuit.

POLICY GOAL:

Clear, Consistent, Predictable Environmental Regulations

Where environmental standards and regulations are concerned, manufacturers have a critical need for the following:

- Clarity, predictability and consistency
- Policies that reflect scientific consensus
- Commonsense enforcement
- Careful cost-benefit analysis as part of the policymaking process

Manufacturers also urge policymakers to exercise restraint in establishing state environmental standards and regulations that exceed federal standards and regulations, and to avoid doing so altogether without clear and convincing evidence that more stringent standards or regulations are necessary. At the same time, manufacturers understand that fair and reasonable regulations must be balanced with responsible stewardship of our natural resources.

Industry leads the way in solid waste reduction and recycling. Reduction and recycling include source reduction activities, reuse, recycling, composting and incineration. Industry is an enormous consumer of recycled materials, such as metals, glass, paper and plastics; manufacturers thus are strong advocates for improving recycling systems in Ohio and the nation.

Environmental policy priorities include the following:

- **Expand the focus of Ohio's state implementation plan for attaining National Ambient Air Quality Standards (NAAQS) and for reducing releases of substances regulated by EPA to the environment (air, water and land) beyond industrial sources to also include controls for non-industrial and mobile sources of releases.**
- **Revise existing statute to allow companies to appeal Ohio EPA Notices of Violation (NOVs) to Ohio's Environmental Review and Appeal Commission.**
- **Require Ohio EPA to evaluate and use best practices for implementation of federal environmental regulations** to avoid putting Ohio manufacturers at a competitive disadvantage because they face greater regulatory burdens than competitors from other states do based on Ohio EPA's stricter interpretation of federal regulations.
- **Give companies whose environmental permits are appealed by third parties the option, for a fee, of a "fast track" process and expedited resolution of the appeal,** which otherwise can discourage investors because Ohio's appeals process can go on for years.

- **Expand opportunities for industry to reuse non-harmful waste streams.** Beneficial reuse policies can result in less waste and more recycling of industrial byproducts.
- **Review Ohio's solid waste regulations, including procedures for disposing universal waste streams, to ensure safe and uniform disposal practices that are consistent with best practices used in other states.**
- **Reject state-level efforts to implement product composition mandates.** Such standards and requirements are best addressed at the federal level rather than through a patchwork of differing state-level requirements.
- **Reject extended producer responsibility policies that would shift responsibility for recycling certain consumer products from consumers to manufacturers.**

POLICY GOAL:

A Modernized Transportation Infrastructure

To remain competitive and maximize the economic benefits of Ohio's manufacturing strength, the State must continue to invest in updating and expanding Ohio's multi-modal transportation infrastructure, including roads, bridges, rails and ports. Continued investment in these resources will be critical to providing Ohio businesses with flexible, efficient, cost-effective shipping options.

Transportation infrastructure policy priorities include the following:

- **Modify Ohio's rules and regulations** to allow greater flexibility and efficiency in the truck permitting process and to ensure Ohio's truck permitting standards and processes are competitive with other states with regard to requirements, fees and responsiveness.
- **Enhance shipping flexibility by supporting the federal Safe and Efficient Transportation Act.** This bill would allow states to tailor regulations to meet state-level transportation needs linked to a state's particular economic assets and strengths.

POLICY GOAL:

An Educated, Highly Skilled Workforce

A robust economy requires an adequate, reliable supply of skilled workers who have the technical knowledge and skills required to meet global standards for quality and productivity, and who are able to think critically, work collaboratively and drive innovation. Sustained growth in manufacturing productivity will require not only a new generation of globally competent workers interested in the variety of roles within manufacturing careers but also incumbent workers willing to embrace lifelong learning so they can continuously upgrade their competencies to keep pace with technological advancements and global competition.

Workforce development policy priorities include the following:

- **Expand the use of the National Association of Manufacturers' "Manufacturing Skills Certification System."** This system of nationally portable, industry recognized, "stackable" credentials is applicable to all sectors in the manufacturing industry. The credentials validate foundational skills and competencies needed to be productive and successful in entry-level positions in any manufacturing environment. Credentials can be earned from both secondary and postsecondary educational programs.
- **Expand the use of cooperative education, internships and apprenticeships.** These experiential learning programs enhance talent recruitment and retention because participating students are exposed to company-specific, real-world job expectations and experiences. Students develop strong leadership and management skills by working closely with company staff who serve as their mentors/supervisors, and participating companies benefit from reduced recruitment and training costs.

To: OMA Government Affairs Committee
From: Ryan Augsburger / Rob Brundrett
Re: Energy Public Policy Report
Date: May 28, 2014

Electricity Rates and Regulation

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

Capacity Prices

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

The spike in capacity price for 2015 occurred in the 2012 auction. Since then, the PUCO ordered FirstEnergy to bid 75% of its energy efficiency resources into the PJM auctions to “substantially benefit ratepayers by lowering capacity auction prices and reducing Rider DSE costs.” FirstEnergy has called the auctions “unfair.”

The most recent auction results have been released; the auction prices are for the July 2017-2018 year. The price of capacity cleared at \$120 /MW-day, this is up from \$59 /MW-day from last year's auction price.

Energy Efficiency Legislation (SB 58 / HB 302 / SB 310)

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

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

A work group of OMA members developed legislative language that would provide a streamlined energy efficiency opt-out option for large industrial electricity users that did not compromise costs for other consumers. The language went through a number of iterations with member input.

SB 310 was introduced by Senator Troy Balderson. The bill which freezes the alternative energy standards for two years and creates a legislative study committee to assess the impacts of the standards was voted out of the Senate. The bill was voted out of House committee Tuesday and a floor vote is expected as soon as today. The OMA adopted a position of opposition to the As Passed by Senate version of the bill. See supporting energy documents.

Manufactured Gas Plant Remediation Costs

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

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

The MBR included a provision that would allow the gas utilities to recover the cost for remediating these old plants. The OMA and member companies worked to have these provisions removed from the bill. The Senate did not reinsert the language as the MBR went through the Senate committee process.

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

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

Legislators are considering House Bill 319 (Cheryl Grossman) that would permit a natural gas company to establish a rider to fund gas infrastructure development. This bill has not had a hearing since February.

“Reasonable Arrangements” Legislation (HB 312)

HB 312 (Terry Johnson) permits an electric distribution utility to recover the costs of economic and job retention programs, via approved reasonable arrangements, from ALL electric utility customers in the state, rather than only from customers located in the utility's certified territory or within the same holding company. The bill also prohibits the PUCO from approving applications for economic development and job retention reasonable arrangements and/or modifications or extensions after January 1, 2018. The bill has not had a hearing since January.

PUCO Chairman

Former state legislator Thomas W. Johnson was appointed PUCO Chairman. His appointment is a five-year term that commenced on April 11, 2014.

The Nominating Council had recommended the following individuals: Patrick Donlon, Columbus; Thomas W. Johnson, Columbus; Stacey E. Polk, Cleveland; Tom Waniewski, Toledo, as suitable replacements for former PUCO Chairman Todd Snitchler.

New AEP Rate Plan Filed

AEP Ohio has filed application with the PUCO seeking approval of an electric security plan (ESP) for the term June 1, 2015 to May 31, 2018. A major focus of the application is a distribution reliability strategic plan, which proposes to continue collecting a number of distribution-related rider charges throughout the ESP period, as well as creating several new distribution riders. As a result, although the application appears to minimize the overall economic impact of the rate plan, the plan appears to disproportionately impact distribution rates. An analysis by counsel is available to members. The OMA Energy Group intervened in the case to protect manufacturers' interests.

PUCO Considers Modifications of “Reasonable Arrangements”

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

Federal Greenhouse Gas Regulations (GHG)

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

“On-Bill” Financing of Efficiency Projects

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

Energy Special Improvement District (E-SID)

An E-SID was created by law in 2009 and enables the building owner to self-finance energy efficiency improvements through a special assessment on their property. A legislative proposal would authorize port authorities to create and govern an E-SID and broadens qualifying projects to include energy efficiency / CHP projects.

Energy

OMA Proposes SB 310 Compromise

In an attempt to balance the interests of small and medium size manufacturers (and residential customers) with utilities and larger electricity users, the OMA proposed another [compromise approach](#) to SB 310. The compromise would eliminate provisions in the bill that needlessly increase electricity costs across the state. Joining the OMA in advancing the compromise amendment was the Ohio Consumers' Counsel, the Ohio Farm Bureau and other organizations.

The compromise proposes a one-year freeze to the state's energy efficiency and renewable energy standards (instead of the proposed two-year freeze) during which a special legislative committee would study the effects of the standards. The compromise would provide an opt-out for large electricity consumers available in 2015 at the sole discretion of the consumers (rather than the utilities as in the current draft of the bill).

The OMA also proposes a cost cap on the amount utilities can charge for energy efficiency riders. And, the OMA asks that the legislature study other provisions of current law that tilt the regulatory playing field toward the utilities and away from consumers, driving up rates and utility profits.

Multiple studies, as well as the regulatory filings of the utilities themselves, demonstrate that the benefits outweigh the costs of utility energy efficiency programs by at least 2 to 1.

[Contact your state representatives](#) immediately (a vote is expected in the House next week). Ask them to oppose SB 310 as passed by the Senate, and to support the compromise proposed by the OMA and the consumer coalition. 5/22/2014

OMA Leaders Present Testimony on Energy Bill

Jeff Fritz, Manager of the U.S. Heartland Region for DuPont and chairman of the OMA Government Affairs Committee, presented [testimony](#) opposing SB 310 before the House Public Utilities Committee this week. SB 310 would "freeze" the state's energy efficiency standards, and contains provisions that essentially gut the standards and provide utilities with new sources of unearned income.

Fritz said: "Numerous studies have shown that the net benefits to consumers of the energy efficiency standards clearly exceed the costs. One of those studies reported the results of a detailed cost-benefit analysis. The analysis shows that the price mitigation benefits of the current energy efficiency standards exceed the energy rider costs for all sizes of manufacturers, in all four electric utility service territories in Ohio, with large manufacturers benefitting the least." Fritz suggested a compromise approach

that allows for an opt-out by the largest electricity users, while protecting the integrity of the efficiency programs for all other ratepayers.

Dave Johnson, CEO of Summitville Tiles in Columbiana County and a board member of the OMA, supplied [written testimony](#) in opposition to the bill.

Johnson wrote: "As the result of the fine print of this legislation, these manufacturers would be facing increases in wholesale electricity costs, a loss in energy efficiency programs, and a loss in savings opportunities, all while providing significant if not unjustifiably high profits to Ohio's public utilities."

He also suggested a compromise approach: "Certainly there could be room for some compromise...one that would result in a bill that properly *balances* the interests of the thousands of small to midsize companies like Summitville Tiles with the interests of our already flush public utilities and Fortune 100 companies." 5/22/2014

SB 310 Will Increase Electricity Prices

The OMA testified this week in the House Public Utilities Committee to oppose SB 310, which passed the Senate in the early hours of last Thursday. The OMA made specific recommendations for improvement.

OMA Energy Committee chairman [Brad Belden](#) of The Belden Brick Company detailed his company's savings from AEP's program implementing the standards: "So from the perspective of The Belden Brick Company – based on firsthand experience – Ohio's energy efficiency standards and policies are producing documented, quantifiable benefits in the form of significant reductions in our electricity costs."

OMA's consulting energy engineer [John Seryak](#) of Go Sustainable Energy described how just one provision of the bill could "create unprecedented costs": "(U)nder SB 310, energy savings that result from federal appliance standards and building codes would count toward utility compliance with their efficiency benchmarks. Savings from these federal standards already occur with no influence of utility efficiency programs. With this provision, utilities could meet their annual benchmark requirement with little effort. In doing so, they would provide no value to ratepayers, but they would not be precluded from taking profit. This would create unprecedented costs to consumers. Put another way, this provision would allow utilities to count "savings", and take profit, from even the least efficient choice a consumer can make for most appliances."

OMA energy counsel [Kim Bojko](#) of Carpenter Lipps & Leland noted that current law "contains some provisions that tilt the state's regulatory framework in favor of the monopoly electric distribution utilities at the expense of consumers and consumer protection. The result in the ratemaking process is higher electricity 74 prices for consumers and higher profits for the

utilities...SB 310 does not address these cost-increasing features of current Ohio law.” Bojko outlined six OMA recommended areas for improvement of the bill.

[Contact](#) your state representative and urge opposition to SB 310 and support for the [OMA-recommended improvements](#) to the bill.

Some Large Manufacturers Reiterate Call for Energy Efficiency Compromise

A group of large manufacturers sent a [letter](#) to the Ohio House of Representatives to oppose Senate Bill 310 and urge a compromise that “preserves energy efficiency and promotes economic growth.”

The companies wrote: “ Our businesses are committed to energy efficiency and directly employ over 50,000 Ohioans. Our commitment to energy efficiency is reflected in our efforts to reduce energy use in our manufacturing and business processes, and also with the energy-efficient products we make and services we provide. SB 310 as passed by the Senate undermines the state’s current effective energy efficiency policies and we therefore urge the Committee to reject this legislation in its current form.”

The companies suggested a compromise that would allow for an opt-out by large electricity users from utility energy efficiency programs in a way that does not harm other ratepayers, and a smoothing out of the annual increases of the energy efficiency benchmarks. 5/13/2014

Supreme Court Supports OMA Position in MGP Case

The Supreme Court of Ohio [granted the motion](#) for stay filed by the OMA and three other parties in Duke Energy Ohio's most recent gas distribution rate case. The motion for stay requested that the court stay the recovery, from ratepayers, of costs associated with Duke's environmental remediation of two former manufactured gas plant (MGP) facilities, pending the outcome of the case at the Supreme Court of Ohio. Thus, [Duke will not be recovering](#) those costs from ratepayers unless and until the Supreme Court issues an opinion on the matter.

The OMA was joined in the motion to stay by the Office of the Ohio Consumers' Counsel, Kroger, and Ohio Partners for Affordable Energy.

Gas utilities continue to lobby the General Assembly for a statutory amendment that would guarantee them cost recovery from their customers, despite the fact that the customers realize no benefit. 5/14/2014

PJM Capacity Prices Expected to Rise

PJM held its annual capacity auction this week. Prices across the grid operator’s territory are expected to increase. An exception is expected to be the ATSI

zone of northern Ohio, where capacity prices should moderate after they skyrocketed in the last auction, prices that will show up on consumers’ bills beginning next summer. Results will be known later next week.

“Costs to assure adequate electricity supplies on the biggest U.S. grid are poised to rebound from a three-year low as regulations limit supplies,” according to a [Bloomberg review](#) of analysts’ expectations. “Goldman Sachs Group Inc. sees prices rising as federal environmental regulations prompt more coal units to shut and recent Federal Energy Regulatory Commission rulings cap imports and demand-curtailling services that can participate in the auction.”

The Federal Energy Regulatory Commission recently approved two rules that will tend to limit supply in the PJM capacity market. It [limited demand response resources](#), and limited supplies from neighboring grids (ISO to Ohio’s west).

These actions were among a set of recommendations recently made by [PJM's market monitor](#).

These developments make all the more important to Ohio manufacturers that the Ohio legislature not take out even more supply resources from the PJM capacity market, which SB 310 would do by essentially gutting utility-scale energy efficiency resources. 5/14/2014

Senate Passes Electricity Bill, Fast

The Senate this week passed a substitute version of SB 310, which makes significant changes to state electricity statutes. The bill puts a two year moratorium on the state’s energy efficiency and renewable energy standards, and makes many other substantive changes.

The Senate Public Utilities Committee met for part of the morning on Wednesday, and then returned to pass the bill out in the evening. The full Senate went into session just before midnight to pass the bill.

Here’s a Legislative Service Commission [analysis](#) of the bill. And, here’s a the [full text version](#) of the bill as passed by the Senate.

The changes are extensive. We’ll have an OMA analysis of the Senate-passed bill for members early next week. 5/8/2014

DP&L Offers Limited Time Bonus Rebates

Dayton Power & Light (DP&L) continues to offer a wide range of incentive programs that reimburse customers for energy efficiency improvements.

And there are [special bonus rebates](#) for a limited time on specific efficiency projects, including lighting, motors, air compressors and HVAC.

On Wednesday, May 21, OMA and DP&L will present a [webinar](#) in which information about programs, requirements and available incentives will be presented. There is no charge to attend. Save money, reduce energy usage, and get paid for doing it! 5/6/2014

OMA Receives AEP Ohio's Energy Award

Last week OMA [received](#) AEP Ohio's Energy Efficiency Leadership Award. OMA was recognized for its efforts to help its members in AEP Ohio's service territory to save more than 47 million kilowatt hours of electricity, which is almost one percent of their total annual electricity use.

OMA members participate in [work groups](#) to share and learn best practices in combined heat and power, waste heat recovery and energy efficiency. OMA also [helps members](#) navigate energy efficiency incentive programs, helping members to decide which programs are right for their business and to manage the rebate application process.

The award recognizes AEP Ohio business customers and partners that have demonstrated a strong commitment to energy efficiency. 5/8/2014

OMA Proposes Electricity Customer Protections

The OMA, together with the Ohio Consumers' Counsel, this week proposed [six priorities](#) for strengthening cost protections for customers of Ohio's electric utilities. The proposed improvements address certain provisions of Senate Bill 221 (SB 221), which was enacted by the Ohio General Assembly in 2007.

In a [media statement](#), OMA president Eric Burkland said: "We believe the current public debate over state energy policy should include a thorough examination of provisions of SB 221 that put customers at risk of unnecessarily higher electricity bills. We have identified a handful of energy policy priorities that, if addressed, will strengthen customer protections and help ensure fair electricity rates."

The OMA also reaffirmed its support of the energy efficiency standards established in SB 221. "The OMA continues to support Ohio's energy efficiency standards because independent studies and Ohio utilities' own reports filed with the PUCO clearly show that the cost savings for customers are substantially greater than the cost of implementing the standards," said Burkland. 5/1/2014

Ohio Consumers' Counsel Opposes Energy Standards "Freeze"

The Ohio Consumers' Counsel, Bruce Weston, this week [testified](#) in opposition to Senate Bill 310, which would "freeze" the state's energy efficiency and renewable energy standards, and then establish a new commission to study the matter. The bill is under consideration by the Senate Public Utilities Committee.

Weston said: "It would be preferable, however, to not freeze the energy efficiency and renewable benchmarks while the study of the benchmarks is in progress. Any changes to the 2008 energy law could be made after the Study Committee completes its report." And, "Continuing the energy efficiency benchmarks during the study can also be justified by the benefits of the programs."

He suggested: "The scope of the study (of Senate Bill 221) should be broadened to include the examination of other issues in the 2008 energy law that tilt the balance of ratemaking in favor of Ohio's electric utilities and against Ohio's electric customers." These [other issues](#) were developed jointly by the OCC and OMA. 5/1/2014

FES Drops "Polar Vortex Surcharge" for Residential Customers (Only)

Last week, FirstEnergy Solutions (FES) announced it would waive the surcharge it had proposed to cover costs from the unusually cold January. But, only for residential ratepayers.

The Cleveland Plain Dealer [reported](#) that FES is still planning to bill its 46,000 commercial and industrial customers. These customers face charges amounting to 1 percent to 3 percent of their annual cost of electricity.

The FES announcement comes days after the PUCO opened an investigation into the surcharges.

Contact OMA's [Dan Noreen](#) to learn more about joining with other OMA members in a legal challenge to the surcharges. 5/1/2014

Ohio's Utilities Project 2-1 Return on Energy Efficiency Programs

While utility lobbyists have been urging the General Assembly to eliminate the state's energy efficiency law, the investor-owned utilities have filed reports to the Public Utility Commission of Ohio (PUCO) that show big savings for their customers from the programs created under the law. Altogether, each dollar in cost for the energy efficiency programs returns two dollars in savings for their customers.

Read some statements from those filings [here](#), and see the savings by utility [here](#). 4/24/2014

Electric Utilities Face Big Changes

"Flat load growth, greater energy efficiency and advances in distributed generation technology are propelling the evolution of the traditional utility business model. Electric utilities will probably see more change over the next 10 years than they did over the previous 100 years," says a new [report](#) from CoBank.

“Over the next 3 to 5 years, electric utilities will have fewer captive customers, so their business models should evolve to become more customer-centric,” according to the report.

“Through the end of this decade, utilities will be forced to make lasting changes to their business models as average electricity demand growth remains below historic norms and customers exploit technologies that afford them more control over their energy use. Utilities’ mission will likely broaden from selling electricity to delivering a number of energy services. Many of these energy services will be tied to technological advancements which will offer customers greater control over the generation and use of their energy,” projects CoBank.

Meanwhile, across the country, utilities are “seeking regulatory solace” by focusing on regulated businesses with their guaranteed rates of return. 4/22/2014

Ohio Utility Energy Efficiency Program Savings: \$4 Billion

Ohio’s four investor owned utilities have not testified on any of the recent legislation dealing with energy efficiency, while behind the scenes they have been lobbying. However, the utilities have annually filed spending and savings data with the Public Utilities Commission of Ohio (PUCO), as required by law.

Here’s what the filings show: Electricity ratepayers across the state saved \$1.03 billion from 2009 to 2012 through the utility energy efficiency programs. The utilities projected \$4.15 billion in ‘lifetime’ (10 years) benefits from this four year period of energy efficiency projects.

The customer energy savings data comes directly from utility status reports, and are available via the PUCO’s [online docketing system](#). The utilities’ own reports verify annual energy savings and confirm that energy efficiency programs are saving customers money.

See the data by utility [here](#). 4/16/2014

Tom Johnson Takes PUCO Chair

Tom Johnson was [sworn in](#) this week as chairman of the Public Utilities Commission of Ohio (PUCO). Johnson previously served in the House of Representatives for 22 years in a southeastern Ohio district. He then served as Director of the Office of Budget and Management under Governor Taft from 1999 to 2006. More recently he served in a variety of positions at The Ohio State University.

Johnson is highly regarded for his integrity and dedication to public service.

You can watch a video of the swearing in by Governor Kasich [here](#). 4/17/2014

House Drops a Utility Giveaway

The House committee dealing with a mid biennial review bill dropped a provision that would have required ratepayers, rather than shareholders, of utilities that own old “manufactured gas plants” to pay for environmental remediation. The provision, which would violate decades of utility ratemaking standards that require consumers to pay only for services that are useful to them, could have cost consumers in the hundreds of millions of dollars.

These MGP plants cooked coal to make gas that fueled lighting and other devices back into the 1800’s. Not much use to consumers that would have gotten the remediation bills in the 21st century. Here is a good [opinion piece](#) on the issue by Tom Suddes.

Legislators are saying that the provision will be revisited later in the year. Meanwhile, thank you to Rep. Ross McGregor (R-Springfield), Rep. Kristina Roegner (R-Hudson), and Rep. Mark Romanchuk (R-Mansfield) for leading the charge to get rid of the provision. 4/9/2014

Manufacturers Split on Energy Standard Freeze Bill

The Senate Public Utilities Committee heard both proponent and opponent testimony on SB 310 this week. The bill, sponsored by Senator Troy Balderson (R-Zanesville), would freeze both the energy efficiency standard and the renewable energy standard at their 2014 levels.

Manufacturers testified on both sides of the issue. Among the bill’s proponents was [Peggy Claytor](#) of the Timken Company. She testified in support of the “freeze” and called for an improvement: “Timken believes SB 310 could be further improved by incorporating a streamlined, large industrial opt-out provision for both the energy efficiency/peak demand reduction riders and for the renewables / advanced energy rider.”

Among the bill’s opponents was Alvin Campaan of [Lucintech](#), a Toledo-based start-up that makes photovoltaic coatings for windows and automotive sunroofs. He supports the renewable energy standards and said “ instituting a freeze would decimate the industry and kill many of the jobs created by the incentives.”

Meanwhile, a group of large manufacturers with operations in Ohio, including Whirlpool, Honda, Johnson Controls, Honeywell and Owens Corning, wrote a [letter](#) urging the legislature to protect the energy efficiency standards. The companies wrote: “Energy efficiency is a low-cost strategy for keeping utility costs under control and providing protection against price volatility, which enhances competitiveness for our companies.” 4/10/2014

PUCO Opens Investigation of "Pass Through" Clauses

The Public Utility Commission of Ohio (PUCO) has opened an [investigation](#) of "pass-through" clauses in electricity contracts, through which retail electric suppliers attempt to pass-through certain charges they incur.

The PUCO investigation entry reads in part: "In March 2014, the Commission became aware, through consumer inquiries and informal complaints, that competitive retail electric service (CRES) suppliers have included pass-through clauses in the terms and conditions of fixed-rate or price contracts and variable contracts with a guaranteed percent off the standard service offer (SSO) rate. Such pass-through clauses allow the CRES supplier to pass through to the customer the additional costs of certain pass-through events.

And: "The Commission has opened this investigation to determine whether it is unfair, misleading, deceptive, or unconscionable to market contracts as fixed-rate contracts or as variable contracts with a guaranteed percent off the SSO rate when the contracts include pass-through clauses."

The OMA is working with members who have been notified of an attempted pass-through by a supplier. If you would like more information, contact [Ryan Augsburger](#). 4/10/2014

Energy Standards "Freeze" & Study Bill Gets First Hearing

[Senate Bill 310](#) had its first hearing this week in the Senate Public Utilities Committee, chaired by Sen. Bill Seitz (R-Cincinnati). Among other provisions, the bill:

- 1) Freezes the renewable and solar energy benchmarks (required of electric distribution utilities (EDUs) and electric services companies (ESCs)) at the 2014 level required under current law, and freezes the amount of solar energy compliance payments at the 2014-2015 level;
- 2) Eliminates the requirement that EDUs and ESCs provide, by 2025, up to 12.5% of the current 25% alternative energy requirement from advanced energy;
- 3) Increases the annual energy efficiency (EE) savings requirement (required of EDUs only) from 1% to 4.2% of the most recent three-year average of total kilowatt hours sold to Ohio retail electric customers, and continues the 4.2% annual requirement indefinitely; and
- 4) Permits certain higher voltage and higher consumption retail customers to opt out of an EDU's amended portfolio plan, thereby exempting the customer from cost recovery mechanisms but also

removing the customer's ability to participate in or benefit from the plan for its duration.

The bill also establishes a 21 member Energy Mandates Study Committee to study Ohio's renewable energy, EE, and peak demand response standards. The committee is required to submit a report of its findings by December 15, 2015.

There was one proponent witness at this week's hearing, Sen. Troy Balderson (R-Zanesville), who presented this [testimony](#). Chairman Seitz indicated two more hearings on the bill are probable for next week. 4/2/2014

PUCO Issues Findings of Ohio's Retail Electric Service Market

Last week, the Public Utilities Commission of Ohio (PUCO) issued its Finding and Order on its investigation into Ohio's retail electric service market. The OMA Energy Group (OMAEG), OMA's member organization that exists to have a voice in PUCO cases and other energy matters, had submitted comments on the matter.

The PUCO agreed with OMAEG's recommendations that efforts should be taken to standardize the practices, processes, and market rules of the Ohio electric distribution utilities in order to streamline certified retail electric service (CRES) market policies to, in turn, increase competition, cost efficiency, and potential savings for customers. As a result, the PUCO has created a Market Development Working Group.

Among the numerous topics the PUCO studied and reported on, customer bill formats was one. The PUCO found that displaying the applicable CRES provider's logo and revising the price-to-compare on customer bills are necessary for proper disclosure of the costs of CRES service. Moreover, the commission found that standardizing the price-to-compare across the state of Ohio will bring transparency to the market and clarity to customers. Consequently, the commission directed utilities to use a rolling annual average price-to-compare. The commission explained that adopting these measures will bring clarity and uniformity to customer bills, and promote further development of Ohio's CRES markets.

Read an [analysis](#) of the investigation prepared by OMA energy counsel, Carpenter Lipps & Leland LLP. 3/28/2014

OMA Testifies Against Gas Utility "Giveaway" Bill

This week, OMA provided [testimony](#) in opposition to a provision of House Bill 483 that seeks to modify a longstanding utility rate-making legal standard in a way that could force utility customers in Ohio to pay hundreds of millions of dollars in environmental clean-up costs for long-closed manufactured gas plants (MGPs).

OMA members are encouraged to communicate concerns to their [legislators](#); here are [talking points](#) to support you. 4/3/2014

WV to get Multi-Billion Dollar Cracker

Odebrecht, an international oil and gas service company, says it intends to build a cracker on a 300-acre site in Parkersburg and has already secured a commitment from driller Antero to supply it with 30,000 barrels of ethane a day. 3/28/2014

Stop Gas Utility Giveaway

A provision of House Bill 483 seeks to modify a longstanding utility rate-making legal standard in a way that could force utility customers in Ohio to pay hundreds of millions of dollars in environmental clean-up costs for long-closed manufactured gas plants (MGPs).

Current Ohio law allows utilities to recover costs to maintain their assets only when they are “used and useful” for the benefit of their Ohio customers. The law also allows the recovery of expenses that are related to the provision of public utility service. HB 483 would expand the “used and useful” standard to allow the Public Utilities Commission of Ohio (PUCO) to authorize utilities’ recovery of environmental clean-up costs associated with MGPs that are – *or were in the past* – used to provide public utility service.

If HB 483 is enacted with the MGP provision intact, the result would be a major cost-shifting from utility shareholders to utility customers who have not benefitted from and likely have not even received utility service from the obsolete MGPs, many of which have been closed for fifty years or more.

Act now to protect your interests. [Contact](#) your state legislators to urge them to remove the MGP provisions in HB 483. Here is an [MGP Fact Sheet](#) for you to use. 3/26/2014

Energy Standards “Freeze” Proposal Coming

It has been [widely reported](#) around the Statehouse that legislation will be introduced that would “freeze” the state’s energy efficiency and renewable energy standards. Apparently, the bill would freeze the standards at their current levels and create a new commission to study the matter and make a report at the end of 2015. 3/26/2014

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Energy Efficiency = 2.8 cents per kWh

A new national [study](#) of utility sector energy efficiency programs finds that the programs are delivering at an average cost of 2.8 cents per kWh. That is about one-half to one-third the cost of alternative new electricity resource options.

The report looks at the cost of running efficiency programs in 20 states from 2009 to 2012. It was conducted by the American Council for an Energy-Efficient Economy. 3/26/2014

Monetize Energy Efficiency Projects through PJM (video)

This week, Tim Seelaus, president of EMC² Development Company, Inc., briefed members via webinar on how to monetize energy efficiency projects by contributing them to the PJM Interconnection capacity markets through a third party aggregator.

This capability is available to manufacturers of all sizes. If your company has executed a lighting, HVAC, chiller, compressed air or other energy efficiency project in the last three years, you may be eligible to monetize the project yielding approximately \$100/KW.

As with all OMA webinars, the recording is available at the online OMA [video library](#) (My OMA login required). 3/26/2014

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As with all OMA webinars, the recording is available at the online OMA [video library](#) (My OMA login required). 3/26/2014

Ask Legislators to Remove Costly Gas Utility Giveaway

Language that would require customers, rather than the utilities, to pay for the costs of environmental remediation of manufactured gas plants (MGPs) has been moved into [House Bill 483](#), one of a set of bills originating in the governor’s mid biennium review (MBR).

Members should [contact](#) their state representative and state senator to ask them to remove the costly provision from the bill. 3/20/2014

Mid-Biennial Review Revisits MGP Issue

The “mid biennial review” introduced this week in the form of House Bill 472 contains [language](#) that would allow the Public Utilities Commission of Ohio (PUCO) to authorize a natural gas company or gas company to recover certain environmental remediation costs for manufactured gas plants (MGPs).

Last year, the PUCO [authorized](#) Duke to recover, amortized over 5 years, a majority of the \$62.8 million it requested from customers for remediation of MGP’s on the Ohio River in Cincinnati. This remediation project gained attention beyond a normal project because it is in the pathway of a proposed (expensive) replacement for the heavily trafficked I 75 bridge across the river from Kentucky.

The OMA, and a few other consumer groups, opposed the PUCO decision as a violation of the “used and useful” principle in ratemaking. That principle protects consumers from paying for assets that are not “used and useful” to them. The OMA this week filed an appeal of the PUCO decision in the Ohio Supreme Court.

The MBR language in the new bill has problems for manufacturers and other consumers. Read a [brief analysis](#) of the language’s shortcomings. 3/13/2014

Kasich Appoints Johnson to Chair PUCO



Last week, Governor Kasich [announced](#) the appointment of [Thomas W. Johnson](#) of Upper Arlington (Franklin Co.) to chair the Public Utilities Commission of Ohio (PUCO) effective April 11. Johnson will replace current PUCO Chairman Todd Snitchler who announced in January his decision to step down at the end of his term. Johnson’s term will expire April 10, 2019, and the appointment is subject to the advice and consent of the Ohio Senate.

A native of New Concord in Muskingum County, Johnson spent 22 years in the Ohio House of Representatives representing all or parts of Athens, Guernsey, Morgan, Muskingum and Washington Counties. Currently, Johnson is president of the

consulting firm Ohio Strategic Advocacy Partners. 3/3/2014

NAM: Public Supports Energy Efficiency

Last week Sens. Jeanne Shaheen (D-NH) and Rob Portman (R-OH) [reintroduced](#) their version of energy-efficiency legislation—the [Energy Savings and Industrial Competitiveness Act](#). The latest version adds [additional bipartisan provisions](#) to encourage greater energy efficiency in residential and commercial buildings, industrial facilities, and federal government agencies. None of these provisions contain government mandates or increase spending.

Meanwhile, efforts to promote energy efficiency enjoy support among key political demographics, according to a poll [released](#) last week by the National Electrical Manufacturers Association and the National Association of Manufacturers.

The poll of 1,000 likely voters found that 9 in 10 voters support energy efficiency as a key part of the solution addressing our energy challenges. Results showed a desire for greater adoption of efficient technologies throughout our economy, including the federal government, where tax dollars can be saved.

And, among other results, 74% support investing taxpayers’ dollars on energy efficiency technologies, innovations and programs if it would save consumers more money. The majority support cuts across political lines: Republicans (63% to 33%), Democrats (91% to 6%), and Independents (68% to 29%). See all [results](#). 3/3/2014

OMA Energy Group Comments on PUCO's Energy Efficiency Rules

This week the OMA Energy Group (OMAEG), an organization of the OMA created to monitor activity of and intervene in Public Utilities Commission of Ohio (PUCO) cases on behalf of manufacturers, submitted comments on amendments to the PUCO energy efficiency (EE) regulations that PUCO staff proposed.

OMAEG’s comments stressed the importance of customers retaining the ability to challenge electric utilities’ claimed shared savings and lost distribution revenues in the context of the program portfolio proceedings.

Despite proposals by staff to move from a pre-approval process to a “post-approval scenario” for portfolio programs, OMAEG asserted that moving away from a pre-approval process significantly curtails the ability of utility customers to meaningfully participate in the process.

OMAEG’s comments also stress the importance of rules that protect the right of mercantile customers who have engaged in self-direct EE projects to retain the EE attributes of their projects when committing savings from those projects to electric utilities.

Further, OMAEG's comments contend that the \$0.005/kwh incentive for CHP projects set forth in the proposed rules is far too meager an incentive to

FirstEnergy Offers New Energy Efficiency Rebate Programs

OMA members in FirstEnergy territory considering energy efficiency programs in 2014 might be interested to learn of a couple new opportunities FirstEnergy has added to its [energy efficiency rebate program lineup](#).

There is now a "large" [audit program](#) that will rebate up to 50% of the cost of an energy audit, with no maximum, plus \$.01/kWh saved from implemented measures (for customers on rate codes GP, GSU, and GT).

And there is a new "[retro-commissioning](#)" project that will pay \$.03/kWh saved, up to 50% of the total project cost. Potential qualifying projects include, but are not

meaningfully encourage CHP development in Ohio. Here's a [summary](#) of OMAEG's comments and the [full comments](#). 3/5/2014

limited to: adjustments to lighting and HVAC equipment operating schedules; adjustments of HVAC temperature set points; central plant optimization; and, compressed air leak loss detection/inappropriate uses of compressed air, such as open blowing.

OMA has engaged the energy engineering firm of [Go Sustainable Energy LLC](#) to assist members with all things energy efficiency. If you interested in pursuing a project, or have implemented energy efficiency measures and not received a rebate, please contact [John Seryak](#) to see how to optimize your investment.

When applying for FirstEnergy efficiency programs, use administrator code 50941 in order for OMA to receive credit from FirstEnergy without reducing your rebate. 3/3/2014

Energy Legislation

Prepared by: The Ohio Manufacturers' Association
Report created on May 22, 2014

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

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

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

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_102

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

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

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_124

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

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

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_136

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

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

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_148

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

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

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_282

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

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

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_302

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

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

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_312

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

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

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_319

HB335 GREEN FLEETS LOAN GUARANTEE PROGRAM (BUTLER, JR. J) To create the Green Fleets Loan Guarantee Program to guarantee the repayment of loans made to

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

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

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_335

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

Current Status: 3/31/2014 - Referred to Committee Senate Finance

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_336

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

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

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_368

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

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

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_421

HB472 MBR-MID-BIENNIUM BUDGET REVIEW (MCCLAIN J) To make operating and other appropriations and to provide authorization and conditions for the operation of state programs.

Current Status: 3/26/2014 - House Ways and Means, (Third Hearing)

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_472

HB483 MBR-OPERATION OF STATE PROGRAMS (AMSTUTZ R) To make operating and other appropriations and to provide authorization and conditions for the operation of state programs.

Current Status: 5/21/2014 - **PASSED BY SENATE**; Amended on Floor Bill Vote 24-8

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_483

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

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

State Bill Page: http://www.legislature.state.oh.us/res.cfm?ID=130_HCR_9

HCR30 COAL ACCOUNTABILITY AND RETIRED EMPLOYEE ACT (CERA J) To urge Congress

to enact the Coal Accountability and Retired Employee Act.

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

State Bill Page: http://www.legislature.state.oh.us/res.cfm?ID=130_HCR_30

- HCR42 GREENHOUSE GAS EMISSIONS** (FOLEY M, RAMOS D) To recognize that human actions have contributed to the rise in global sea and atmospheric temperatures and the increase in concentration of greenhouse gases, and to declare that Ohio will actively participate in diminishing and minimizing future greenhouse gas emissions.
- Current Status:** 1/21/2014 - House Agriculture and Natural Resources, (First Hearing)
- State Bill Page:** http://www.legislature.state.oh.us/res.cfm?ID=130_HCR_42
- HCR43 OHIO SUSTAINABLE ENERGY-ABUNDANCE PLAN** (BOOSE T, THOMPSON A) To establish a sustainable energy-abundance plan for Ohio to meet future Ohio energy needs with affordable, abundant, and environmentally friendly energy.
- Current Status:** 2/26/2014 - House Public Utilities, (Second Hearing)
- State Bill Page:** http://www.legislature.state.oh.us/res.cfm?ID=130_HCR_43
- HR282 CARBON DIOXIDE EMISSIONS-EXISTING POWER PLANTS** (DOVILLA M, HILL B) To urge the U.S. Environmental Protection Agency to hold public listening sessions on proposed regulations targeting carbon dioxide emissions from existing power plants in those states that would be most directly impacted by the regulations.
- Current Status:** 11/19/2013 - **REPORTED OUT**, House Policy and Legislative Oversight, (First Hearing)
- State Bill Page:** http://www.legislature.state.oh.us/res.cfm?ID=130_HR_282
- SB17 OIL-GAS LAW CHANGES** (SKINDELL M) To revise the requirements concerning an oil and gas permit application, an oil and gas well completion record, designation of trade secret protection for chemicals used to drill or stimulate an oil and gas well, and disclosure of chemical information to a health care professional or emergency responder, to require an owner to report all chemicals brought to a well site, and to make other changes in the Oil and Gas Law.
- Current Status:** 2/13/2013 - Referred to Committee Senate Energy and Natural Resources
- State Bill Page:** http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_17
- SB34 ELECTRIC DISTRIBUTION COMPANIES** (JORDAN K) To repeal the requirement that electric distribution utilities and electric services companies provide 25% of their retail power supplies from advanced and renewable energy resources by 2025.
- Current Status:** 2/12/2014 - Senate Public Utilities, (Fourth Hearing)
- State Bill Page:** http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_34
- SB46 OIL AND GAS LAW** (SCHIAVONI J, LAROSE F) To increase criminal penalties for violations of the Oil and Gas Law relating to improper disposal, transport, and management of brine, to establish a criminal penalty for a negligent violation of certain provisions of the Solid, Hazardous, and Infectious Wastes Law, and to require the revocation of a violator's permits and registration certificate and denial of future permit and registration certificate applications under the Oil and Gas Law.
- Current Status:** 6/19/2013 - **SUBSTITUTE BILL ACCEPTED**, Senate Energy and Natural Resources, (First Hearing)
- State Bill Page:** http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_46

- SB58** **RETAIL ELECTRIC SERVICE (SEITZ B)** To review and possibly modify the energy efficiency, peak demand reduction, and alternative energy resource provisions established by Ohio law governing competitive retail electric service.
Current Status: 2/19/2014 - Senate Public Utilities, (Seventh Hearing)
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_58
- SB59** **EDUCATION ENERGY COUNCIL (BEAGLE B)** To authorize an eligible regional council of governments to establish itself as an education energy council for the purpose of issuing debt to pay for school district energy purchases.
Current Status: 2/19/2014 - Senate Public Utilities, (Fourth Hearing)
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_59
- SB87** **OIL/NATURAL GAS-LAKE ERIE (SKINDELL M)** To ban the taking or removal of oil or natural gas from and under the bed of Lake Erie.
Current Status: 10/29/2013 - Senate Energy and Natural Resources, (First Hearing)
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_87
- SB181** **SMART METER INSTALLATION (JORDAN K)** To require electric distribution utilities to obtain a customer's consent prior to installing a smart meter on the customer's property
Current Status: 9/26/2013 - Referred to Committee Senate Public Utilities
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_181
- SCR7** **KEYSTONE XL PIPELINE (HITE C)** To urge the United States Department of State to approve the presidential permit application allowing the construction and operation of the TransCanada Keystone XL Pipeline between United States and Canada.
Current Status: 4/17/2013 - **ADOPTED BY HOUSE**; Vote 90-7
State Bill Page: http://www.legislature.state.oh.us/res.cfm?ID=130_SCR_7
- SCR25** **GREEN BUILDING RATING STANDARDS (UECKER J)** To urge, for Ohio state agencies and other government entities, the use of green building rating systems, codes, or standards that are consistent with state energy efficiency and environmental performance objectives and policies and that meet American National Standards Institute voluntary consensus standard procedures.
Current Status: 3/11/2014 - Referred to Committee House Manufacturing and Workforce Development
State Bill Page: http://www.legislature.state.oh.us/res.cfm?ID=130_SCR_25
- SCR34** **U.S. EPA-STATES PRIMACY (GENTILE L)** To urge the U.S. Environmental Protection Agency to recognize the primacy of states to rely on state utility and environmental regulators in developing guidelines for reductions of carbon dioxide emissions from existing power plants and to take other specified actions regarding greenhouse gas emissions.
Current Status: 2/19/2014 - Referred to Committee Senate Energy and Natural Resources
State Bill Page: http://www.legislature.state.oh.us/res.cfm?ID=130_SCR_34

May 14, 2014

Dear :

Alert! OMA members urged to read and act:

Today the OMA testified against Senate Bill 310 before the House Public Utilities Committee. Senate Bill 310 proposes to freeze for two years Ohio's energy efficiency and renewable energy standards.

It is in the state's best interest to have strong and productive public utilities, while at the same time protecting, through legislation and regulation, consumers from the market power of monopoly utilities.

Unfortunately, the bill contains provisions that will drive up electricity rates for Ohio manufacturers and other ratepayers. The bill will increase utility profits without providing any additional consumer benefits.

Here is the [OMA analysis](#) of the bill with recommendations for improvement.

[Contact](#) your state representative immediately and urge opposition to Senate Bill 310 as currently drafted. Consider also contacting the governor's office to voice your concern.

Kindly let [me](#) know of any outreach you may make.

[Ryan Augsburger](#)

Managing Director, Public Policy Services

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To update your OMA profile and email preferences, please [click here](#).



Amended Substitute Senate Bill 310: Provisions of Concern to Manufacturers

May 2014

On May 8, 2014, the Ohio Senate approved Amended Substitute Senate Bill 310 (SB 310), a modified version of an earlier proposal to roll back Ohio's energy efficiency and renewable energy standards, established by enactment of Senate Bill 221 (SB 221) in 2008.

Ohio, as have other states, over the decades has evolved a regulatory framework that balances the interests of monopoly utilities and customers. It is in the state's best interest to have strong and productive public utilities, while at the same time protecting, through legislation and regulation, consumers from the market power of monopoly utilities. With their market power, monopoly utilities can raise distribution rates and assess nonbypassable charges without losing any customers to competitors. Thus, the need for consumer protection regulation.

Unfortunately, SB 221 contains some provisions that tilt the state's regulatory framework toward the monopoly electric distribution utilities at the expense of consumers and consumer protection. The result in the ratemaking process is higher electricity prices for consumers and higher profits for the utilities.

Here are a few examples of utility-friendly and consumer-unfriendly provisions in SB 221:

- Under SB 221, if a utility is determined to have earned profits deemed "excessive," the utility is not required to return the excess earnings to customers. Only if the utility's earnings are deemed "significantly excessive" is the utility required to refund the amount of over-earnings to its customers.
- SB 221 allows a utility to include above-market, nonbypassable generation/stability charges (e.g., rate stabilization charges, provider of last resort charges) in an electric security plan (ESP) even though the utility is operating in a competitive marketplace for generation.
- SB 221 allows a utility to assess distribution-related charges in an ESP even though an ESP, by definition, is concerned with the supply and pricing of electric generation service.

- SB 221 allows a utility to include recovery from customers for lost distribution revenues in an ESP – in effect allowing the utility to be paid for electricity it did not deliver.
- SB 221 permits a utility to effectively “veto” PUCO orders modifying the utility’s ESP.
- SB 221 allows a utility to collect and keep costs even if the Ohio Supreme Court reverses a PUCO order finding it to be unlawful – but customers are afforded no such protection.

Each of these provisions unbalances the regulatory field toward the utilities and away from their customers. Taken together, the provisions cede too much market power to the monopolies and should be reformed.

Unfortunately, SB 310 does not address these cost-increasing features of current Ohio law, but only addresses issues related to the energy efficiency and renewable energy standards established by SB 221. The OMA welcomes a fair and analytically rigorous review of the operation and effect of both sets of standards. The Public Utility Commission of Ohio (PUCO) routinely does this with utilities and stakeholders in cases concerning utilities’ energy efficiency and renewable energy programs.

Much has changed in the past seven years since enactment of SB 221. The development of remarkable new technologies such as hydraulic fracturing technologies is unlocking new resources of natural gas and oil, and innovations are rapidly lowering costs in wind, solar, battery and other advanced energy technologies. These technologies are transforming U.S. and global energy markets. It is critical for the state’s future economic vitality that Ohio markets participate in these transformations. The energy standards help assure that Ohio will do so, rather than getting locked into a single electric utility business model.

The OMA supports an “all of the above” energy policy for Ohio. The state, its citizens and its businesses are best served by securing a diverse energy resource base. Those diverse resources include coal, natural gas, nuclear, and renewable resources, as well as the energy resources provided by energy efficiency and demand response programs. Just as with any investment portfolio, a diverse energy portfolio contains internal hedges against the risks that over-reliance on any one resource contains. This is the reason that the OMA supports, in general, energy efficiency and renewable energy standards.

According to every study presented in the Senate deliberations, the energy efficiency standards are saving customers a great deal of money. In fact, according to Ohio’s utilities themselves in their filings with the PUCO, every dollar invested in the utilities’ efficiency programs pays back at least two dollars in short-term benefits to their customers, and much more in the longer term. Electricity ratepayers across the state saved \$1.03 billion from 2009 to 2012 through the utility energy efficiency programs.

The utilities projected \$4.15 billion in 'lifetime" (10 years) benefits from this four-year period of energy efficiency projects. These savings come from utility efficiency program costs in those years of \$456 million.

While we support a thorough review of the standards, we have concerns about several of the bill's provisions. Here are our major areas of concern, and our suggestions for improvement:

- 1. Energy efficiency requirements freeze.** SB 310 freezes energy efficiency at 2014 levels (4.2 percent) for two years, 2015 and 2016. Annual benchmarks will resume in 2017 on the same schedule outlined in SB 221, ending in 2027 (rather than 2025) if the legislature does not act to further freeze, reduce, or eliminate the standards. SB 310 allows the utilities to continue their energy efficiency programs in 2015 and 2016 at their sole discretion. The biggest problem with a freeze (assuming it is not made permanent by future action of the General Assembly) is that it will create a stop/start effect that will confuse the marketplace and reduce energy savings during the freeze period.

Additionally, the manner in which this bill would freeze the standards would allow utilities that choose to continue their program during the period of the freeze to do so on their own terms and without customer input through a regulatory process. Also, it is unclear how profit – i.e., shared savings – would be awarded to the utilities during this period.

Concepts for improvement:

- Maintain continuity in utility energy efficiency programs through 2015 and 2016 to prevent costly disruptions to the infrastructure of energy efficiency programs and loss of the sunk costs in the utility supply chains.
 - If the state goes forward with a two-year freeze, require the current PUCO stakeholder process regarding the terms under which each utility will implement the freeze. Some utilities might decide to continue their programs, and others might stop the programs. In both cases, stakeholders should be involved with the PUCO in determining implementation terms.
- 2. Industrial opt-out.** SB 310 allows certain large energy users to opt out of paying the cost recovery rider for energy efficiency programs.

The OMA supports an energy efficiency program opt-out for large electricity users. Our studies demonstrate that the largest energy users benefit most from their own energy efficiency projects – and the least from utility efficiency programs. Large users continually integrate energy efficiency into their core business decisions, and have specialty processes that cannot be adequately addressed by utility programs. For these reasons, an energy efficiency opt-out for larger users is good public policy.

However, SB 310's industrial opt-out provision raises some concerns. First, if a utility elects to extend (rather than modify) its current energy efficiency plan during the period of the freeze, the opt-out option will not be available to that utility's large customers until 2017. If another utility decides to modify its program during the freeze, its large customers will be able to opt out in 2015. Consequently, the availability of an opt-out option could vary from one region of the state to another, creating an uneven playing field for competing manufacturers – advantaging some manufacturers and disadvantaging others.

Second, opted-out customers would still receive price suppression benefits of the utility energy efficiency programs. However, other customers would not receive the benefit of any efficiency projects of opted-out customers, unless those projects are bid into the capacity markets.

Concepts for improvement:

- Protect smaller manufacturers, and other ratepayers, who will participate in and pay for the programs by tying the ability of a large user to opt-out of the energy efficiency rider to participation in regional capacity auctions, either on their own or through a third party, to ensure that any efficiency savings they do achieve is captured in the capacity markets.
- Allow any opt-out decision to be at the sole discretion of the large customer beginning in 2015, rather than of the utility, as it currently is in SB 310.

- 3. Utility bill line items.** SB 310 requires utilities to include on customers' electric bills the total, itemized cost to customers of compliance with the state's energy efficiency and renewable energy standards. This provision would paint for the customer an incomplete and misleading picture of both the true and relative cost of energy efficiency and renewable energy. SB 310 requires electric bills to include the costs of energy efficiency and renewable energy – but nothing about the benefits of these resources.

Additionally, there is no provision for enabling customers to compare the costs of energy efficiency and renewable energy to other energy resources. Thus, the provision is more political than comparative, and provides no value to the customer.

Concepts for improvement:

- This provision should be eliminated. If, however, resource costs are included on customers' bills, consider directing the PUCO to:
 - Provide a comparison of total energy resource costs for different traditional and alternative resources, providing customers with an apples-to-apples comparison and enabling them to determine which resources are most cost-effective.

- Establish rules for utilities to display in customers' bills the costs and benefits of the multiple types of riders that affect the total charges to the customer.

4. Expanded counting of energy efficiency. SB 310 substantially broadens how energy efficiency would be defined with respect to what utilities can count toward compliance with the standards. For example, the bill permits utilities to count efficiency resulting from compliance with mandatory federal standards (for instance, deployment of home appliances that comply with federal energy standards). It also allows transmission and distribution infrastructure improvements that reduce line losses to count as energy efficiency projects, regardless of the intent or origin of the improvement. Some of the expanded counting provisions, like the two listed above, allow utilities to collect from customers lost revenue and "shared savings" (profits) on those activities without the utility doing any additional programs or by the utility upgrading its own system.

Under current law, energy efficiency programs approved by the PUCO are required to be "cost beneficial" for customers. SB 310's expanded counting provisions sidestep the "cost beneficial" standard and water down the benefits customers receive for their investment in energy efficiency. Instead of spending dollars on well-designed programs that maximize the return on investment, these counting rules are designed to achieve the standard with efficiencies that already have been gained or would be achieved anyway without the standards. Once the utilities count these "savings," there will be no need for offering the kind of energy efficiency programs that have proven to be so valuable to customers since SB 221 was enacted.

Concepts for improvement:

- Remove the bill's provisions for broadening what counts as energy efficiency.

5. Renewable energy freeze. SB 310 freezes renewable energy purchase requirements at 2014 levels for two years.

The provision jeopardizes the renewable energy investments that already have been made in Ohio in good faith reliance on revenue streams provided for by requirements in SB 221.

Concepts for improvement:

- Maintain continuity in utility renewable programs to prevent costly disruptions to the infrastructure and supply chain for renewable energy programs, within the 3 percent cost cap.

6. **“Energy Mandates Study Committee.”** SB 310 calls for creation of a study committee of 12 legislators and the PUCO Chairman to produce a report that includes, among other things, a cost-benefit analysis of energy efficiency and renewable energy requirements, recommendation for evidence-based standards in the future, potential benefits of an opt-in system, and a review of the risk of increased grid congestion due to the retirement of coal-fired power plants. This provision of SB 310 is problematic for two reasons. First, the committee does not include any stakeholders who are impacted by state energy policy and who have expertise in energy technology, financing and markets. Second, this provision does not provide any funding for research that will be needed to inform the study committee’s work.

Concepts for improvement:

- Add stakeholders – including representatives of large and small manufacturers – to the Study Committee.
- Designate a funding mechanism to underwrite the research necessary to inform the Study Committee’s work.

While it is in the state’s interest to have strong and productive public utilities, it is also important to protect, through legislation and regulation, consumers from the market power of monopoly utilities. SB 310 does not protect consumers. Instead, it would increase costs without providing any additional benefits to consumers.

#

May 23, 2014

Dear :

Alert! Contact State Representatives Now to Stop Electricity Cost Increases:

Amended Substitute Senate Bill 310, recently passed by the Senate, is on a fast track in the House. It is up for a vote in the House Public Utilities Committee next Tuesday morning (immediately after Memorial Day), and is anticipated to go to the floor the following day.

The bill is bad for Ohio manufacturers and all other electricity consumers served by the state's four public utility monopolies. It will raise prices for consumers and provide unearned profits for the utilities.

The OMA, joined together by the Ohio Farm Bureau, the Ohio Chemistry Technology Council, and the Ohio Consumers' Counsel, has developed a compromise amendment. The compromise amendment balances the interests of large electricity consumers, small electricity users, and the utilities.

Read a brief summary of the amendment [here](#). Read a summary of the beneficial effects of the compromise [here](#).

[Contact your state representative](#) over the Memorial Day weekend. Ask him or her to oppose Senate Bill 310 as passed by the Senate, and to support the compromise amendment of the OMA, farm bureau, the chemical industry, and consumers' counsel.

Your contact will make a difference.

Kindly let [me](#) know of any outreach you may make.

[Ryan Augsburger](#)

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Effects of Proposed Coalition Amendment to Am. Sub. S.B. 310

May 22, 2014

1. One-year Freeze for Efficiency Standards

The amendment will replace SB 310's proposed two-year freeze of energy efficiency and renewable benchmarks at 2014 levels with a one-year freeze at 2014 levels, while the Energy Mandates Study Committee created by SB 310 conducts its work as outlined in the bill. During the one-year freeze, current Ohio law would be maintained and the utilities' energy efficiency compliance plans would operate through the PUCO process as they do currently. This amendment reflects a compromise that will minimize disruption of Ohio's burgeoning renewable and alternative energy marketplace.

2. Opt-out and Cost Cap:

The amendment maintains an opt-out option for large customers, which is available beginning in 2015. The option to participate in the opt-out is at the sole discretion of the customer, not the utility, and will be uniformly offered across Ohio, ensuring a level playing field for all customers. Additionally, to protect smaller manufacturers, and other ratepayers, who will participate in the utilities' energy efficiency programs and pay for the programs, the amendment adds a cost-cap provision and ties the ability of a large user to opt out of the energy efficiency rider to that user's participation in regional capacity auctions, either on its own or through a third party, ensuring that any efficiency savings they do achieve are captured in the capacity markets. This will ensure all customers benefit from lower wholesale prices.

3. Utility Bill Line Item:

In order to prevent incomplete and misleading information from being shared with consumers regarding the costs of energy efficiency and renewable energy without also including the corresponding benefits, the amendment eliminates the inclusion on customers' electric bills of the total, itemized cost to customers of compliance with the state's energy efficiency and renewable energy standards.

4. Expanded Counting of Energy Efficiency:

The amendment allows the Public Utilities Commission of Ohio (PUCO) to continue its current process of reviewing and counting appropriate energy efficiencies. The PUCO has spent countless hours reviewing, drafting, and implementing rules, manuals, and orders to implement cost beneficial energy efficiency standards. This amendment maintains the current policies and practices in place that were created by the agency with the technical expertise to do so. Eliminating SB 310's broadened definition of "efficiency" will help protect consumers from paying unprecedented and unwarranted costs for compliance efforts that add little value to ratepayers but give utilities expanded opportunities for profit.

5. Utility Discretion:

The amendment eliminates the utility's choice, in its unilateral discretion, as to whether the current energy efficiency programs agreed to by stakeholders, and/or approved by the PUCO, continue with the same terms and conditions or will be amended by the utility in its sole discretion. If the utility's plan expires or if the utility intends to seek an amendment to its plan during the freeze, it would need to request such modifications through the current PUCO process (as it would today without the enactment of the freeze). This ensures a fundamental fairness to customers by removing a provision that would allow the utility unilaterally to modify program terms and conditions previously agreed to by stakeholders.

6. Energy Mandates Study Committee:

In order to further the intent of SB 310 to study these important issues, the amendment maintains the Study Committee and expands the issues to be considered and discussed by the Study Committee.

Collectively these various provisions of the amendment will ensure enhanced consumer protection.

Proposed Coalition Amendment to Am. Sub. S.B. 310

May 20, 2014

The amendment will replace SB 310's proposed two-year freeze of energy efficiency and renewable energy benchmarks at 2014 levels with a **one-year freeze** at 2014 levels, while the **Energy Mandates Study Committee** created by SB 310 conducts its work as outlined in the bill. This amendment reflects a compromise that will minimize disruption of Ohio's burgeoning renewable and alternative energy marketplace.

During the one-year freeze, current Ohio law would be maintained. However, to address concerns raised by large customers concerning costs, the amendment incorporates a **streamlined industrial opt-out option** for large customers, which is available beginning in 2015. The option to participate in the opt-out is at the sole discretion of the customer, not the utility, and will be uniformly offered across Ohio, ensuring a level playing field for all customers.

Additionally, to protect smaller manufacturers, and other ratepayers, who will participate in the utilities' energy efficiency programs and pay for the programs, the amendment adds a **cost-cap** provision and ties the ability of a large user to opt out of the energy efficiency rider to that user's participation in regional capacity auctions, either on its own or through a third party, ensuring that any efficiency savings they do achieve are captured in the capacity markets. This will ensure all customers benefit from lower wholesale prices.

Moreover, in order to further the intent of SB 310 to study these important issues, the amendment expands the issues to be considered and discussed by the committee.



House Bill 483 Seeks to Require Customers to Reimburse Utilities for Cost of Environmental Clean-up of Obsolete Gas Manufacturing Plants

A provision of House Bill 483 would modify and weaken Ohio's longstanding "used and useful" utility rate-making legal standard, which in turn could result in Ohio utility customers paying hundreds of millions of dollars in clean-up costs for obsolete manufactured gas plants (MGPs).

Current Ohio law allows utilities to recover costs to maintain their assets only when they are "used and useful" for the benefit of their Ohio customers. The law also allows the recovery of expenses that are related to the provision of public utility service. HB 483 would expand the "used and useful" standard to allow the Public Utilities Commission of Ohio (PUCO) to authorize utilities to recover environmental clean-up costs associated with MGPs that are – **or were in the past** – used to provide public utility service. The proposed expansion of the "used and useful" standard would significantly increase clean-up cost recovery for utilities, and customers would be left holding the bill.

If enacted, this provision of HB 483 would result in major cost-shifting from utility shareholders to utility customers who have not benefitted from and likely have not even received utility service from MGPs, many of which have been closed for fifty years or more. Customers could be required to pay hundreds of millions of dollars for clean-up costs at these sites.

Key Talking Points

- Permitting utilities to recover costs associated with the environmental clean-up of obsolete MGPs could result in current customers paying hundreds of millions of dollars in clean-up costs.
- Ohio should continue to adhere to the traditional utility rate-making principles, including the "used and useful" standard that has served Ohio well and protected consumers for decades. Manufacturers oppose efforts to modify and weaken the "used and useful" standard.
- Weakening Ohio's "used and useful" standard in a way that expands environmental clean-up cost recovery for **obsolete** MGPs would enable utilities to unjustifiably shift hundreds of millions of dollars in costs from utility shareholders to utility customers who have received no utility service and no benefit from the MGPs, many of which have been closed for decades.
- In setting just and reasonable rates for consumers, the PUCO should only grant utilities recovery of clean-up costs that are prudently incurred and associated with property that is **currently** used and useful in providing utility service to Ohio customers.
- Manufacturers are not opposed to reasonable policies that promote environmental clean-up; however, we **are** concerned about the ability of a utility to pass unlimited costs on to customers without having appropriate consumer protections in place.
- Amend House Bill 483 to remove the MGP utility giveaway.

TO: OMA Government Affairs Committee
FROM: Ryan Augsburger / Rob Brundrett
DATE: May 28, 2014
RE: Environment Policy Update

Overview

The General Assembly returned from its winter/holiday break in mid-January. They have worked a fairly full schedule straight through May. Ohio EPA has been quiet on most issues since the late summer. Director Nally resigned at the beginning of the year. Craig Butler was named the new permanent director for Ohio EPA. Most legislative efforts from the agency appear to be on hold. Rules continue to be reviewed and discussed.

General Assembly News and Legislation

House Bill 592 Review

Ohio EPA continues its internal work on a rewrite of the old House Bill 592, which created most of Ohio's current solid waste laws. Director Nally made it a priority to update this section of Ohio law and had a taskforce working on the rewrite. The agency appears stalled on phase II of the project. At the end of November the agency released a power point showing the review's progress. Legislation appears to have been pushed back even further unless the agency wants to break up the rewrite into smaller chunks.

One thing to note is that Ohio EPA was seriously considering including language from Senator Lehner's (R-Kettering) old Senate Bill 253 which created a post-consumer recycling liability for manufacturers of certain electronic products. The OMA opposed this legislation last year and has reiterated its opposition to Ohio EPA and Senator Lehner's office.

Senate Bill 150

Senate Bill 150 was signed by Governor Kasich this May. The bill is geared toward the agriculture industry. The bill requires those who apply fertilizer on Ohio's farmlands to be certified to do so. The General Assembly is hoping the law will help educate on proper fertilizer application to prevent overuse which can result in heavy nutrient runoff. This is important as Ohio EPA continues to review its nutrient strategy that could negatively impact manufacturers.

Senate Concurrent Resolution 25

Last year Senate Joe Uecker (R-Miami Township) introduced SCR 25. The resolution urges state agencies to adhere to green building standards that meet the American National Standards Institute voluntary consensus standard procedures instead of the most recent U.S. Green Building's Council's LEED standards. There has been controversy over the latest version of the LEED standards regarding process and the inclusion/exclusion of buildings materials that are regularly used. The resolution was passed from the Senate. The House announced it would refrain from holding any hearings on the issue until the fall.

Mid-Biennium Review – House Bill 490

The Governor's released his second mid-biennium review (MBR) bill this winter. The MBR bill is a comprehensive policy bill touching all aspects of state government, including Ohio EPA. The House promptly split the bill into many different bills. EPA and Agriculture have their own MBR – House Bill 490. The bill has had numerous hearings in the House. There are no major EPA initiatives contained in the bill.

House Bill 506

Last week Representatives Thompson (R-Marietta) and Cera (D-Bellaire) provided sponsor testimony on House Bill 506, which was developed in anticipation of the U.S. EPA's upcoming guidelines aimed at cutting carbon dioxide emissions from existing power plants. The bill's intent is to develop a framework on how Ohio EPA will comply with the new standards and guidelines expected to be revealed in early June. The bill is an attempt to give Ohio more control over how its state plan would be able to implement the new federal standards. With a large amount of coal and gas fired generation, Ohio is particularly vulnerable to any new carbon dioxide rules from U.S. EPA.

Regulations

Solvent Wipes

Last summer, U.S. EPA issued a new rule to clarify the handling and disposal of wipes or shop rags contaminated with solvents. The rule provided that RCRA-authorized states, such as Ohio, can adopt their own solvent-contaminated wipes rule provided they are not less stringent than the U.S. EPA's rule.

On February 20, 2014, Ohio EPA issued an interim guidance document to cover this area until final regulations are adopted later this year.

Beneficial Use

Ohio EPA has been working on new beneficial use draft rules for over a year. In the summer of 2012 the agency began asking for feedback and comments through the early stakeholder process. Last summer the agency released draft conceptual language and an updated beneficial use concept paper. After almost a year delay the agency finally released draft permits for foundry sand and alum sludge earlier this May.

They also released an Early Stakeholder Outreach document on "co-products" and "by-products". The overall goal of these would be to eventually compliment a beneficial use system and make it clear certain products are not wastes subject to beneficial use regulation.

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 recently approached by Ohio EPA to see what sort of backing the expansion of universal waste would have among members. Members interested should be prepared to contact the OMA to participate in a small working group on the issue.

Water Nutrient Work Group

Ohio EPA has been working on reducing the amount of nutrients that enter in Ohio's waterways. Attached to this report includes the agency's water nutrient reduction plan. The OMA has two members on the working group Ohio EPA created to review the issue. The group is meeting monthly to determine what is the best way to implement the state's water nutrient strategy.

Letter to U.S. EPA Regarding Stack Emissions Correction

The OMA and other Ohio business groups, submitted a letter to the U.S. EPA Region 5 regional administrator regarding its proposed rule, published in the Federal Register on February 7, 2014, that proposes to correct an error in EPA's October 26, 2010 approval of the provisions in Ohio Administrative Code (OAC) 3745-17-03 other than paragraph (A). One of the provisions that EPA now says it inadvertently approved, OAC Rule 3745-17-03(B), relates to the manner for determining compliance with Ohio's 20% opacity limit for stack emissions.

U.S. EPA and Ozone

The EPA plans to tighten the National Ambient Air Quality Standards (NAAQS) for ground-level ozone from the current 75 parts per billion (ppb) to between 60 and 70 ppb, or even lower. This will have a major impact on Ohio.

Agency Notes

Karl Gebhardt Named Ohio EPA Water Chief

Karl Gebhardt joined the Agency in April 2014 and will coordinate efforts addressing water quality resource issues related to harmful algae and other nutrient issues affecting Lake Erie and Ohio's inland waters. Gebhardt comes to Ohio EPA from the Ohio Department of Natural Resources (ODNR), where he served as deputy director and as the agency's point person for water quality and water resource issues. Prior to his role as a deputy, Gebhardt was Chief of the Division of Soil and Water Resources, where he provided leadership for the expansion of on-the-ground conservation practices, and developing legislation that would help in the efficient and effective delivery of conservation programs for nutrient management.

Other Notes

OMA Signs onto National GHG Advocacy Effort

The U.S. Chamber of Commerce, National Association of Manufacturers, and other key stakeholders have established the Partnership for a Better Energy Future, in response to the Obama administration's greenhouse gas (GHG) regulatory agenda. OMA has signed on as a member of the partnership.

The administration's GHG agenda is just underway and will ultimately extend to nearly every sector of the industrial economy, from refining to manufacturing to agriculture and mining.

The partnership, formally launched on January 30, aims to mobilize the business community to educate and motivate elected and public officials to address widespread concerns with these forthcoming greenhouse gas rules. Its mission is to ensure the continued availability of reliable and affordable energy for American families and businesses.

House Bill 506 is supported by the Ohio delegation to this group.

Environment

Ohio EPA Kicks Off Power Plant Carbon Discussion

In anticipation of the U.S. EPA's rules, expected next month, on carbon emissions from existing power plants, Ohio EPA Director Craig Butler conducted a [first meeting of stakeholders](#) to begin a dialogue on the best and most cost-effective way for the state to design compliance plans. These rules will be promulgated under Clean Air Act Section 111(d), and are commonly referred to as the "111(d) rules." The U.S. Supreme Court recently ruled that the agency has the authority to regulate carbon under the Clean Air Act.

Ohio EPA expects 111(d) to be the "most complex state plan ever needed." The expected timeline is incredibly fast: June 2014, U.S. EPA proposes state guidelines; June 2015, U.S. EPA adopts state guidelines; July 1, 2016, states required to submit plans.

This means the states will have only one year to develop rules to regulate carbon in the electrical generation system. *5/22/2014*

Ohio Lawmakers Take First Steps in Responding to Federal CO₂ Requirements

This week Reps. [Andy Thompson](#) (R-Marietta) and [Jack Cera](#) (D-Bellaire) provided sponsor testimony on [House Bill 506 \(bill analysis\)](#), a bill developed in anticipation of the U.S. EPA's pending regulations intended to cut carbon dioxide emissions from existing power plants.

The proposal provides a framework for Ohio EPA to comply with the new federal regulations while protecting the costs of energy to consumers. With significant coal and gas fired generation, Ohio is particularly affected by carbon dioxide regulation.

The bill requires any plan establishing standards of performance for existing generating units developed be prepared in consultation with the Public Utilities Commission of Ohio, the Ohio Air Quality Development Authority, and any other relevant agency to ensure that the plan does not threaten the affordability of electric power to all classes of electricity consumers, takes full advantage of the federal Clean Air Act to minimize impacts to the cost and reliability of electricity, and minimizes the impacts on current and future industrial, commercial, and residential consumers.

[Here](#) is Rep. Thompson's testimony and [here](#) is Rep. Cera's testimony. *5/22/2014*

OMA on Record on U.S. EPA GHG Agenda

The comment period closed May 9 on U.S. EPA's New Source Performance Standards rule, a part of the Obama Administration's greenhouse gas (GHG) regulatory agenda. The Partnership for a Better Energy Future (PBEF), of which OMA is a member, submitted these [comments](#).

PBEF wrote, "The EPA has indicated that it is considering GHG new source performance standards for other source categories....The Partnership's members are extremely concerned that a final regulation demanding unachievable standards of performance for electric power plants will set dangerous precedent for future regulation of other sectors."

The National Association of Manufacturers (NAM) and the U.S. Chamber of Commerce co-chair the PBEF, which serves as a leading voice in support of a unified strategy and message in response to the president's GHG agenda. *5/12/2014*

Ohio EPA Releases New Information on Beneficial Use

This week Ohio EPA released two documents regarding its plans for a new beneficial use regulatory program.

"[Conceptual Draft: Beneficial Use General Permit Information](#)" contains two draft permits; one for spent foundry sand and one for alum sludge. It also outlines two new categories that will not be regulated under the program: co-products and certain by-products.

"[Early Stakeholder Outreach - Beneficial Use: The "Co-Product" Concept](#)" describes EPA's process to collect stakeholder input about nonhazardous secondary materials, sold in a commercially reasonable manner, are not wastes and should be viewed as products, and thus excluded from beneficial use regulatory programs.

To facilitate stakeholder consideration of this concept, the EPA will host a stakeholder meeting from 1:00 to 3:00 p.m. on May 21, 2014 at its Columbus office. Participation is in-person or via web meeting. Please register with Ohio EPA [here](#). *5/8/2014*

Supreme Court Upholds EPA Transport Rule

The United States Supreme Court, in *Environmental Protection Agency v. EME Homer City Generation*, upheld the authority of the U.S. Environmental Protection Agency (EPA) to use the Clean Air Act to regulate air pollution that crosses state boundaries, the so-called "Transport Rule." The Transport Rule generally covers electric generating units that are fossil fuel-fired boilers and turbines producing electricity for sale.

OMA environmental counsel, Frank Merrill, of Bricker & Eckler, [writes](#): "The 6-2 ruling may also be a signal that EPA's efforts to use the Clean Air Act to fight global warming could withstand legal challenges."

OMA energy counsel, Rebecca Hussey, of Carpenter, Lipps & Leland [notes](#): "(T)he Supreme Court's decision may embolden the EPA to continue promulgating and implementing extremely aggressive pollution control programs and measures. Such a pattern would likely result in additional costs for consumers, namely manufacturers and industrial consumers, who consume significant amounts of power." 5/1/2014

Tell U.S. EPA its Regulatory Agenda is Unworkable

U.S. EPA is embarked upon a regulatory agenda that is feared to be among the most costly ever imposed on the U.S. economy.

Until May 9, EPA is taking comments on proposed carbon dioxide regulations for new power plants that will limit the sources of energy needed to power U.S. homes and businesses.

The [Partnership for a Better Energy Future](#) (PBEF), of which OMA is a member, is calling for manufacturers to go on record with the EPA to oppose this regulation because it will damage the economy and risk our energy future. File your comments [here](#).

PBEF is a coalition of businesses and organizations representing nearly every segment of the U.S. economy, united in support for responsible energy regulations. 4/30/2014

Crown Equipment Earns First-Ever Ohio EPA Gold-Level Award

Ohio EPA Director Craig W. Butler visited OMA member Crown Equipment Corporation's New Knoxville plant to recognize it for setting the highest standard of environmental stewardship. He presented the company with the first-ever, gold-level

award in Ohio EPA's Encouraging Environmental Excellence (E3) program.

Crown, which is one of the world's largest material handling companies, designs, manufactures, distributes and services forklifts, material handling equipment and their components. The company's world headquarters is located in New Bremen. At its nearby New Knoxville facility, Crown manufactures electric motors and plastic injection-molded parts for new forklifts and dealer replacement parts.

The Ohio EPA E3 program acknowledges Ohio businesses and organizations for completing environmentally beneficial activities and serves as an incentive to commit to ongoing environmental stewardship. The gold level recognizes businesses that exceed regulatory compliance obligations and commit to long-term strategies to reduce waste, lower emissions and improve environmental performance.

[Read](#) about Crown's energy and environmental improvement activities. 4/22/2014

D.C. Circuit Strikes Down a Clean Air Act Defense

This week the D.C. Circuit Court issued its decision in *Natural Resources Defense Council v. Environmental Protection Agency et.al.* The court delivered a potentially significant blow to manufacturers by holding that the U.S. EPA lacked power to create affirmative defenses to lawsuits brought under the Clean Air Act's (CAA) citizen suit provision.

This holding could have ramifications in citizen suits brought under a wide range of CAA emissions standards. The U.S. EPA previously created affirmative defenses for specific industries to allow a breach of the emissions standards for an unavoidable equipment malfunction. These affirmative defenses likely have deterred some litigation based on emissions associated with equipment malfunctions. With the new ruling, that barrier to litigation appears to have been eliminated. Read an [analysis](#) of the decision by OMA Connections Partner, Dinsmore. 4/24/2014

Ohio Guide to Environmental Permitting Updated

Ohio EPA has just updated its [Guide to Environmental Permitting in Ohio](#). The guide is intended to help businesses determine what permits they need, why they need them and how to get them. 4/22/2014

NAM Running Ads Against Ozone Rule

The National Association of Manufacturers is running ads in newspapers and online in 10 states, calling

attention to the severe problems with U.S. EPA's plans for new ground-level ozone standards. The ads direct readers to a new online video explaining the rule.

NAM says the rules are potentially "one of the most expensive regulations ever issued" and warns that huge new areas of nonattainment would mean those areas are "essentially prohibited from allowing new businesses to come to town."

The ads will run for several weeks in state capital publications in Arkansas, Colorado, Minnesota, North Carolina, Virginia, Iowa, Michigan, West Virginia, Kentucky, Ohio, and Missouri.

Watch the video [here](#). See the effect on Ohio [here](#). 4/15/2014

OMA Submits Letter to U.S. EPA Regarding Stack Emissions

On behalf of OMA and other Ohio business groups, OMA Connections Partner, Porter Wright, submitted a letter to the U.S. EPA Region 5 regional administrator regarding its proposed rule, published in the Federal Register on February 7, 2014, that proposes to correct an error in EPA's October 26, 2010 approval of the provisions in Ohio Administrative Code (OAC) 3745-17-03 other than paragraph (A). One of the provisions that EPA now says it inadvertently approved, OAC Rule 3745-17-03(B), relates to the manner for determining compliance with Ohio's 20% opacity limit for stack emissions. Read the [letter](#). 3/27/2014

House Energy & Commerce Committee to Investigate U.S. EPA GHG Decision Making

This week the Partnership for a Better Energy Future (PBEF), of which the OMA is a member, responded positively to the U.S. House Energy and Commerce Committee announcement that it is launching an investigation into the U.S. EPA's decision-making process for consideration of carbon capture technologies in developing greenhouse gas emissions standards for new power plants.

In a [statement](#), Ross Eisenberg, Vice President of Energy and Resources Policy at the National Association for Manufacturers, a co-chair of the PBEF, said, "Businesses from almost every sector of the U.S. economy have raised concerns about the impact of EPA's GHG regulatory agenda on energy reliability and affordability." And, "As this difficult winter has illustrated, our country can't afford such a lack of (energy) diversity." 3/12/2014

Harvard Law: Case for Energy Efficiency in Carbon Regs

A new [report](#) by Harvard Law School finds that the U.S. Clean Air Act allows energy efficiency to be part of new standards for carbon pollution from power plants.

The study notes: "Robust discussions are underway about EPA's options for crafting greenhouse gas emission guidelines for existing power plants. The discussions reflect widespread agreement that end-use energy efficiency is a cost-effective method for reducing greenhouse gas emissions. Yet stakeholders diverge on the role energy efficiency programs should play in the guidelines."

The legal analysis finds that the Clean Air Act gives the Environmental Protection Agency (EPA) broad authority to determine the "best system of emission reduction." EPA or states are not restricted to taking emissions reductions that can be achieved within a source's fence-line, as some have argued. 3/10/2014

Prudent Action on GHG

This week the U.S. House of Representatives passed H.R. 3826, the Electricity Security and Affordability Act, 229-183. The OMA supported the bill and urges members to thank their congressmen who voted for the Act.

Manufacturers have significant concerns about U.S. EPA's proposed New Source Performance Standard (NSPS), the agency's first-ever regulation of greenhouse gas (GHG) emissions from a source category (power plants) under Section 111, because of the negative impact these regulations will have on energy prices and reliability, and thus the economy.

H.R. 3826 provides a more reasonable path forward in relation to the EPA's power plant GHG regulations, allowing the agency to regulate while also protecting a diverse energy mix. For new power plants, the bill requires separate standards for coal and gas, with the coal standard subcategorized for coal types and aligned with the best-performing commercially available generation technologies.

It also provides a sensible path for development and deployment of carbon dioxide capture and sequestration, prohibiting the EPA from mandating its use until the technology has been deployed by at least six units located at different commercial power plants in the U.S. It also allows the EPA to craft rules or guidelines for existing power plants, but requires Congress to review them and set a start date before they can take effect.

Backing this balanced approach contained in H.R. 3826 is the Partnership for a Better Energy Future (PBEF), of which the OMA is a member. The bill was drafted by Sen. Joe Manchin (D-WV) and Rep. Ed Whitfield (R-KY). Its co-sponsors include those on this [list](#). Here's the PBEF [letter](#) that was delivered to representatives ahead of this week's vote; OMA is a signatory. 3/6/2014

Butler Appointed Ohio EPA Boss

This week Governor Kasich [appointed](#) Craig Butler as director of the Ohio Environmental Protection Agency. Butler has been interim director of the EPA since the January resignation of former director Scott Nally.

Previously, Butler served as a senior policy advisor for the Kasich Administration on environmental, energy, public utility, and agricultural issues. He's worked in state government for more than 24 years, and previously served as District Director of both Ohio EPA's Central District Office and its Southeast District Office.

Butler earned his bachelor's degree in geography and environmental science from Mansfield University in Pennsylvania, and his master's degree in environmental science from Ohio University. 2/26/2014

Manufacturers Go to Work on U.S. EPA GHG Proposal

Although the U.S. EPA's proposed New Source Performance Standard (NSPS) addresses specifically the utility sector, manufacturers have significant concerns about the EPA's first-ever regulation of greenhouse gas (GHG) emissions from a source category under Section 111, because of the impact these regulations will have on energy prices and reliability, as well as the potential precedent-setting nature of the approach on industrial sectors.

The Partnership for a Better Energy Future (PBEF), of which the OMA is a member, has drafted a [set of comments](#) as a resource for those concerned about

this policy to learn more. The partnership urges the EPA to consider a more reasonable path forward based on technologically achievable standards. 2/26/2014

Ohio EPA Issues Interim Solvent Wipe (Shop Rag) Rule

Last summer, U.S. EPA issued a new rule to clarify the handling and disposal of wipes or shop rags contaminated with solvents. The rule provided that RCRA-authorized states, such as Ohio, can adopt their own solvent-contaminated wipes rule provided they are not less stringent than the U.S. EPA's rule.

On February 20, 2014, Ohio EPA issued an interim guidance document to cover this area until final regulations are adopted later this year.

OMA environmental counsel [Frank Merrill](#) of Bricker & Eckler wrote [this bulletin](#) on the issue. 2/20/2013

OMA Environment Committee Hears Water Nutrient Update

This week the OMA environment committee studied a range of water issues and heard a [presentation](#) about Ohio EPA's water nutrient strategy from [Christine Morgan](#), an attorney with Jones Day.

Ohio EPA has been working for a decade to develop new nutrient standards. This work was initiated in response to U.S. EPA's publication of national nutrient criteria recommendations in 2003 and Clean Water Act Section 106 grant work plan commitments.

Ohio EPA formed a technical advisory group to inform the development of nutrient standards. The OMA is represented on the advisory group by John Meyer, Director of Environmental and Sustainability, John Morrell Food Group, and Mike Brom, Director of Environment, Potash Corp.

[Rob Brundrett](#) is OMA's point person on the issue. 2/13/2014

Environment Legislation
Prepared by: The Ohio Manufacturers' Association
Report created on May 22, 2014

- HB12** **LICENSED OPERATOR REQUIREMENT (ROEGNER K)** To eliminate the licensed operator requirement for gaseous fuel and fuel oil fired boilers that comply with certain safety and engineering standards.
Current Status: 10/31/2013 - **SIGNED BY GOVERNOR**; Eff. 1/30/2014
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_12
- HB59** **BIENNIAL BUDGET (AMSTUTZ R)** To make operating appropriations for the biennium beginning July 1, 2013, and ending June 30, 2015; to provide authorization and conditions for the operation of state programs.
Current Status: 6/30/2013 - **SIGNED BY GOVERNOR**; Eff. 6/30/2013; Some Eff. 9/29/2013; Others Various Dates
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_59
- HB93** **OIL AND GAS LAW (HAGAN R)** To increase criminal penalties for violations of the Oil and Gas Law relating to improper disposal, transport, and management of brine, to establish a criminal penalty for a negligent violation of certain provisions of the Solid, Hazardous, and Infectious Wastes Law, and to require the revocation of a violator's permits and registration certificate and denial of future permit and registration certificate applications under the Oil and Gas Law.
Current Status: 6/25/2013 - House Agriculture and Natural Resources, (First Hearing)
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_93
- HB148** **OIL AND GAS LAW (DRIEHAUS D, HAGAN R)** To prohibit land application and deep well injection of brine, to prohibit the conversion of wells, and to eliminate the injection fee that is levied under the Oil and Gas Law.
Current Status: 6/25/2013 - House Agriculture and Natural Resources, (First Hearing)
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_148
- HB205** **BRINE RECYCLING FEE (GERBERRY R)** To authorize a fee on the recycling of brine from oil and gas operations to benefit local governments.
Current Status: 6/25/2013 - House Agriculture and Natural Resources, (First Hearing)
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_205
- HB282** **SALES-USE TAX LICENSE (ROGERS J)** To authorize vendors and others required to hold a sales or use tax license whose business and home address is the same to apply to the Tax Commissioner to keep such address confidential.
Current Status: 2/26/2014 - **BILL AMENDED**, House Ways and Means, (Second Hearing)
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_282
- HB417** **WATER-WASTEWATER UTILITY SERVICE IMPROVEMENT PROJECTS (THOMPSON A)** To ensure that all proven and acceptable piping materials be included in bids for water and wastewater utility service improvement projects.
Current Status: 3/19/2014 - House Public Utilities, (Second Hearing)
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_417

- HB472** **MBR-MID-BIENNIUM BUDGET REVIEW** (MCCLAIN J) To make operating and other appropriations and to provide authorization and conditions for the operation of state programs.
Current Status: 3/26/2014 - House Ways and Means, (Third Hearing)
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_472
- HB490** **MBR-AGRICULTURE-NATURAL RESOURCES-ENVIRONMENTAL PROTECTION LAWS** (HALL D, THOMPSON A) To revise certain laws governing agriculture, natural resources, and environmental protection.
Current Status: 5/20/2014 - House Agriculture and Natural Resources, (Fifth Hearing)
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_490
- HCR29** **EPA REGULATIONS** (THOMPSON A) To urge the President of the United States to halt the Environmental Protection Agency's costly and harmful pursuit of regulations that restrict fuel diversity for electricity generation and to pursue new fuel diversity policies.
Current Status: 11/19/2013 - Referred to Committee Senate Energy and Natural Resources
State Bill Page: http://www.legislature.state.oh.us/res.cfm?ID=130_HCR_29
- HCR49** **GREAT LAKES-ASIAN CARP** (SHEEHY M) To urge the United States Congress to approve and fund a hydrological separation of the Great Lakes and Mississippi River watersheds to stop the spread of Asian carp.
Current Status: 3/11/2014 - Referred to Committee House Agriculture and Natural Resources
State Bill Page: http://www.legislature.state.oh.us/res.cfm?ID=130_HCR_49
- SB59** **EDUCATION ENERGY COUNCIL** (BEAGLE B) To authorize an eligible regional council of governments to establish itself as an education energy council for the purpose of issuing debt to pay for school district energy purchases.
Current Status: 2/19/2014 - Senate Public Utilities, (Fourth Hearing)
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_59
- SB150** **AGRICULTURAL ADDITIVES, LIME AND FERTILIZER LAW** (HITE C, PETERSON B) To revise the law governing the abatement of agricultural pollution, to require a person that applies fertilizer for the purposes of agricultural production to be certified to do so by the Director of Agriculture, to provide for an agricultural pesticide-use category on commercial and private pesticide applicator licenses, and to make other changes to the Agricultural Additives, Lime, and Fertilizer Law.
Current Status: 5/16/2014 - Sent to Governor for Signature
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_150
- SB178** **DEEP WELL BRINE INJECTION** (SKINDELL M) To prohibit land application and deep well injection of brine, to prohibit the conversion of wells, and to eliminate the injection fee that is levied under the Oil and Gas Law.
Current Status: 10/29/2013 - Senate Energy and Natural Resources, (First Hearing)
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_178
- SCR9** **ASIAN CARP** (PATTON T) To urge the President of the United States and the Congress of the United States to take all actions necessary to prevent Asian carp from entering the Great Lakes, including Lake Erie.

Current Status: 11/19/2013 - Referred to Committee House Agriculture and Natural Resources

State Bill Page: http://www.legislature.state.oh.us/res.cfm?ID=130_SCR_9

SCR25 GREEN BUILDING RATING STANDARDS (UECKER J) To urge, for Ohio state agencies and other government entities, the use of green building rating systems, codes, or standards that are consistent with state energy efficiency and environmental performance objectives and policies and that meet American National Standards Institute voluntary consensus standard procedures.

Current Status: 3/11/2014 - Referred to Committee House Manufacturing and Workforce Development

State Bill Page: http://www.legislature.state.oh.us/res.cfm?ID=130_SCR_25

SCR34 U.S. EPA-STATES PRIMACY (GENTILE L) To urge the U.S. Environmental Protection Agency to recognize the primacy of states to rely on state utility and environmental regulators in developing guidelines for reductions of carbon dioxide emissions from existing power plants and to take other specified actions regarding greenhouse gas emissions.

Current Status: 2/19/2014 - Referred to Committee Senate Energy and Natural Resources

State Bill Page: http://www.legislature.state.oh.us/res.cfm?ID=130_SCR_34



Early Stakeholder Outreach — Beneficial Use: The “Co-Product” Concept

Ohio EPA invites stakeholder input on a concept intended to distinguish between the beneficial use of an industrial by-product versus the production of a product (co-product).

Why is the Agency seeking Early Stakeholder Outreach?

There is increasing interest in the beneficial use of industrial by-products currently disposed of in landfills. The Agency has been working with stakeholders since 2012 to explore development of rules and procedures for beneficial use of industrial by-products to replace the current Integrated Alternative Waste Management Project (IAWMP) and Land Application Management Plan (LAMP) processes. For information regarding this effort, please see the Early Stakeholder Outreach tab of the [DMWM Rules webpage](#).

Several stakeholders suggested there be recognition within the regulatory system that:

*“...certain industrial by-products **are not “wastes”** and are therefore exempt or excluded from further regulation. These materials include thosethat are not “unwanted” by the generator and are sold in a commercially reasonable manner in the stream of commerce.”*

Up to this point in time, the Agency’s consideration of a comprehensive regulatory beneficial use program focused on the beneficial use of nonhazardous secondary materials or by-products and the circumstances of use under which such materials were no longer considered wastes. The Agency is now turning attention to the stakeholders’ suggestion that nonhazardous secondary materials sold in a commercially reasonable manner in commerce are not wastes; in essence, these secondary materials should be viewed as products.

What input is the Agency seeking?

To facilitate exploration of this suggestion, stakeholders are invited to provide suggestions and give input regarding the attached document “*Concept Paper: Co-product under ORC Chapter 3734*”.

To facilitate stakeholder consideration of this concept, the Agency will host a stakeholder meeting between 1:00 to 3:00 pm on May 21, 2014. Participation is available by WebEx or by meeting attendance at Ohio EPA’s Columbus office. To ensure that we have facilities to accommodate participation and allot meeting time appropriate to areas of stakeholder interest, please register on-line at <https://www.surveymonkey.com/s/5-21-14BUmeeting>. Please indicate the document of interest, provide the number of participants, email addresses, and whether attending the meeting or participating by WebEx no later than May 14, 2014.

How can I provide input?

The Agency is seeking stakeholder input on the proposed concept included in this document.

When preparing your comments, be sure to:

- explain your views as clearly as possible;
- describe any assumptions used;
- provide any technical information and/or data used to support your views;
- provide specific examples to illustrate your views; and
- offer suggestions and alternatives.

Written comments will be accepted through close of business June 9, 2014. Please submit input to:

Michelle Braun
P.O. Box 1049
Columbus, OH 43216-1049
michelle.braun@epa.ohio.gov

What if I have questions?

Please contact Dan Harris at 614-728-5377 or daniel.harris@epa.ohio.gov.

What's the next step?

After the comment deadline, Ohio EPA will evaluate the input and facilitate additional stakeholder engagement as needed to further explore the concept.

How can I track the Agency's consideration of this concept?

Stakeholders are encouraged to sign up for the Agency's electronic mailing list which provides automatic updates about various topics. Registered users of the Beneficial Use mailing list will receive progress updates and be notified when new information is posted. To sign up, go to ohioepa.custhelp.com/ci/documents/detail/2/subscriptionpage.

Concept Paper: Co-product under ORC Chapter 3734

Division of Materials and Waste Management

Background: Ohio's current nonhazardous waste management rules do not establish a mechanism for recognizing when an item, which is no longer useful for its initial intended purpose, or a nonhazardous secondary material generated from an industrial process may have commercial value to the generator of the material for reuse, recycling, or other purposes. In addition, current rules do not establish a method for recognizing when a secondary material that is not utilized by the generator may still have commercial value to another party. DMWM is considering developing a comprehensive regulatory beneficial use program intended to acknowledge when secondary materials have commercial value to generators or third parties in order to avoid regulating such materials as "wastes" requiring appropriate disposal.

The purpose of this CONCEPT PAPER is to continue the exploration of concepts with stakeholders for future program development. The concepts expressed in this paper are not complete, have not been thoroughly reviewed by Ohio EPA, and are subject to change. The discussion is not intended to be a description of any existing regulations or represent any final position of Ohio EPA.

Regulators often work from a historically-based presumption that secondary materials that are not the intended product resulting from an industrial or manufacturing process have no intrinsic market value or direct use. Observations often reinforce and make obvious this presumption that such secondary materials are not a product. Management of a secondary material for further processing to reclaim or recycle¹ some attribute of the material for its value is demonstration that the material itself is not a product. Speculative accumulation is an indicator of low secondary material value. Failure to manage the secondary material in a manner that retains the material's value is a strong indicator that the secondary material is a waste. Illegal disposal of waste² is often evidenced as placement on the land or into waters, burning, abandonment, or discard.

The Division of Materials and Waste Management (DMWM) acknowledges that many industrial or manufacturing facilities are seeking to become "zero landfill" or "sustainable" operations by focusing on reclaiming a material's secondary value or locating and developing direct uses of previously disposed materials. There are companies that seek to reclaim the value of secondary materials or market secondary materials for different direct uses. The increasing recognition that our regulatory approach needs to adjust has been the initiative of Ohio EPA's on-going discussion with numerous stakeholders regarding a beneficial use program. This paper describes another concept for exploration as part of the overall development of a beneficial use

program. A secondary material may contain its own inherent unique value, be further used in commerce and, in some incidences, come to be considered product-like. For the purposes of discussion, it is referred to here as the “co-product” concept.

The “Co-product” concept: Several stakeholders suggested there be recognition within the regulatory system that:

*“....certain industrial by-products **are not “wastes”** and are therefore exempt or excluded from further regulation. These materials include thosethat are not “unwanted” by the generator and are sold in a commercially reasonable manner in the stream of commerce.”*

Up to this point in time, DMWM's consideration of a comprehensive regulatory beneficial use program focused on the beneficial use of nonhazardous secondary materials or by-products and the circumstances of use under which such materials were no longer considered wastes. DMWM is now turning attention to the stakeholders' suggestion that nonhazardous secondary materials sold in a commercially reasonable manner in commerce are not wastes; in essence, these secondary materials should be viewed as co-products³.

First, what is a Product? When one thinks about the general characteristics of a product, a number of aspects come to mind. These may include:

- The product serves a recognized and demonstrable purpose(s);
- The product is produced from a designed industrial/manufacturing process in which input materials and product quality is monitored and controlled;
- The product has to meet established product specifications and quality control standards;
- The revenue generated from the sale of the product helps sustain the economic viability of the company;
- The quality and integrity of the product is protected from deterioration and is maintained during handling, storage and transportation;
- The product is secured from theft;
- Sale of the product is available to the general public;
- Product safety and limitations have been evaluated/investigated;
- The product has established use and precaution warnings;
- Product adverse impacts to human health and the environment have been evaluated and are known,
- Product rejection rate is low; and
- The producer insures the product inventory.

It is product aspects, like those listed above, that DMWM could use to build a regulatory mechanism by which a nonhazardous secondary material can be classified as a co-

product. However, such a classification would not render the co-product immune from being classified as a waste should circumstances warrant such a conclusion. Any product can become a waste; the switch in classification is evident by the actions of the product owner. A product becomes a waste when it is no longer wanted by the owner as evidenced by the management of the material. Indicators that the product has become unwanted include: it is abandoned, discarded, burned for destruction, disposed, thrown away, dumped, used in excess, inappropriately used, stored in excess or for an extended length of time or used in a manner that imparts no value.

Co-product demonstration: A co-product is more than a nonhazardous secondary material that might or could be used in a specific application or a material that is used in a limited amount as compared to the large amounts generated annually. A co-product is, in essence, a quality market valued material managed as a valued commodity not unlike the primary product of the industrial/manufacturing process. It is a demonstrated valued commodity evidenced by its management and use.

The concept involves recognition of the demonstration or vigorous dismissal, as necessary, when facts prove disposal, discard, or insufficient utilization of the material is occurring. Under the concept, the material simply is not a waste.....yet. At some point, the value of any product, commodity or co-product may be spent or simply devalued. It then fails to meet this concept's performance standards and becomes a waste.

DMWM suggests that the criteria for demonstrating a nonhazardous secondary material should be classified as a co-product should be set high. The criteria for the demonstration would be established in rule. The concept is that a provider (which may be envisioned as the first person who presents the material as a co-product to the general public) conducts an assessment to demonstrate that the nonhazardous secondary material is a co-product. Below are possible criteria or documentation the provider of a nonhazardous secondary material should meet in order to make the co-product demonstration.

- Discussion of the type and use(s) of the co-product;
- Discussion of the historic use(s) and management of the co-product;
- Explanation of the useful purpose(s) of the co-product;
- The degree to which the market for the co-product is guaranteed;
- The amount of co-product generated each year by the producer compared to the amount of nonhazardous secondary material sold each year;
- Projected annual co-product rejection rate;
- The estimated amount of co-product sold annually and the estimated annual revenue received;

- How the co-product production process is monitored and controlled to ensure that accepted co-product quality and material specifications are met;
- How the co-product is managed and stored to preserve and protect material integrity and material specifications;
- The degree of further processing the co-product requires after generation and prior to sale;
- How the co-product is managed and stored to minimize release to the environment;
- The concentration of each constituent reasonably expected to be present in the nonhazardous secondary material that may be harmful to human health and the environment; and
- Other relevant information.

Implementation and programmatic components: DMWM offers the following initial thoughts for discussion on how this concept might be implemented.

- Since the nonhazardous waste management system is focused on disposal facilities and prevention of open dumping and burning, the co-product demonstration process would apply to co-products placed into a body of water or onto the ground, and burned in an open area or type of chamber not otherwise authorized in rules. Other uses of co-products, such as use in other manufacturing processes or recycled would not need to conduct a co-product demonstration⁴.
- The co-product demonstration may be provider and co-product specific and mostly self-implementing by the provider of the co-product. The provider may be the person who first claims and represents the nonhazardous secondary material as a co-product to another person or the general public. Also, the provider may be the actual producer of the nonhazardous secondary material or a distributor.
- The provider would need to notify DMWM of its determination and submit documentation demonstrating how all co-product criteria are met in its situation. DMWM is thinking that the provider would not need to wait for a DMWM response or obtain any acceptance or approval prior to the use of the co-product. No DMWM approval would be necessary since it is neither an exemption nor exclusion but an assertion established under rule that the material is a co-product. However, DMWM would have the ability to object to the assertion or request additional information. Furthermore, the provider has an ongoing responsibility to ensure that attainment of the co-product criteria is continuously maintained.
- The management and handling of the material is subject to all applicable federal, state and local rules. Ohio EPA would retain the enforcement authority to cite

violations of open dumping or open burning based on observations of the actual handling of the material regardless of a co-product determination.

- The co-product demonstration would only apply to nonhazardous secondary materials. This is because Ohio's hazardous waste rules have a long established recycling program, including an informal co-product approach, for classifying a hazardous secondary material as not being a waste.
- Eligible nonhazardous secondary materials are those generated from an engineered manufacturing/industrial production process that is monitored and controlled such that the secondary material quality and specification can be maintained. *[While material of uncertain or unmaintained quality would not be a co-product, by-product beneficial use authorization by permit or rule may be an option.]*
- With regards to product safety, it is the responsibility of the co-product provider to evaluate and document the safety of the product. Ohio's product liability laws would apply to the co-product and those who distribute it in the same manner as any other product. DMWM would not evaluate the product for safety or personal harm issues. However, we would question the use of a nonhazardous secondary material that contained harmful constituents not expected to be present in a similar product or contained constituents at levels greater than a similar product. DMWM's potential screening of the constituents in the co-product is only a general evaluation of probable harm the product may impose on human health and the environment and not an evaluation of product safety.

New Terms: Several new terms have been introduced in this paper to help present this concept of "Co-product." Below are DMWM's meanings of these terms as used in this paper.

- Secondary material is any material that is not the primary product of a manufacturing or commercial process, and can include post-consumer material, off-specification commercial chemical products or manufacturing chemical intermediates, post-industrial material, and scrap that has yet to be identified as a solid, hazardous, industrial or other waste, or a co-product.
- Nonhazardous secondary material is a secondary material that, when unwanted, would not be identified as a hazardous waste.
- Hazardous secondary material is a secondary material that, when discarded, meets the definition of a listed or characteristic hazardous waste as defined in OAC rule 3745-51-03.

- Co-product means a nonhazardous secondary material that is manufactured along with a different product and meets the expectations of a product by being saleable, revenue producing, quality controlled and protected from loss.
- By-product means a nonhazardous secondary material that is historically undesirable and commonly disposed; it has limited potential for use; it is generated in amounts that exceed the amounts that can be used or it requires significant processing in order to be used.

Join the discussion: You are welcomed to follow and participate in the discussion on the development of a beneficial use regulatory program by:

- ✓ Accessing Ohio EPA's [early stakeholder outreach page on beneficial use](http://www.epa.state.oh.us/dmwm/dmwmnonhazrules.aspx) at: <http://www.epa.state.oh.us/dmwm/dmwmnonhazrules.aspx>.
- ✓ Signing up for [listserv notification of available beneficial use information](http://ohioepa.custhelp.com/ci/documents/detail/2/subscriptionpage) at: <http://ohioepa.custhelp.com/ci/documents/detail/2/subscriptionpage>.
- ✓ Participating in Ohio EPA scheduled stakeholder WebEx meetings (listserv notice is given on upcoming meetings and posted on the [early stakeholder outreach page on beneficial use](#)).
- ✓ Contacting DMWM to ask questions or share perspectives. For the "Co-product" concept, you may contact Dan Harris at 614-728-4819 or Daniel.harris@epa.ohio.gov or Karen Hale at 614-644-2927 or Karen.hale@epa.ohio.gov.

¹Recycling as used in the solid waste program is defined in the context of established recycling commodity markets as reconstituted materials, such as: metal, paper, plastics, etc. Placement of materials into a body of water or onto the ground and burning in an open area or type of chamber not otherwise authorized in rules and claiming it is recycling is not the intended concept and would likely be presumed as disposal. [Reference: OAC 3745-27-01(R)(1).]

²Ohio Revised Code 3734.01(E) defines solid wastes "...means such unwanted residual solid or semisolid material as results from industrial, commercial, agricultural, and community operations, excluding...".

³The concept of a co-product is distinct from that of a by-product. DMWM has been discussing concepts for a beneficial use by-product regulatory program with stakeholders since before 2011. While a by-product can be useful and marketable, it may often be managed and disposed as a waste. In a general sense, a by-product might be distinguished from a co-product in that a by-product is a secondary product derived from a manufacturing process, treatment process, or chemical reaction that is not the primary product or service being produced. A by-product is an output that is minor in quantity or value when compared to the main products. By-products typically are not inventoried or separately accounted for and reported as income. The markets for a by-product may be insufficient to use the quantity being produced with the consequence that the material is otherwise managed and disposed.

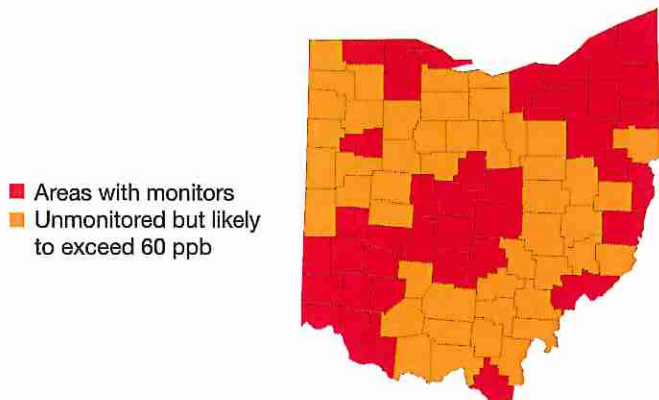
⁴The current solid waste regulatory system was established to ensure the proper disposal of wastes and prevent unregulated disposal such as open dumping and open burning. Therefore, a clear focus is to prevent the placement of solid wastes into a body of water or onto the ground and burning in an open area or type of chamber not otherwise

authorized in rules. It is when secondary materials generated from an industrial process are placed into water, on the ground, or burned, that the questions of open dumping and open burning arise. This is particularly an issue when the perception may be that the secondary material is generally being managed as a waste and disposed at licensed solid waste disposal facilities. [References: ORC 3734.01(F) "Disposal"; ORC 3734.01(H) "Open burning"; and ORC 3734.01(I) "Open dumping.]"

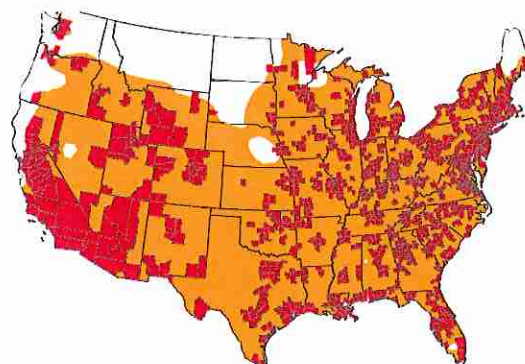
AMENDED

New EPA Regulations Will Stifle Manufacturing Growth in Ohio

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



Projected Nonattainment in Ohio (60 ppb)



Projected Nonattainment in the United States (60 ppb)

Source: URS

Growth Stifling Regulations Are Coming

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

The Costs Will Be Astronomical

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

It Gets Worse For Counties In The Red and Orange

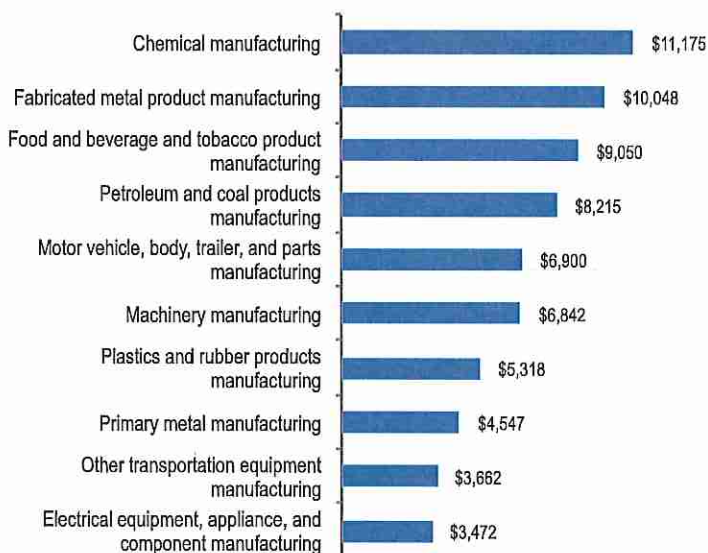
- > **Manufacturers won't be able to expand** without a reduction of emission or **shut down of operations** from other businesses in the area.
- > Plans for **new plants** and **expansion** at existing plants will be **shelved**.
- > **Federal highway funds** could freeze.
- > Existing facilities will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

Industries That Can't Grow

- > Counties potentially impacted by the new standards are responsible for **852,939 manufacturing, natural resources and mining, and construction jobs** (U.S. Bureau of Labor Statistics, 2012 Q4).

At Risk: Top 10 Manufacturing Industries in Ohio

Contribution to state GDP, Millions of Dollars



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

Counties in Your State with Monitored Data¹ and the Jobs at Risk

How Low Will EPA Go? 70? 65? 60? Or Even Lower?

County	Measured Ozone Levels ² (ppb)	Manufacturing Jobs	Natural Resources and Mining Jobs	Construction Jobs
Brown	85	786	ND	ND
Butler	85	19,119	170	5,605
Clermont	85	5,528	77	2,637
Hamilton	85	47,244	253	19,015
Warren	85	10,361	216	2,184
Cuyahoga	83	70,579	470	19,882
Geauga	83	6,794	267	1,741
Lake	83	20,609	705	3,769
Lorain	83	17,537	773	3,878
Medina	83	8,663	184	2,984
Clinton	82	3,153	34	195
Delaware	82	5,937	270	2,559
Fairfield	82	4,406	78	1,667
Franklin	82	35,201	554	19,764
Licking	82	6,272	627	2,243
Madison	82	2,879	153	378
Morrow	82	869	48	161
Pickaway	82	2,534	144	612
Union	82	8,540	431	590
Ashtabula	79	6,573	143	841
Carroll	79	1,293	231	475
Mahoning	79	9,161	360	4,178
Stark	79	25,657	708	6,680
Trumbull	79	13,014	137	2,903
Greene	78	3,197	198	1,439
Miami	78	9,994	215	1,518
Montgomery	78	25,756	221	7,529
Preble	78	2,724	115	258
Clark	76	6,988	347	1,037
Fulton	76	5,975	198	564
Lucas	76	20,371	271	7,847
Ottawa	76	2,189	117	432
Wood	76	12,197	340	2,562
Jefferson	75	1,166	141	852
Knox	75	4,731	173	635
Allen	74	8,128	144	1,759
Belmont	74	846	1,778	1,059
Portage	74	10,178	324	1,860
Summit	74	29,922	156	8,867
Washington	74	3,578	456	1,493
Lawrence	72	548	ND	790

ND=No Reported Data

Source: Bureau of Labor Statistics, 2012 Q4

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

■	Out of Attainment at 70 ppb
■	Out of Attainment at 65 ppb
■	Out of Attainment at 60 ppb

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

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

To: OMA Government Affairs Committee
From: Ryan Augsburger / Rob Brundrett
Date: May 28, 2014
Re: Human Resources Update

Unemployment insurance tax rates remain a hot topic for employers. Just recently have members of the General Assembly begun to talk in earnest about the problem. Other states have fare better in paying down their federal debts, through a mix of bonds, higher state taxes and lower benefits. At Ohio's current rate, its federal debt is estimated to be paid off in 3-5 years. However taxes will continue to increase until the debt is paid in whole.

General Assembly News and Legislation

Unemployment Compensation Tax Changes

Ohio manufacturers got another tax hike in 2014 due to the state's large unemployment compensation loan from the federal government.

Ohio's FUTA rate was increased again for 2014. Ohio's rate will continue to climb until the debt is paid off. There is a concern what another recession could do to the solvency of Ohio's unemployment compensation fund.

A recent report from the federal government on the solvency of state funds, shows that Ohio is dire shape with its current fund. While Ohio still owes more than \$1.6 billion to the federal government because of the last recession, an even larger catastrophe could take place if a second recession hits, before Ohio has built its fund back to solvent status.

If Ohio continues the status quo the FUTA credit will decrease and Ohio could potentially qualify for the penalty increasing its total unemployment tax rate even higher.

House Bill 329

House Bill 329 requires the Director of Budget and Management to make payments on the balance of amounts borrowed by the state from the federal government to issue unemployment benefits and to make an appropriation. It is estimated that the state's savings would be over \$400 million. However, recent information surfaced during MBR testimony that the state would likely not receive the \$400 million in savings. The actual number is undetermined, so the state will not be spending money based on previous estimates.

Human Resources

OSHA Actively Encouraging Employees to File Charges with the NLRB

According to OMA Connections Partner, Roetzel: The Occupational Safety and Health Administration (OSHA) and the National Labor Relations Board (NLRB) entered into a Memorandum of Understanding (MOU) whereby employees who file untimely complaints against their employers alleging violations of the Occupational Safety and Health Act will be told to contact the NLRB.

The statute of limitations to file a complaint with OSHA is just 30 days from the date of occurrence, but employees have 6 months from the date of occurrence to file unfair labor practice charges against their employers with the Board. [Read](#) more from Roetzel about how the MOU is intended to be implemented. 5/22/2014

Front Line Supervisors May Not Be "Exempt Executives"

OMA Connections Partner, Roetzel, tells us about a decision issued May 1, 2014; the United States Court of Appeals for the Sixth Circuit in *Bacon v. Eaton Corp.*, found that eight former industrial supervisors at a Michigan plant could proceed with their claims for unpaid overtime compensation and damages under the Fair Labor Standards Act (FLSA). The plaintiffs were former "front line" supervisors who supervised crews of 20 hourly employees. They claim that their employer misclassified them as "exempt executives," thereby wrongfully exempting them from the overtime provisions under the FLSA.

Parties disagreed as to whether the plaintiffs had sufficient influence over personnel decisions to qualify as exempt executives, a key determinant of exempt status.

This decision serves as a reminder that title and a supervisory role alone are insufficient to satisfy the executive exemption prong under the FLSA. [Read more](#). 5/13/2014

Attention Southwest Ohio Manufacturers Looking for Skilled Workers

The [Manufacturing Skill Standards Council](#) (MSSC) offers a training, assessment and certification system focused on the core skills and knowledge needed by front-line production and material handling workers. The nationwide MSSC system, based upon industry-defined and federally-endorsed standards, offers both

entry-level and incumbent worker skill training in manufacturing technologies.

On June 18 in Cincinnati, MSSC in collaboration with the Southwestern Ohio Workforce Investment Board and the GE Learning Center will present an executive briefing for senior managers, plant managers, and training supervisors. It will cover how the MSSC system can be used by companies, schools, and government. Details [here](#).

On June 19, also in Cincinnati, MSSC with other partners will hold a Veteran Hiring Fair focused on recruiting workers in material handling, distribution-logistics and manufacturing production. This event is targeted to veterans, active duty military members, guard and reserve members and military spouses. Human resources professionals and recruiters are invited to learn more [here](#). 4/30/2014

Non-Union Employees Can Strike?

OMA Connections Partner, Roetzel, spotlights a labor law situation that recently took place at Piston Automotive, a Jeep parts supplier, in which non-union employees went on strike and succeeded in their demand to be recognized as union workers.

Workers at Piston Automotive walked off the job around 9:00 a.m. on April 17, 2014 protesting the company's refusal to recognize that most of the employees wanted to be represented by the United Auto Workers (UAW) union. By 5:00 p.m. that evening, without having a secret ballot election, the employees were back at work as members of the UAW.

According to Roetzel, since companies have become relatively successful staying union-free after secret ballot elections, labor unions are employing organizing tactics that helped them gain a stronghold in manufacturing many years ago. Namely, demanding recognition through card check and striking for recognition.

The moral of this story is that all companies – both union and non-union – are encouraged to have a comprehensive strike plan.

Read more about the [case](#). 4/24/2014

NLRB: Requiring "Positive and Professional" Behavior is Unlawful

The National Labor Relations Board (NLRB) recently held that an employer's policy prohibiting "negative

comments” and requiring “positive and professional” behavior was unlawful. The employer, Hills and Dales General Hospital, developed the policy in response to a poor working environment that was permeated with “back-biting and back stabbing.” Employee satisfaction was low, employees were looking for jobs elsewhere, and patients were seeking health care outside the hospital.

In this [post](#), OMA Connections Partner Roetzel, describes the ruling and notes with understatement: “This decision follows a recent pattern of the Board finding that common employer policies are overly broad and in violation of the NLRA.” 4/9/2014

OSHA Issues Guidance on Temp Workers

The Occupational Safety and Health Administration’s (OSHA) has issued its first in a series of [guidance documents](#) for its Temporary Worker Initiative (TWI). This initiative focuses on compliance with safety and health requirements when temporary workers are employed under the joint (or dual) employment of a staffing agency and a host employer.

In most cases, OSHA says, the host employer is the one responsible for recording the injuries and illnesses of temporary workers. 4/9/2014

House Passes Governor’s Workforce Bill

The House of Representatives unanimously passed Governor Kasich’s workforce development reform package, [HB 486](#), sponsored by Rep. Nan Baker (R-Westlake). The governor’s reforms are strongly [supported](#) by the OMA.

The legislation requires the state to publish a list of high-demand jobs on the agency’s website, which is to be used by local workforce programs to prioritize their activities. It would require the state to set criteria for evaluating the performance of state and local workforce programs based on efficiency and effectiveness. The metrics are to be available to citizens online.

In addition, the Office of Workforce Transformation, Board of Regents, Department of Education and Ohio Department of Jobs and Family Services are required to submit to the federal government a single unified plan for federal funding for adult basic literacy, career-tech and workforce development programs. 4/10/2014

Anticipate a Tightening Labor Market

[Daniel J. Meckstroth, Ph.D.](#), chief economist at MAPI, [writes](#) that manufacturers should anticipate a

tightening labor market. The reason? Demographics.

Meckstroth finds: “The crux of the slow labor supply issue is that baby boomers’ desire to work is diminishing at a fast clip. From 2008 to 2013, the U.S. population experienced a 1 million increase in people ages 16-24, a 1 million dip for ages 25-54, and a 12 million increase in the cohort of 55 and older.”

He concludes: “The aging baby boom generation will keep the participation rate falling for at least another decade, and some individuals’ decisions to work longer will not be enough to offset the tendency to retire. Skill shortages are already showing up in technical occupations. In a couple of years, firms should see widespread, tight labor markets, making young talent particularly difficult to find.” 4/10/2014

Congress Responds to NLRB’s Proposed “Ambush” Election Rule

The National Association of Manufacturers (NAM) advises us that the House Education and Workforce Chairman, Congressman John Kline (R-MN) and Senate Health Education Labor and Pensions Ranking Member, Senator Lamar Alexander (R-TN), introduced “The Workforce and Fairness Democracy Act: Protecting Workers’ Free Choice,” while Congressman Phil Roe (R-TN) introduced the “The Employee Privacy Protection Act,” all addressing the National Labor Relations Board’s (NLRB) “Ambush” Election rule, proposed in February.

The proposed rule would limit manufacturers’ ability to communicate to their employers during union campaigns by shortening the period in which a representation election is held, to as few as 10 days. It would also take away a manufacturer’s right to challenge voter election eligibility, and impose disturbing new mandates on employers, such as forcing them to turn over employees’ e-mail addresses.

The “[Workforce and Fairness Democracy Act](#),” would guarantee that no union election will be held in fewer than 35 days, provide employers at least 14 days to prepare their cases to present before an NLRB election officer, and protect their right to raise additional concerns throughout the pre-election hearing, and require the NLRB to determine who is eligible to vote in the election prior to the election.

“[The Employee Privacy Protection Act](#),” would give employers seven days to provide to the NLRB a list of employee names and one additional piece of contact information chosen by each individual employee, allow employees to choose the easiest and safest

way to communicate with union organizers, and prevent the NLRB from invading employee privacy.

Public comments to the "Ambush" Election rule are due on April 7; OMA has signed onto NAM's [comments](#). You can comment [here](#). NAM will also be presenting at the NLRB public hearing on April 10 and 11 in Washington, D.C. 3/31/2014

Action Steps Mandated for Government Contractors and Subcontractors

From OMA Connections Partner, Dinsmore: The Office of Federal Contract Compliance Programs issued new regulations, which went into effect on March 24, 2014, which impact data collection and analysis for veteran and disabled job candidates and employees.

Action steps that federal contractors and subcontractors covered by Section 503 of the Rehabilitation Act, as amended, and the Vietnam Era Veterans Readjustment Assistance Act must take are provided in this [summary](#). 4/3/2014

Obama Orders Revisions to Rules on Overtime Pay

OMA Connections Partner, Roetzel, [reports](#) that last week President Obama signed a memorandum that has the potential to greatly expand the number of employees who qualify for overtime pay under the Fair Labor Standards Act (FLSA).

The President's Memorandum is designed to raise the wages of low salaried workers. Currently, most of these employees are classified as executive or professional employees and are therefore exempt from the overtime pay requirements of the FLSA. These employees are exempt as long as their job duties meet the requirements for the specific exemption and they are paid at least \$455 per week. The president seeks to increase the \$455 per week salary level; however, the exact increase is unclear.

Additionally, the President's Memorandum referred to FLSA exemptions as "outdated." As such, it is expected that the regulations issued by the Department of Labor will alter the "primary duty" test for FLSA exemptions, or even abandon the "primary duty" test in favor of more stringent standards.

The National Association of Manufacturers is following the issue and will employ the notice and comment process to register manufacturers' concerns. Needless to say: more to come. 3/17/2014

Governor Proposes Alignment of Workforce Programs

The misalignment and fragmentation of workforce programs is a chronic problem facing governors and their business and worker constituents. Governor Kasich in his 2014 "mid biennial review," House Bill 472, aims to build on the work of his Office of Workforce Transformation to [align the planning and measurements](#) of those programs for the first time.

The MBR includes three reforms to better coordinate the workforce system. First, the bill would require the federally-funded Adult Basic Literacy Education (ABLE), Carl D. Perkins Career and Technical Education Act (Perkins), and the Workforce Investment Act (WIA) programs to operate under one integrated plan, rather than in silos.

Second, the bill would require the state to "establish clear, simple and consistent performance metrics for Ohio's four largest workforce programs and a public, online dashboard to evaluate what is working and what is not in our workforce system." Today, programs operate under their own set of metrics, if they have them at all.

Third, the Board of Regents would be required "to develop and make available publicly online, a complete inventory of Ohio's public education and training programs, including state institutions, career technical institutions and state regulated apprenticeship programs." Today, nobody in Ohio knows for certain what programs are available where.

Altogether, better planning, measurement and program transparency from these reforms have the promise of providing much needed performance improvements in the state programs to meet business workforce needs.

Read more at the Office of Workforce Transformation [website](#). 3/12/2014

Kasich Lays Out Education Reforms

Among the wide-ranging reforms proposed in the 2014 "mid biennial review," House Bill 472, Governor Kasich proposes reforms in both K-12 and higher education.

The governor aims for "dropout prevention, preparing students for careers sooner, increasing community involvement with kids." He proposes "new strategies for more effectively identifying students at risk of dropping out, connecting them with tailored career counseling, and creating new, alternative pathways to diplomas," and an expansion of vocational education to the 7th grade.

In higher education, Kasich proposes initiatives “aimed at improving college readiness, lowering the out-of-pocket costs required to obtain a college degree, and improving graduation rates at our state-supported campuses.” He proposes “an improved system to help high schools encourage more students to earn college credit while completing their high school courses”; “a new funding formula that ties state higher education funds to successful student outcomes”; “a new formula to shift the focus of Ohio’s Technical Centers from simply enrolling more students to being successful with those students and working to ensure that students are finding jobs after they complete their program of study”; better use of technology and distance learning; and, assistance to veterans with training and college credits.

Read more about his K-12 proposals [here](#), and about his higher ed reforms [here](#). 3/12/2014

Senate Passes Internship Funding Bill

This week the Ohio Senate unanimously passed [House Bill 107](#), which appropriates \$1 million for internship funding for businesses in state fiscal year 2015. The House concurred with the Senate amendments, so the bill’s on its way to the governor.

The bill creates a program in the Development Services Agency through which grants will be awarded to businesses that employ a student intern in an position that “instills education, instruction, and experience relevant to the student intern’s career aspirations.” A grant equals 50% of the wages paid to the student intern, up to a maximum grant of \$5,000 per intern per year. 3/12/2014

Treasury Announces "Simplified" ACA Employer Reporting Requirements

OMA Connections Partner, Roetzel, updates us on yet another action under the Affordable Care Act (ACA).

The changes announced by the Treasury are designed to “streamline” the ACA’s reporting requirements. Self-insuring employers will be permitted to use a single combined form for both Section 6055 and Section 6056, thereby avoiding duplicative reporting. Self-insuring employers will be required to complete both parts of the form. Employers that do not self-insure will complete only the top section of the form. Employers that have fewer than 50 full-time equivalent employees will continue to be exempt from the employer reporting requirements. Read [more](#). 3/10/2014

Blanket Policies Requiring Medical Certification for Intermittent Leave May Violate the FMLA

OMA Connections Partner, Bricker & Eckler, notes that many employers have questions about how to properly administer the intermittent leave provisions of the Family and Medical Leave Act (FMLA). An employer might be tempted to reduce its administrative burdens by requiring all employees on intermittent leave to submit a doctor’s note for each intermittent absence. Employers should avoid using such blanket policies or risk violation of the FMLA.

Under the FMLA, once the employee submits proper certification for a qualifying condition, the employer may not request additional information from the employee’s health care provider. There are some exceptions. Read [more](#). 3/6/2014

Human Resources, Health Care & Employment Law Legislation

Prepared by: The Ohio Manufacturers' Association
Report created on May 22, 2014

- HB2** **UNEMPLOYMENT COMPENSATION CLAIMANT** (DERICKSON T, BROWN T) To require an unemployment compensation claimant to register with OhioMeansJobs to be eligible for unemployment compensation benefits and to require a claimant to contact a local one-stop office beginning with the eighth week of filing for unemployment compensation benefits.
Current Status: 7/11/2013 - **SIGNED BY GOVERNOR**; Eff. 10/11/2013
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_2
- HB3** **HEALTH INSURANCE ACCOUNTABILITY ACT** (SEARS B, KUNZE S) To specify licensing and continuing education requirements for insurance agents involved in selling, soliciting, or negotiating sickness and accident insurance through a health benefit exchange and to make changes to copayments, cost sharing, and deductibles for health insuring corporations.
Current Status: 4/30/2013 - **SIGNED BY GOVERNOR**; Eff. 7/30/2013
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_3
- HB22** **MILITARY SPOUSE UNEMPLOYMENT COMPENSATION** (PILLICH C) To permit persons who quit work to accompany the person's spouse on a military transfer to be eligible for unemployment compensation benefits.
Current Status: 2/13/2013 - House Commerce, Labor and Technology, (First Hearing)
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_22
- HB37** **SHAREDWORK OHIO PROGRAM** (DUFFEY M, SCHERER G) To create the SharedWork Ohio Program and to declare an emergency.
Current Status: 7/11/2013 - **SIGNED BY GOVERNOR**; Eff. 7/11/2013
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_37
- HB44** **PUBLIC HEALTH EMERGENCIES** (MCCLAIN J) To develop protocols regarding the authority to administer, deliver, distribute, or dispense drugs during certain public health emergencies.
Current Status: 3/11/2014 - **SIGNED BY GOVERNOR**; Eff. 6/10/2014
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_44
- HB55** **UNEMPLOYMENT ELIGIBILITY-MILITARY SPOUSE** (PILLICH C, TERHAR L) To permit persons who quit work to accompany the person's spouse on a military transfer to be eligible for unemployment compensation benefits.
Current Status: 2/27/2013 - House Commerce, Labor and Technology, (Third Hearing)
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_55
- HB59** **BIENNIAL BUDGET** (AMSTUTZ R) To make operating appropriations for the biennium beginning July 1, 2013, and ending June 30, 2015; to provide authorization and conditions for the operation of state programs.
Current Status: 6/30/2013 - **SIGNED BY GOVERNOR**; Eff. 6/30/2013; Some Eff. 9/29/2013; Others Various Dates
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_59
- HB60** **MATERNITY UNIT RULES** (HUFFMAN M) To require that rules governing maternity units, newborn care nurseries, and maternity homes include certain provisions pertaining to the

authority to make decisions regarding the transfer of patients to other facilities and to specify procedures for granting variances or waivers of any requirement in the rules governing operation of such facilities.

Current Status: 2/27/2013 - House Health and Aging, (Third Hearing)

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_60

HB91 HEALTH CARE FREEDOM ACT (YOUNG R, THOMPSON A) To enact the Health Care Freedom Act.

Current Status: 4/24/2013 - House Health and Aging, (Second Hearing)

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_91

HB94 HEALTH CARE INSURANCE (GONZALES A) To require a health insuring corporation, public employee benefit plan, or sickness and accident insurer to reimburse a board of health for any services provided to an individual by the board that is covered by a plan issued to the individual by the health insuring corporation, public employee benefit plan, or sickness and accident insurer upon request submitted by the board of health.

Current Status: 5/7/2013 - House Insurance, (Second Hearing)

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_94

HB96 PUBLIC EMPLOYEES' COLLECTIVE BARGAINING LAW (STRAHORN F) To eliminate an exemption from the Public Employees' Collective Bargaining Law for specified educational employees.

Current Status: 6/11/2013 - House Education, (First Hearing)

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_96

HB121 OHIO HEALTH SECURITY ACT (HAGAN R, FOLEY M) To enact the Ohio Health Security Act to establish and operate the Ohio Health Care Plan to provide universal health care coverage to all Ohio residents.

Current Status: 4/17/2013 - Referred to Committee House Insurance

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_121

HB123 TELEHEALTH SERVICES (GONZALES A, WACHTMANN L) Regarding Medicaid and health insurance coverage of telehealth services.

Current Status: 2/18/2014 - **SIGNED BY GOVERNOR**; Eff. 5/20/2014

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_123

HB125 MEDICAID EXPANSION (CARNEY J, ANTONIO N) To permit the Medicaid program to cover the eligibility expansion group authorized by the Patient Protection and Affordable Care Act and to make an appropriation.

Current Status: 4/17/2013 - Referred to Committee House Finance and Appropriations

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_125

HB151 RIGHT TO WORK-PRIVATE EMPLOYERS (ROEGNER K) To prohibit any requirement that employees of private employers join or pay dues to any employee organization and to establish civil and criminal penalties against employers who violate that prohibition.

Current Status: 6/4/2013 - House Manufacturing and Workforce Development, (First Hearing)

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_151

HB152 RIGHT TO WORK-PUBLIC EMPLOYEES (MAAG R) To remove any requirement under the Public Employees Collective Bargaining Law that public employees join or pay dues to

any employee organization and to prohibit public employers from requiring public employees to join or pay dues to any employee organization.

Current Status: 5/7/2013 - Referred to Committee House State and Local Government

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_152

- HB153** **MEDICAL CANNABIS** (HAGAN R) Regarding the medical use of cannabis.
Current Status: 5/29/2013 - House Health and Aging, (First Hearing)
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_153
- HB163** **OHIO CIVIL RIGHTS LAW EXPANSION** (MCGREGOR R, ANTONIO N) To prohibit discrimination on the basis of sexual orientation or gender identity, to create an exception for unlawful discriminatory practices concerning admission to or membership in certain religious organizations, to add mediation to the list of informal methods by which the Ohio Civil Rights Commission must attempt to induce compliance with Ohio's Civil Rights Law before instituting a public hearing.
Current Status: 5/22/2013 - House Commerce, Labor and Technology, (First Hearing)
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_163
- HB176** **MEDICAID REFORMS** (SEARS B) To require the Medical Assistance Director to implement Medicaid reforms, to permit the Medicaid program to cover an additional group under certain circumstances, to revise the duties of the Joint Legislative Committee on Medicaid Technology and Reform, and to make an appropriation.
Current Status: 10/16/2013 - House Health and Aging, (First Hearing)
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_176
- HB208** **MEDICAID REFORMS** (AMSTUTZ R, SYKES V) To require the Medicaid Director to implement certain reforms to the Medicaid program, to require the Director of Job and Family Services to implement certain reforms to workforce development activities, to create the Joint Medicaid Oversight Committee to review proposed rules regarding the Medicaid and workforce development activity reforms, to require the Joint Medicaid Oversight Committee to issue reports recommending certain changes to the Medicaid program, and to abolish the Joint Legislative Committee on Health Care Oversight and the Joint Legislative Committee on Medicaid Technology and Reform.
Current Status: 1/8/2014 - House Finance and Appropriations, (Fourth Hearing)
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_208
- HB227** **HEALTH CARE COMPACT** (RETFERFORD W, BOOSE T) To enter into the Health Care Compact.
Current Status: 4/1/2014 - **REPORTED OUT**, House State and Local Government, (Fourth Hearing)
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_227
- HB235** **EMPLOYMENT APPLICATIONS** (WILLIAMS S) To prohibit employers from including on an employment application any question concerning whether an applicant has been convicted of or pleaded guilty to a felony.
Current Status: 10/2/2013 - House Commerce, Labor and Technology, (First Hearing)
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_235
- HB253** **PAYCHECK CARD** (ROGERS J) To prohibit certain employers from requiring employees

to accept the employees' pay in the form of a paycheck card.

Current Status: 5/7/2014 - House Commerce, Labor and Technology, (Second Hearing)

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_253

HB255 **MEDICAID ELIGIBILITY (BECKER J)** To revise the law governing eligibility for the Medicaid program and to abolish the Medicaid Buy-In for Workers with Disabilities Program.

Current Status: 10/16/2013 - House Health and Aging, (First Hearing)

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_255

HB316 **MEDICAID-COVERED COMMUNITY BEHAVIORAL HEALTH SERVICES (WACHTMANN L)** Regarding Medicaid-covered community behavioral health services.

Current Status: 10/30/2013 - Referred to Committee House Health and Aging

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_316

HB317 **MEDICAID REFORM MEASURES (SEARS B)** Regarding reforms relating to Medicaid, fraud committed against the state, penalties for certain drug offenses committed against pregnant women, non-opiate medication for released inmates, prescription-related identification requirements, and education for individuals without a high school diploma.

Current Status: 10/30/2013 - Referred to Committee House Health and Aging

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_317

HB320 **FREE CLINICS (YOUNG R)** To create a state income tax deduction regarding certain health care services provided at a free clinic; to extend qualified immunity from civil liability for certain volunteer health care services provided to individuals eligible for or receiving Medicaid; to authorize a person practicing under a volunteer's certificate to provide health care services to any person; to create a volunteer's certificate for retired nurses; and to designate December as "Free Clinic Appreciation Month."

Current Status: 5/20/2014 - Senate Finance, (Fourth Hearing)

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_320

HB329 **FEDERAL FUNDS REPAYMENT-UNEMPLOYMENT BENEFITS (HALL D)** To require the Director of Budget and Management to make payments on the balance of amounts borrowed by the state from the federal government to issue unemployment benefits and to make an appropriation.

Current Status: 11/6/2013 - Referred to Committee House Finance and Appropriations

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_329

HB472 **MBR-MID-BIENNIUM BUDGET REVIEW (MCCLAIN J)** To make operating and other appropriations and to provide authorization and conditions for the operation of state programs.

Current Status: 3/26/2014 - House Ways and Means, (Third Hearing)

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_472

HCR23 **FEDERAL WORKFORCE INVESTMENT ACT (DERICKSON T, ROMANCHUK M)** To urge the Congress of the United States to take action on the federal Workforce Investment Act to allow states greater flexibility to address current economic realities.

Current Status: 10/22/2013 - **REPORTED OUT**, Senate Workforce and Economic Development, (Third Hearing)

State Bill Page: http://www.legislature.state.oh.us/res.cfm?ID=130_HCR_23

- HJR5** **RIGHT TO WORK** (ROEGNER K, MAAG R) Proposing to enact Section 22 of Article I of the Constitution of the State of Ohio to prohibit employees from being forced to participate in a labor organization as a condition of employment.
Current Status: 6/4/2013 - House Manufacturing and Workforce Development, (First Hearing)
State Bill Page: http://www.legislature.state.oh.us/res.cfm?ID=130_HJR_5
- HJR6** **MARIJUANA LEGALIZATION** (HAGAN R) Proposing to enact Section 12 of Article XV of the Constitution of the State of Ohio to legalize the production, use, and sale of marijuana under specified conditions and to provide for the regulation and taxation of marijuana.
Current Status: 6/18/2013 - House State and Local Government, (First Hearing)
State Bill Page: http://www.legislature.state.oh.us/res.cfm?ID=130_HJR_6
- SB4** **PULSE OXIMETRY SCREENING** (MANNING G, OELSLAGER S) To require a pulse oximetry screening for each newborn born in a hospital or freestanding birthing center.
Current Status: 6/27/2013 - **SIGNED BY GOVERNOR**; Eff. 9/27/2013
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_4
- SB8** **UNEMPLOYMENT COMPENSATION BENEFITS-MILITARY SPOUSE** (LAROSE F) To permit persons who quit work to accompany the person's spouse on a military transfer to be eligible for unemployment compensation benefits.
Current Status: 9/19/2013 - Referred to Committee House Military and Veterans Affairs
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_8
- SB9** **HEALTH INSURANCE LAWS** (BACON K) To make changes to Ohio's health insurance laws related to implementation of the Federal Affordable Care Act.
Current Status: 6/4/2013 - **SIGNED BY GOVERNOR**; Eff. 9/4/2013
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_9
- SB11** **SUMMER MEAL PROGRAMS** (BROWN E) To require school districts to allow alternative summer meal sponsors to use school facilities to provide food service for summer intervention services under certain conditions, to allow the distribution and consumption of meals on a school bus, and to create a healthy food license for child day-care centers and school child programs.
Current Status: 3/6/2013 - Senate Medicaid, Health and Human Services, (First Hearing)
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_11
- SB14** **UNEMPLOYMENT COMPENSATION LAW** (KEARNEY E) To authorize programs and tax credits to encourage the hiring of unemployed individuals, to make changes to the Unemployment Compensation Law, to authorize grants and tax credits for the rehabilitation of distressed areas and the expansion of broadband connections to rural areas, to create a revolving loan fund and a bonding program for small businesses, to make changes to the Minority Business Bonding Program, to levy taxes, and to make an appropriation.
Current Status: 9/24/2013 - Senate Finance, (First Hearing)
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_14
- SB23** **ADOPTION RECORDS** (BEAGLE B, BURKE D) Regarding access to adoption records.
Current Status: 12/19/2013 - **SIGNED BY GOVERNOR**; Eff. 3/20/2014 Section 3 Provisions 3/20/2015
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_23

- SB25 SHAREDWORK OHIO PROGRAM (PETERSON B, LAROSE F)** To create the SharedWork Ohio Program and to declare an emergency.
Current Status: 4/10/2013 - Referred to Committee House Commerce, Labor and Technology
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_25
- SB26 HEAD INJURIES-YOUTH SPORTS (SCHAFFER T)** To correct a cross reference with regard to concussions and head injuries in athletic activities organized by youth sports organizations and to declare an emergency.
Current Status: 5/28/2013 - **SIGNED BY GOVERNOR**; Eff. 5/28/2013
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_26
- SB39 HUMAN PAPILOMAVIRUS SCREENINGS AND VACCINES (BROWN E, SCHIAVONI J)** To require insurance providers to cover human papillomavirus screenings and vaccines.
Current Status: 2/27/2013 - Senate Insurance and Financial Institutions, (First Hearing)
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_39
- SB45 PRIVATE ELECTRONIC ACCOUNTS ACCESS (TAVARES C)** To prohibit employers, employment agencies, personnel placement services, and labor organizations from requiring an applicant or employee to provide access to private electronic accounts of the applicant or employee.
Current Status: 3/6/2013 - Senate Commerce and Labor, (Second Hearing)
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_45
- SB49 PHYSICIAN DESIGNATION STANDARDS (PATTON T)** To establish standards for physician designations by health care insurers.
Current Status: 3/13/2013 - Senate Insurance and Financial Institutions, (Second Hearing)
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_49
- SB65 PUBLIC EMPLOYEES' COLLECTIVE BARGAINING LAW (TURNER N)** To eliminate an exemption from the Public Employees' Collective Bargaining Law for specific educational employees.
Current Status: 6/12/2013 - Senate Commerce and Labor, (First Hearing)
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_65
- SB75 HEALTH CARE INSURERS (TAVARES C)** To prohibit health insurers from denying payment for a service during or after the performance of the service if the insurer provided prior written authorization for the service.
Current Status: 4/10/2013 - Senate Insurance and Financial Institutions, (First Hearing)
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_75
- SB88 OHIO HEALTH BENEFIT EXCHANGE PROGRAM (SKINDELL M)** To establish the Ohio Health Benefit Exchange Agency and to establish the Ohio Health Benefit Exchange Program consisting of an exchange for individual coverage and a Small Business Health Options Program.
Current Status: 4/10/2013 - Senate Insurance and Financial Institutions, (First Hearing)
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_88

- SB92** **WAGE DISCRIMINATION** (TURNER N, TAVARES C) To enact the "Fair and Acceptable Income Required (FAIR) Act" and to revise the enforcement of the prohibitions against discrimination in the payment of wages.
Current Status: 6/18/2013 - Senate Commerce and Labor, (First Hearing)
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_92
- SB117** **MEDICAID PROGRAM** (SMITH S) To permit the Medicaid program to cover the eligibility expansion group authorized by the Patient Protection and Affordable Care Act and to make an appropriation.
Current Status: 5/8/2013 - Referred to Committee Senate Finance
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_117
- SB119** **DOMESTIC WORKERS PROTECTION** (TAVARES C) To require that domestic workers be paid the minimum wage, as provided in Section 34a of Article II, Ohio Constitution, to require that domestic workers be paid overtime wages, to make certain conduct directed toward a domestic worker an unlawful discriminatory practice, and to require a weekly day of rest for domestic workers.
Current Status: 6/18/2013 - Senate Commerce and Labor, (First Hearing)
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_119
- SB125** **OHIO CIVIL RIGHTS LAW EXPANSION** (LAROSE F, SKINDELL M) To prohibit discrimination on the basis of sexual orientation or gender identity, to create an exception for unlawful discriminatory practices concerning admission to or membership in certain religious organizations, to add mediation to the list of informal methods by which the Ohio Civil Rights Commission must attempt to induce compliance with Ohio's Civil Rights Law before instituting a public hearing.
Current Status: 6/26/2013 - Referred to Committee Senate Civil Justice
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_125
- SB145** **MEDICAID REFORMS** (BURKE D, CAFARO C) To require the Medicaid Director to implement certain reforms to the Medicaid program, to require the Director of Job and Family Services to implement certain reforms to workforce development activities, to create the Joint Medicaid Oversight Committee to review proposed rules regarding the Medicaid and workforce development activity reforms, to require the Joint Medicaid Oversight Committee to issue reports recommending certain changes to the Medicaid program, and to abolish the Joint Legislative Committee on Health Care Oversight and the Joint Legislative Committee on Medicaid Technology and Reform.
Current Status: 6/19/2013 - Senate Medicaid Finance Subcommittee, (First Hearing)
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_145

State	Outstanding Advance Balance	Authorization Current Month	Gross Advance Draws Current Month	Interest for FY2014
Alabama	0.00	0.00	0.00	0.00
Arizona	0.00	40,000,000.00	851,100.00	28,070.86
Arkansas	89,765,161.49	0.00	0.00	1,809,791.47
California	7,412,226,813.55	650,000,000.00	124,000,000.00	144,786,266.14
Colorado	0.00	0.00	0.00	0.00
Connecticut	611,288,504.41	0.00	0.00	8,594,252.57
Delaware	62,492,640.50	0.00	0.00	1,036,429.99
Florida	0.00	0.00	0.00	0.00
Georgia	62,490,887.99	0.00	0.00	2,907,930.26
Hawaii	0.00	0.00	0.00	0.00
Idaho	0.00	0.00	0.00	0.00
Illinois	0.00	0.00	0.00	0.00
Indiana	1,055,853,948.09	50,000,000.00	8,288,811.97	20,421,924.65
Kansas	0.00	0.00	0.00	0.00
Kentucky	411,719,619.97	40,000,000.00	7,853,147.58	9,539,008.55
Maryland	0.00	0.00	0.00	0.00
Massachusetts	0.00	250,000,000.00	0.00	0.00
Michigan	0.00	0.00	0.00	0.00
Minnesota	0.00	0.00	0.00	0.00
Missouri	256,871,421.52	15,000,000.00	0.00	4,590,285.91
Nevada	0.00	0.00	0.00	1,424,740.93
New Hampshire	0.00	0.00	0.00	0.00
New Jersey	0.00	50,000,000.00	2,126,000.00	2,815,516.43
New York	1,517,751,144.71	300,000,000.00	0.00	45,498,739.04
North Carolina	1,101,025,038.72	75,000,000.00	7,458,043.18	27,187,760.36
Ohio	1,613,152,580.93	25,000,000.00	0.00	23,576,615.39
Pennsylvania	434,510,981.58	100,000,000.00	37,674,372.20	1,121,837.36
Rhode Island	40,985,852.41	17,000,000.00	2,770,793.00	1,796,627.72
South Carolina	396,512,366.54	0.00	0.00	6,779,813.84
South Dakota	0.00	0.00	0.00	0.00
Tennessee	0.00	0.00	0.00	0.00
Texas	0.00	0.00	0.00	0.00
Vermont	0.00	0.00	0.00	0.00
Virginia	0.00	0.00	0.00	0.00
Virgin Islands	84,924,581.44	2,000,000.00	0.00	1,230,416.18
Wisconsin	1,847,576.07	200,000,000.00	8,503,236.31	5,917,641.95
Totals	15,153,419,119.92	1,814,000,000.00	199,525,504.24	311,063,669.60

Solvency of State Unemployment Insurance (UI) Trust Funds

Introduction

The publication of the yearly Solvency Report provides an opportunity for interested users to evaluate and compare the solvency level of each state's UI trust fund.

UI taxes paid primarily by employers on the wages paid to employees flow into state UI accounts maintained at the U.S. Treasury. These same accounts are the source of benefit payments to eligible claimants in the regular UI program.

In the 2007-09 recession and its aftermath, 36 states were depleted their UI funds and were forced to borrow from the Federal government to continue paying benefits. Much of the borrowing was due to the fact that many states did not have adequate UI trust funds going into the recession. Now these states are in a position of having to find ways to repay the Federal loans as well as to build up their trust funds before the next recession.

Currently, state UI programs have approximately \$20 billion in outstanding Federal loans (and approximately an additional \$10 billion in outstanding private borrowing) from 23 states. In the next few years, states will have to repay their loans and rebuild their trust funds.

This report is constructed to provide the information needed for analyzing trust fund solvency. The seventeen variables in this report are divided into three sections. The first eleven variables provide the status of the State Trust fund level, the next two items cover the state's Solvency Measures, followed by the Calculations of Federal Borrowing Statutes and FUTA Credit Reductions. An explanation and derivation of each item can be found in the report glossary.

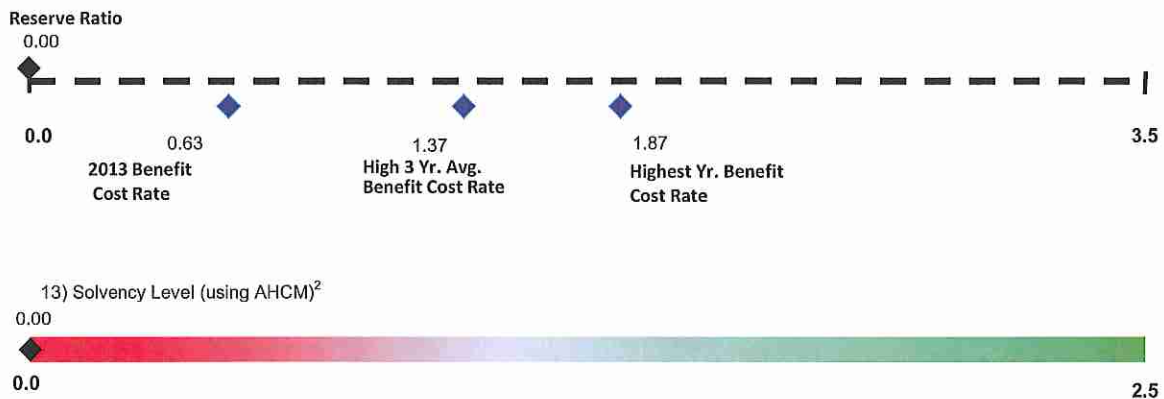
OHIO - 2014

State Trust Fund Status

1) UI Trust Fund Balance 3/31/2014:	\$7,880,823	2) Interest Earned for 2013:	\$0.00
Balance 12/31/2013:	\$51,016,111		
3) Outstanding Title XII Advance 3/31/2014:	\$1,589,750,581	4) Total Title XII Advances ¹ :	\$3,605,488,574
5) Title XII Interest Owed for 2013:	\$44,495,535	6) Max. Amount of Outstanding Advances:	\$2,611,387,131
7) Title XII Advances Per Gov. Employee:	\$407.03	8) Date of Maximum Outstanding Amount:	4/30/2011
9) Title XII Advances as % of Gov. Wages:	0.93	10) Private Borrowing Instrument Issued:	N/A
		11) For Amount of :	\$0

State Trust Fund Solvency

12) Trust Fund Compared to Benefit Costs



Calculations of Federal Borrowing Statutes and FUTA Credit Reductions

Eligibility for Interest Free Borrowing in 2014

14) Last year in which State achieved a 0.5 Avg. High Cost Multiple ³ :	2001
15) Lowest Percentage the Avg. Tax rate is of the Previous 5 yr. Ben Cost Rate (in the last 5 years)	N/A
16) Lowest Percentage the Average Tax Rate is of the Previous Avg. Year's Tax Rate (in the last 5 years)	N/A

FUTA Tax Rate

	Credit Reduction	2.7% Add-on	BCR Add-on	Total	FUTA Tax Rate ⁵
17) Due to Outstanding Loans					
2013	0.9%	0.0%	0.0%	0.90%	1.5%
Potential 2014 ⁴	1.2%	0.0%	1.4%	2.60%	3.2%

1 Total Advances from 12/31/2007 to 3/31/2014

2 Average High Cost Multiple (AHCM) value is as of 1/1/2014.

3 Must occur in the last 5 years to be eligible for an interest free loan

4 Amounts estimated as of 3/31/2014. Credit reductions apply only to states with outstanding loans as of November 10, 2014.

5 Represents the difference between total FUTA credit (with any reductions) and the FUTA tax rate of 6.0%

Summary of State Trust Fund Status

2014

Table 1

STATE	Trust Fund Balance as of 3/31/2014	Outstanding Title XII Advance as of 3/31/2014	Reserve Ratio ¹	Average High Cost Multiple ¹
ALASKA	336,628,633	0	2.92	1.29
ALABAMA	200,948,858	0	0.38	0.41
ARKANSAS	72,243,007	89,765,161	0.00	0.00
ARIZONA	5,103,112	0	0.03	0.03
CALIFORNIA	31,923,665	9,909,310,760	0.00	0.00
COLORADO	481,669,819	0	0.58	0.55
CONNECTICUT	35,865,191	575,855,561	0.00	0.00
DIST. OF COLUMBIA	273,446,493	0	0.93	0.92
DELAWARE	13,070,054	62,492,641	0.00	0.00
FLORIDA	794,496,318	0	0.31	0.31
GEORGIA	14,386,797	56,785,888	0.00	0.00
HAWAII	323,474,018	0	1.70	0.87
IOWA	778,648,762	0	1.89	1.29
IDAHO	414,047,163	0	2.37	1.30
ILLINOIS	581,214,898	0	0.43	0.28
INDIANA	4,797,060	1,358,315,247	0.00	0.00
KANSAS	60,926,241	0	0.21	0.19
KENTUCKY	106	647,209,979	0.00	0.00
LOUISIANA	803,774,710	0	1.27	1.29
MASSACHUSETTS	401,738,462	0	0.45	0.24
MARYLAND	774,053,425	0	0.92	0.76
MAINE	264,222,772	0	1.89	0.99
MICHIGAN	1,333,514,335	0	1.08	0.50
MINNESOTA	1,020,618,806	0	1.12	0.81
MISSOURI	8,108,194	247,691,148	0.00	0.00
MISSISSIPPI	503,448,954	0	1.75	1.65
MONTANA	196,366,048	0	1.66	1.13
NORTH CAROLINA	221,840,075	1,674,699,203	0.00	0.00
NORTH DAKOTA	143,026,290	0	1.11	1.15
NEBRASKA	339,536,114	0	1.33	1.77
NEW HAMPSHIRE	228,114,288	0	1.06	1.04
NEW JERSEY	32,763,121	409,040,824	0.00	0.00
NEW MEXICO	42,886,535	0	0.25	0.17
NEVADA	69,146,010	0	0.24	0.11
NEW YORK	11,988,682	3,233,447,412	0.00	0.00
OHIO	7,880,823	1,589,750,581	0.00	0.00
OKLAHOMA	1,083,803,234	0	2.04	2.06
OREGON	1,844,742,691	0	3.36	1.35
PENNSYLVANIA	51,291,494	217,283,927	0.13	0.06
PUERTO RICO	362,459,862	0	2.25	0.84
RHODE ISLAND	119,274	125,162,520	0.00	0.00
SOUTH CAROLINA	168,350,743	456,512,367	0.00	0.00
SOUTH DAKOTA	59,405,800	0	0.63	1.16
TENNESSEE	729,622,030	0	0.82	0.80
TEXAS	1,113,217,437	0	0.31	0.36
UTAH	668,078,534	0	1.67	1.47
VIRGINIA	138,830,592	0	0.15	0.21
VIRGIN ISLANDS	13,641,825	84,924,581	0.00	0.00
VERMONT	73,856,733	0	1.02	0.51
WASHINGTON	2,943,354,462	0	2.61	1.20
WISCONSIN	4,228,104	459,850,124	0.00	0.00
WEST VIRGINIA	55,312,322	0	0.50	0.32
WYOMING	287,556,570	0	3.11	2.13

¹ Estimated as of 12/31/2013

Summary of State Eligibility For Interest Free Advance

2014

Table 2

STATE	Interest Free Loan Eligibility for 2014	Last Year State Achieved 0.5 AHCM	Lowest Percentage Avg. Tax Rate is of the 5 yr. Ben Cost Rate	Lowest Percentage Avg. Tax Rate is of the Previous Yr. Tax Rate
ALASKA	Eligible	2013	98%	87%
ALABAMA	Ineligible	2007	84%	80%
ARKANSAS	Ineligible	2000	94%	100%
ARIZONA	Ineligible	2008	65%	92%
CALIFORNIA	Ineligible	2002	69%	96%
COLORADO	Eligible	2013	92%	95%
CONNECTICUT	Ineligible	2007	92%	104%
DIST. OF COLUMBIA	Eligible	2013	79%	99%
DELAWARE	Ineligible	2008	69%	103%
FLORIDA	Ineligible	2008	74%	109%
GEORGIA	Ineligible	2008	76%	105%
HAWAII	Eligible	2013	35%	95%
IOWA	Eligible	2013	99%	88%
IDAHO	Eligible	2013	106%	93%
ILLINOIS	Ineligible	1999	75%	85%
INDIANA	Ineligible	2008	57%	97%
KANSAS	Ineligible	2008	94%	98%
KENTUCKY	Ineligible	2002	71%	99%
LOUISIANA	Eligible	2013	47%	92%
MASSACHUSETTS	Ineligible	2007	93%	96%
MARYLAND	Eligible	2013	82%	92%
MAINE	Eligible	2013	74%	100%
MICHIGAN	Ineligible	2008	70%	99%
MINNESOTA	Eligible	2013	92%	99%
MISSOURI	Ineligible	2007	85%	95%
MISSISSIPPI	Eligible	2013	50%	85%
MONTANA	Eligible	2013	92%	98%
NORTH CAROLINA	Ineligible	2000	82%	96%
NORTH DAKOTA	Eligible	2013	96%	92%
NEBRASKA	Eligible	2013	83%	64%
NEW HAMPSHIRE	Eligible	2013	109%	98%
NEW JERSEY	Ineligible	2003	81%	104%
NEW MEXICO	Ineligible	2010	73%	95%
NEVADA	Ineligible	2008	61%	97%
NEW YORK	Ineligible	1990	84%	98%
OHIO	Ineligible	2001	75%	88%
OKLAHOMA	Eligible	2013	66%	92%
OREGON	Eligible	2013	98%	99%
PENNSYLVANIA	Ineligible	2001	77%	97%
PUERTO RICO	Eligible	2013	73%	96%
RHODE ISLAND	Ineligible	2003	75%	102%
SOUTH CAROLINA	Ineligible	2008	55%	89%
SOUTH DAKOTA	Eligible	2013	101%	66%
TENNESSEE	Eligible	2013	95%	91%
TEXAS	Ineligible	1991	77%	98%
UTAH	Eligible	2013	75%	99%
VIRGINIA	Ineligible	2008	77%	101%
VIRGIN ISLANDS	Ineligible	2007	12%	95%
VERMONT	Eligible	2013	73%	110%
WASHINGTON	Eligible	2013	70%	78%
WISCONSIN	Ineligible	2003	78%	100%
WEST VIRGINIA	Ineligible	2002	92%	99%
WYOMING	Eligible	2013	119%	100%

Summary of State FUTA Tax Rate Calculation

2014

Table 3

STATE	FUTA Credit Reduction			Total Credit Reduction	2014 Final FUTA Tax Rate
	Basic Reduction	Potential 2.7 Add-on	Estimated Potential BCR Add-on		
ALASKA	-	-	-	-	0.6%
ALABAMA	-	-	-	-	0.6%
ARKANSAS	1.2%	-	0.5%	1.7%	2.3%
ARIZONA	-	-	-	-	0.6%
CALIFORNIA	1.2%	-	1.5%	2.7%	3.3%
COLORADO	-	-	-	-	0.6%
CONNECTICUT	1.2%	-	0.5%	1.7%	2.3%
DIST. OF COLUMBIA	-	-	-	-	0.6%
DELAWARE	0.9%	-	-	0.9%	1.5%
FLORIDA	-	-	-	-	0.6%
GEORGIA	1.2%	-	0.6%	1.8%	2.4%
HAWAII	-	-	-	-	0.6%
IOWA	-	-	-	-	0.6%
IDAHO	-	-	-	-	0.6%
ILLINOIS	-	-	-	-	0.6%
INDIANA	1.5%	-	1.2%	2.7%	3.3%
KANSAS	-	-	-	-	0.6%
KENTUCKY	1.2%	-	1.0%	2.2%	2.8%
LOUISIANA	-	-	-	-	0.6%
MASSACHUSETTS	-	-	-	-	0.6%
MARYLAND	-	-	-	-	0.6%
MAINE	-	-	-	-	0.6%
MICHIGAN	-	-	-	-	0.6%
MINNESOTA	-	-	-	-	0.6%
MISSOURI	1.2%	-	0.4%	1.6%	2.2%
MISSISSIPPI	-	-	-	-	0.6%
MONTANA	-	-	-	-	0.6%
NORTH CAROLINA	1.2%	-	0.5%	1.7%	2.3%
NORTH DAKOTA	-	-	-	-	0.6%
NEBRASKA	-	-	-	-	0.6%
NEW HAMPSHIRE	-	-	-	-	0.6%
NEW JERSEY	1.2%	-	-	1.2%	1.8%
NEW MEXICO	-	-	-	-	0.6%
NEVADA	-	-	-	-	0.6%
NEW YORK	1.2%	-	0.7%	1.9%	2.5%
OHIO	1.2%	-	1.4%	2.6%	3.2%
OKLAHOMA	-	-	-	-	0.6%
OREGON	-	-	-	-	0.6%
PENNSYLVANIA	-	-	-	-	0.6%
PUERTO RICO	-	-	-	-	0.6%
RHODE ISLAND	1.2%	-	1.0%	2.2%	2.8%
SOUTH CAROLINA	1.5%	-	0.5%	2.0%	2.6%
SOUTH DAKOTA	-	-	-	-	0.6%
TENNESSEE	-	-	-	-	0.6%
TEXAS	-	-	-	-	0.6%
UTAH	-	-	-	-	0.6%
VIRGINIA	-	-	-	-	0.6%
VIRGIN ISLANDS	1.2%	-	1.6%	2.8%	3.4%
VERMONT	-	-	-	-	0.6%
WASHINGTON	-	-	-	-	0.6%
WISCONSIN	1.2%	-	0.1%	1.3%	1.9%
WEST VIRGINIA	-	-	-	-	0.6%
WYOMING	-	-	-	-	0.6%

State Unemployment Insurance Solvency Report

Data Definitions

Following are the definitions used for all of the items reported on the State Unemployment Insurance Solvency Report.

- | | |
|---|--|
| 1) UI Trust Fund Balance: | The balance in the individual state account in the Unemployment Trust Fund as of January 1, and as of March 31 of the report year. (Source: U.S. Department of Treasury Bureau of Public Debt). |
| 2) Interest Earned: | The total amount of interest earned by the Unemployment Trust Fund account in the fiscal year preceding the report year. (Source: U.S. Department of Treasury Bureau of Public Debt) |
| 3) Outstanding Title XII Advance: | Balance of outstanding advances, as of March 31 of the report year, acquired by the state under Title XII of the Social Security Act. (Source: U.S. Department of Treasury Bureau of Public Debt) |
| 4) Total Title XII Advances: | Total amount of advances from 12/31/2007 (beginning of the last recession) to March 31 of the report year. (Source: Unpublished U.S. Department of Treasury reports) |
| 5) Title XII Interest Owed: | The amount of interest incurred on Title XII advances in the fiscal year preceding the report year. (Source: U.S. Department of Treasury Bureau of Public Debt) |
| 6) Maximum Amount of Outstanding Advances: | The highest amount of month-ending outstanding Title XII advances reached from 12/31/2007 to the report date. ((Source: Unpublished U.S. Department of Treasury reports) |
| 7) Title XII Advances Per Covered Employee: | Outstanding Title XII advances as of March 31 of the report year divided by estimated covered employment for the previous calendar year. |
| 8) Date of Maximum Outstanding Amount: | The date of the maximum outstanding Title XII advances (Item 6) since the beginning of the last recession. |
| 9) Title XII Advances as a Percent of Covered Wages: | Outstanding Title XII advances as of March 31 of the report year, divided by estimated total wages for covered employment in the last calendar year, multiplied by 100. (Note: Total wages for the prior calendar year consist of actual data for the first three quarters and estimated wages for the fourth quarter) |

- 10) Private Borrowing Instrument Issued:** The date when a private borrowing financial instrument was issued.
- 11) Amount of Private Borrowing Instrument:** The total value of the private borrowing financial instrument at the time of issue.
- 12) Trust Fund Compared to State Benefit Costs:** This chart provides a visual comparison between the state's current reserve level, measured by the Reserve Ratio (the state trust fund as of January 1 as a percentage of estimated total wages in the past calendar year), and the state's historic benefit costs (measured by benefit cost rate). Benefit cost rate of any given year is defined as total benefits paid for the year (the sum of regular UI benefits and the state share of the extended benefits, but excluding reimbursable benefits) as a percent of total wages in taxable employment.
- Benefit Cost Rate in the previous calendar year uses total benefits for that period. The high 3 year average Benefit cost rate uses the benefits in the three highest years in the last twenty years (or a period including three recessions, if longer). The highest year benefit cost rate uses the highest ratio of benefits paid to wages in the last twenty years (or a period including three recessions, if longer).
- 13) Solvency Level Using Average High Cost Multiple:** The black diamond in this chart represents the Average High Cost Multiple, which is measured as the Reserve Ratio (or Trust Fund as % of Total Wages) at the end of the calendar year immediately preceding the report year, divided by the Average High Cost Rate. Average High Cost Rate is the average of the three highest calendar year benefit cost rates in the last 20 years (or a period including three recessions, if longer).
- 14) Last Year in which State Achieved a 0.5 Average High Cost Multiple** The interest free loan eligibility criteria implemented for the first time this year requires states achieve a solvency target within the previous 5 years. The solvency target for 2014 is a 0.5 Average High Cost Multiple. This entry provides the last year in which the state achieved this solvency target. If the year is dated more than 5 years ago, the state is not eligible for an interest free loan for this year.
- 15) Lowest Percentage the Average Tax rate is of the Previous 5 year Benefit Cost Rate (in the last 5 years):** The interest free loan eligibility criteria maintains that for each year between the year in which the solvency target was last met and the year of loan, the state's average tax rate on total wages as percentage of the state's five year benefit-cost rate must be at least 75%. This entry provides the lowest of such percentage (N/A if the solvency target was last met

16) Lowest Percentage the Average Tax Rate is of the Previous Average Year's Tax Rate (in the last 5 years):

more than 5 years ago). If this value is N/A or below 75%, the state is not eligible for an interest free loan.

The interest free loan eligibility criteria also maintains that for each year between the year in which the solvency target was last met and the year of loan, the state's average tax rate on total wages as percentage of the state's previous year's average tax rate must be at least 80%. This entry provides the lowest of such percentage (N/A if the solvency target was last met more than 5 years ago). If this value is N/A or below 80%, the state is not eligible for an interest free loan.

17) FUTA Tax Rate

The Federal Unemployment Tax Act of the Internal Revenue Code stipulates that the full FUTA tax rate is 6.0%, levied on the first \$7000 of an employee's earnings. States in full compliance with federal requirements will receive a credit of 5.4% against the FUTA tax.

17a) FUTA Credit Reduction

When a state has an outstanding loan balance on January 1st for two or more consecutive years, and the full amount of the loan is not repaid by November 10 of the second year, the FUTA credit will be reduced until the loan is repaid. The basic reduction schedule consists of a 0.3% annual increment in credit loss.

17b) 2.7 Add-on Credit Reduction:

If a state has outstanding loan balance on January 1st for three or more consecutive years, and the full amount of the loan is not repaid by November 10 of the tax year, then from the third year on, a 2.7% add-on may apply if the state's average tax rate on total wages is below a threshold defined by $2.7\% \times 7,000 / (\text{U.S. Avg. Annual Wage})$.

17c) Benefit Cost Rate Add-on Credit Reduction:

If a state has an outstanding loan balance on January 1st for five or more consecutive years, and the full amount of the loan is not repaid by November 10 of the tax year, then from the fifth year on, a Benefit Cost Rate (BCR) add-on may apply if the state's average tax rate on taxable wages is lower than its 5 year benefit cost rate (or 2.7%, whichever is higher). An estimate of the BCR add-on was derived by taking the average of the previous five years of total benefits paid, ending on the second prior year, divided by the total taxable wages in the previous calendar year. From this number, or 2.7% (whichever is higher), is subtracted the average tax rate on taxable wages (total contributions in the past year divided by total taxable wages as defined above). The difference is the BCR add-on amount for the specified year. For this calculation the total

taxable wages in the previous year is an estimated amount.

17d) Total Credit Reduction

The sum of the basic credit reduction amount and the add-on credit reduction amount.

17e) Final FUTA Tax Rate

The final FUTA credit a state receives is the full credit amount (5.4%) subtracted by the total credit reduction. The difference between the full FUTA tax rate (currently 6.0%) and the final credit is the actual FUTA tax rate for the state.

TO: OMA Government Affairs Committee
FROM: Ryan Augsburger/Rob Brundrett
DATE: May 28, 2014
RE: Safety and Workers' Comp Policy Update

Overview

The General Assembly has been in Columbus working steadily since mid-January minus a two week spring break for the quick primary campaign season. Most of their work has been centered on the governor's mid-biennium review bill that was broken up in to several different bills. One bill (House Bill 493) incorporates all the workers' compensation changes.

Other than the MBR no other major legislation is expected on the workers' compensation front. The legislators will leave in June and are not expected to return until after the November elections.

Legislation and Rules

HB 143 Workers' Compensation Formulas (Dovilla R-Berea and Butler R-Oakwood)

HB 143 would require the BWC to include in the notice of premium rate that is applicable to an employer for an upcoming policy year the mathematical equation used to determine the employer's premium rate. According to the BWC this information is already available on the web for all employers to review. There would be a compliance cost to the BWC to send out repeat information. The sponsors of the bill say it is necessary because not everyone has internet access.

This bill was added to the workers' compensation MBR bill as a committee amendment. It is not expected to have much resistance in the Senate. This change may provide for some initial confusion by companies when they see the formula on their bills.

SB 176 Worker's Compensation Benefits (Seitz R-Green Township)

SB 176 would prohibit illegal and unauthorized aliens from receiving compensation and certain benefits under Ohio's Workers' Compensation Law. Senator Seitz has introduced this bill in previous General Assemblies. The bill has had two hearings. It most recently had a proponent testimony hearing in January.

HB 338 Test to Determine if Certain Individuals are an Employee Under BWC and Other Laws (McGregor R-Springfield and Hottinger R-Newark)

HB 338 exempts an individual who provides services for or on behalf of a motor transportation company transporting property from coverage under Ohio's Workers' Compensation Law, Ohio's Unemployment Compensation Law, and Ohio's Overtime Law if specified conditions apply to the individual. The bill was introduced in late November.

Initially the bill was expected to move. However it was pulled from hearings after it was determined that the changes in the bill could increase the unemployment compensation tax in the state of Ohio. Discussions continue on how to avert that result and still pass this bill in some form.

HB 493 Mid-Biennium Review

The Governor introduced his Mid-Biennium Review (MBR) bill this winter. The bill was immediately broken into numerous smaller bills. The BWC portion of the MBR became House Bill 493. It contains two major law provisions. The first is clean up language allowing for the complete transition to prospective payments. The second is a creation of out of state coverage. The bill is still pending in the Senate. The OMA submitted a letter to the House and Senate urging passage.

HB 462 and SB 290

Representative R. McGregor and Senator T. Patton introduced companion legislation that would permit a professional employer organization to file federal taxes in any manner permitted by federal law. This legislation came in response to the controversial rule package submitted by the BWC and supported by the major business which regulated the PEO industry.

BWC Medical Reform

The legislature has admitted that no new workers' compensation legislation would be introduced this General Assembly. Several of their leaders are now focused on the next session for new legislation.

Self-Insurance Rule Changes

The SI rules that the OMA advocated for in the budget have been approved through the JCARR process. They took effect at the end of April.

Bureau of Workers' Compensation

BWC Staff Proposes 6.3 Percent Rate Cut

The Ohio Bureau of Workers' Compensation (BWC) staff proposed that the Board of Directors approve a 6.3 percent reduction to base rates beginning July 1. If approved, this cut would mark the eighth consecutive year in which private sector rates have either fallen or remained flat.

If approved, the 6.3 percent reduction will result in an overall decrease in collected premiums of \$91 million compared to premiums under the current rates.

BWC and its actuarial consultant, Oliver Wyman, attributed the proposed reduction to better than previously expected claims frequency and claims severity.

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 discount and savings programs.

Safety & Workers' Compensation

Workers' Comp Rate Reduction Approved

This week, the Ohio Bureau of Workers' Compensation (BWC) Board of Directors approved a 6.3% overall rate reduction for private employers to take effect July 1.

The actual premium paid by individual private employers depends on a number of factors, including the expected future costs in their industry segment, their recent claims history, and their participation in various discount and savings programs. *5/22/2014*

Appellate Court Rules Against BWC in "San Allen" Case

OMA Connections Partner, Roetzel, [tells us](#) that an appellate court has ruled that the Ohio Bureau of Workers' Compensation (BWC) violated Ohio law by developing and maintaining an unlawful rating system under which excessive premium discounts were given to group-rated employers at the expense of nongroup-rated employers.

In its opinion in *San Allen, Inc., et al., vs. Stephen Buehrer, Administrator, Ohio Bureau of Workers' Compensation*, issued on May 15, 2014, the Eighth District Court of Appeals affirmed the trial court's decision ordering the BWC to refund the overcharges it unlawfully collected from nongroup-rated employers, but remanded the case for recalculation of the refund amount.

The Eighth District held the trial court failed to account for class members who migrated between nongroup and group-ratings during the class period. Therefore, it remanded the case back to the trial court to recalculate the restitution for class members who were group-rated during part of the class period by including an offset for the subsidies those class members received during the years that they were group-rated.

Per Roetzel: "In keeping with its mandate, we expect the trial court to significantly reduce its original \$860 million restitution award. Reimbursement of any premium overcharges will be paid from the state insurance fund. Previously the Bureau has indicated this will not impact the solvency of the fund. As the award is not yet final, the court has not approved a plan for class members to submit a claim and receive a portion of the award."

It is expected that the BWC will appeal this ruling. *5/21/2014*

BWC Briefs

50/50 Payment is Due June 2

If your business is enrolled in the BWC 50/50 Payment Plan, the second payment is due on June 2. Please remember that this payment cannot be future-dated. Payments can be made [online](#).

MCO Open Enrollment Ends Today

The biannual open enrollment period for selecting a different Managed Care Organization ends today, May 23. Thank you to OMA members who elected to remain with or switch to OMA's only endorsed MCO, Health Management Solutions, Inc. Contact [us](#) with any questions you have.

Canton Office Moving

Starting Monday, June 16, the BWC Canton Customer Service office will move to 339 E. Maple St., Suite 200, North Canton, six miles north of the current facility which ends operation on Friday, June 13. All phone numbers will remain the same.

Safety Update

Here is this month's [Safety Update](#) from the BWC library. *5/16/2014*

New BWC Safety Services Catalog

The Bureau of Workers' Compensation Division of Safety & Hygiene has just published this new [2014/15 Safety Services catalog](#).

The catalog contains detailed information and schedules for the many safety training classes, programs and resources available from the BWC.

Your workers' compensation premium covers the costs of these excellent services and resources. *5/8/2014*

Your MCO Matters

Every two years The Ohio Bureau of Workers' Compensation (BWC) holds a period of open enrollment during which every state fund employer can choose a different Managed Care Organization. The 2014 open enrollment period is April 28 to May 23.

The role of the MCO is to provide medical management for any of your employees who have an illness or injury that is covered by your workers' compensation insurance.

[Health Management Solutions, Inc.](#) (HMS) is the only MCO endorsed by the OMA. Not all MCOs are alike. [Read why.](#)

Switching is easier than it sounds. Submit this [form](#) and HMS will smoothly handle the transition, which will be effective June 30, 2014 for employers that switch.

To learn more, contact OMA's [Scott Weisend](#). 4/29/2014

BWC Board Approves \$1.2 Billion for Prospective Payment Transition

This week, the Ohio Bureau of Workers' Compensation (BWC) board of directors approved a \$1.2 billion credit to employers to facilitate the transition to a prospective billing model. This credit is in addition to the \$1 billion in rebates issued in 2013.

The BWC currently bills employers in arrears, meaning businesses receive coverage and are billed at a later date. The new system of prospective billing will bring BWC to the industry standard of collecting premiums before extending coverage.

The conversion is expected to result in an overall rate reduction of two percent for private employers.

The new billing system will also offer employers the option to make up to as many as 12 installment payments. Additionally, employers will have earlier opportunities to sign up for incentive programs. November 24, 2014 is the new enrollment deadline for the 2015-16 group experience rating program; and January 31, 2014 is the new deadline for the group retrospective rating program for the 2015-16 policy year.

The transition will be effective July 1, 2015, for private employers. The average private employer will enjoy a credit that will cover its August payroll report (covering the January to June 2015 premium) as well as the first two months of prospective premiums (July and August). This will prevent employers from being "double-billed" while transitioning from paying in arrears to paying in advance. 4/23/2014

BWC Staff Proposes 6.3 Percent Rate Cut

The Ohio Bureau of Workers' Compensation (BWC) staff [proposed](#) that the Board of Directors approve a

6.3 percent reduction to base rates beginning July 1. If approved, this cut would mark the eighth consecutive year in which private sector rates have either fallen or remained flat.

If approved, the 6.3 percent reduction will result in an overall decrease in collected premiums of \$91 million compared to premiums under the current rates.

BWC and its actuarial consultant, Oliver Wyman, attributed the proposed reduction to better than previously expected claims frequency and claims severity.

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 discount and savings programs. 4/22/2014

OMA Guide to Prospective Payment Transition

This year, the Bureau of Workers' Compensation (BWC) begins a landmark transition to a system whereby employers will pay for their workers' compensation coverage prior to the coverage period as opposed to after the period. This modernizes the payment practices of the BWC and aligns it with insurance industry practices.

The new system will take some getting used to. So, we've outlined the timeline and milestones that manufacturers need to know in this [piece](#). The piece is designed to be a handy desk reference for our members.

OMA members who get their workers' compensation services from the OMA will receive copies of the piece in the mail soon. If you'd like to receive copies, contact [Lisa Cummings-Dye](#) at the OMA. 4/16/2014

Snapshot of OMA Claims

[Dennis Davis](#), Managing Director, OMA Workers' Compensation Services, just completed an analysis of the 2012 claims of members participating in OMA Workers' Compensation Services.

The three most frequent injuries were: open wound of finger (235 claims), foreign body to eye (82), and lumbar region sprain (72).

The costliest claims were: sprains of shoulder/arm/neck which collectively drove costs of \$787K; sprains of lumbar region had total expenses of \$473K; and fractured hands drove \$415K in expenses.

This data helps inform the OMA's monthly safety webinar topics, as does OSHA data about most frequently cited violations. OMA members can register for webinars [here](#). 4/11/2014

Shout Out to Safety Award Winners

Last week in conjunction with the Ohio Safety Congress & Expo, the Ohio Bureau of Workers' Compensation (BWC) recognized two OMA members in its Safety Innovations Award competition. The competition recognizes development of innovative safety solutions in Ohio's businesses. Lake Shore Cryotronics, Inc., Westerville, and National Machine Company, Stow, both received honorable mentions.

Lake Shore Cryotronics Inc. is a privately-held corporation that develops measurement and control technologies. The company assembles scientific equipment from components that are costly and can weigh several hundred pounds. Operators were exposed to back injuries because they were required to manually lift and install components into equipment and racks. The company used a \$12,479 [BWC safety grant](#) to purchase a material handling lifter. In addition to a safer work environment, the new lift can be operated by one employee instead of two.

National Machine Company provides engineering, manufacturing and logistics solutions for aerospace and industrial markets. Seeking solutions to decrease the risk of musculoskeletal injuries among its workforce, the company used a \$25,791 [BWC safety grant](#) to reduce hazards associated with machining aircraft landing gear. The company purchased a hoist that allows operators to avoid manual lifting. Since installing the lifting device, the company reports significant reductions in the risk of pinching, back and shoulder injuries. 3/28/2014

OMA on Record in Support of BWC Proposals

This week, OMA issued a [letter](#) to Rep. Bob Hackett (R-London), Chairman, Insurance Committee, in support of two important Bureau of Workers' Compensation (BWC) provisions in House Bill 493.

First, there are provisions in the bill that address the confusing and problematic jurisdictional issues that occur when Ohio employers have employees who temporarily work out of the state. Interstate jurisdiction issues have been problematic for Ohio employers for years.

Second, House Bill 493 provides the final piece of enabling legislation for the BWC to complete its transition to a prospective premium payment system. The BWC has worked closely with OMA and other stakeholders in its implementation planning and

has been responsive to input. This measure modernizes the payment practices of the BWC and aligns it with insurance industry practices. 4/3/2014

Don't Miss Ohio Safety Congress Next Week

The Ohio Safety Congress & Expo 2014 is the largest regional safety and health conference in the nation! This free event will be held March 25 to 27 at the Greater Columbus Convention Center. [Here's](#) all the info.

And here's the BWC's March issue of [Safety Update](#), filled with safety tips, news and resources. 3/17/2014

Supreme Court Upholds "Louisiana Pacific" Test

OMA Connections Partner, Roetzel, reports a recent case (*State ex rel. Robinson v. Indus. Comm.*), in which the Ohio Supreme Court re-affirmed the three-part *Louisiana-Pacific* test used to determine whether an employment discharge constitutes a voluntary abandonment. The importance of this case to employers is that, under Ohio Workers' Compensation law, an employee who voluntarily abandons his or her employment for reasons not related to the industrial injury *cannot* receive temporary total disability compensation.

Although being fired is generally considered an involuntary separation from employment, when the discharge arises from the employee's decision to engage in conduct that he or she knows will result in termination, it may be considered a voluntary abandonment. Employment discharge is a voluntary abandonment only when the discharge arises from a violation of a written work rule that (1) clearly defined the prohibited conduct, (2) identified the misconduct as a dischargeable offense, and (3) was known or should have been known to the employee.

Employers are reminded to have written workplace rules and policies that clearly define prohibited conduct that constitutes a dischargeable offense and to make employees aware of those rules and policies. Read [more](#). 3/6/2014

April 30 Enrollment Deadline for BWC "Destination: Excellence" Programs (video)

It's a good time to evaluate the cost-saving and risk-reducing benefits of the Bureau of Workers' Compensation (BWC) "[Destination: Excellence](#)" programs since some programs have an April 30 enrollment date.

Here's a new [video](#) on the topic from the BWC.

OMA has tools to help employers determine their eligibility for and potential benefits of Destination: Excellence programs. Here's the [program compatibility tool](#). And, members who buy their workers' compensation services from OMA can log onto [My OMA](#) to see their company's custom cost-saving potential for each of the programs.

We'll produce a cost-saving report for any employer; just make sure we have a current [BWC AC3](#) form so we can access your data.

Questions? Contact OMA's [Scott Weisend](#). 3/3/2014

Do You Owe BWC 2-Hour Safety Training Compliance?

The Bureau of Workers' Compensation (BWC) [requires employers](#) that participate in a group plan, and that sustained a claim in 2012, complete two hours of safety training by June 30, 2014.

OMA makes it easy to comply with this BWC requirement. Every month there is a one-hour no-charge safety webinar. Each webinar counts for one-hour of the compliance requirement.

Check out our [safety webinar schedule](#) and [register](#) now! 3/6/2014

BWC Recognizes OMA Member, Rayco Manufacturing, for Safety

Ohio Bureau of Workers' Compensation (BWC) Administrator/CEO Steve Buehrer visited OMA member Rayco Manufacturing, Inc., Wooster, this week to [recognize](#) the company's exceptional efforts to maintain a safe workplace. Rayco CEO John Bowling hosted Buehrer to demonstrate the safety improvements the company has made with the assistance of a \$21,000 BWC Safety Intervention Grant.

Rayco Manufacturing, established in 1978, serves the tree and landscape industry. The company manufactures and services specialized stump cutters, wood chippers, and forestry mulchers. The company used its 2011 BWC grant to purchase weld tables to reduce the risk of injury related to moving suspended equipment weighing between 200-1300 lbs. while building large forestry chippers.

Before receiving the grant, welders used an overhead crane to lift and then weld parts together. The process often required workers to bend and stretch awkwardly, and crawl underneath objects to ensure parts were welded correctly. The purchase of the

specialized weld tables eliminated the use of cranes, and reduced the risk of injuries associated with crawling, lifting, and awkward postures. Production time has also decreased.

Learn more about the BWC's [Safety Intervention Grant Program](#). 2/25/2014

NAM Provides Opportunity to Comment on Proposed OSHA Tracking Rule

The National Association of Manufacturers (NAM) has had an influx of interest from manufacturers who want to comment on OSHA's rule to "Improve Tracking of Workplace Injuries and Illnesses," which would require larger manufacturers to submit injury and illness reports quarterly, and then allow OSHA to post the data from the reports on the Internet for public consumption.

The NAM believes disclosing this type of information serves little public good, is easily misinterpreted, and can lead to unfair conclusions or judgments about a company or particular industry.

The NAM is preparing comments on behalf of its members, and has also prepared [this](#) template letter for companies to submit to OSHA independently. Submit letters [here](#) by March 10, 2014. Click on the "Comment Now" box on the right side of the page and download your file.

For more information, please contact NAM's [Amanda Wood](#). 2/26/2014

New Wage Loss Rule Goes into Effect February 13, 2014

OMA Connections Partner, Roetzel, [reports](#) that effective February 13, 2014, the Industrial Commission (IC) and Bureau of Workers' Compensation (BWC) have enacted a new joint rule for the processing and adjudication of requests for wage loss compensation.

In response to the Governor's Common Sense Initiative and with input from stakeholders, the agencies have revamped existing regulations with an emphasis on plain language. The revised Ohio Administrative Code (OAC) [Section 4125-1-01](#) is a "more fluid recitation of the requirements that must be met for an injured worker to receive wage loss benefits – both working and non-working – under Ohio Workers' Compensation law."

Here's the [update](#) from the IC. 2/20/2014

Workers' Compensation Legislation
Prepared by: The Ohio Manufacturers' Association
Report created on May 22, 2014

- HB33** **INDUSTRIAL COMMISSION BUDGET** (HACKETT R) To make appropriations for the Industrial Commission for the biennium beginning July 1, 2013, and ending June 30, 2015, and to provide authorization and conditions for the operation of Commission programs.
Current Status: 3/26/2013 - **SIGNED BY GOVERNOR**; Eff. 3/26/2013
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_33
- HB34** **WORKERS' COMPENSATION BUDGET** (HACKETT R) To make appropriations for the Bureau of Workers' Compensation for the biennium beginning July 1, 2013, and ending June 30, 2015, and to provide authorization and conditions for the operation of the Bureau's programs.
Current Status: 3/26/2013 - **SIGNED BY GOVERNOR**; Eff. 3/26/2013
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_34
- HB59** **BIENNIAL BUDGET** (AMSTUTZ R) To make operating appropriations for the biennium beginning July 1, 2013, and ending June 30, 2015; to provide authorization and conditions for the operation of state programs.
Current Status: 6/30/2013 - **SIGNED BY GOVERNOR**; Eff. 6/30/2013; Some Eff. 9/29/2013; Others Various Dates
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_59
- HB143** **WORKERS' COMPENSATION** (DEVITIS A, BUTLER, JR. J) To require the Administrator of Workers' Compensation to include in the notice of premium rate that is applicable to an employer for an upcoming policy year the mathematical equation used by the Administrator to determine the employer's premium rate.
Current Status: 5/14/2013 - House Insurance, (First Hearing)
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_143
- HB338** **WORKERS' COMPENSATION-UNEMPLOYMENT COMPENSATION COVERAGE** (MCGREGOR R, HOTTINGER J) To establish a test to determine whether an individual providing services for or on behalf of certain motor transportation companies is considered an employee under Ohio's Overtime, Workers' Compensation, and Unemployment Compensation Laws.
Current Status: 3/12/2014 - House Commerce, Labor and Technology, (Fifth Hearing)
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_338
- HB431** **WORKERS' COMPENSATION-MEDICAID ELIGIBILITY STUDY COMMITTEE** (SEARS B, HENNE M) To create the Workers' Compensation and Medicaid Eligibility Study Committee.
Current Status: 2/25/2014 - Referred to Committee House Health and Aging
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_431
- HB462** **PROFESSIONAL EMPLOYER ORGANIZATION-FEDERAL TAXES** (MCGREGOR R) To permit a professional employer organization to file federal taxes in any manner permitted by federal law.
Current Status: 3/18/2014 - House Insurance, (First Hearing)
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_462
- HB472** **MBR-MID-BIENNIUM BUDGET REVIEW** (MCCLAIN J) To make operating and other

appropriations and to provide authorization and conditions for the operation of state programs.

Current Status: 3/26/2014 - House Ways and Means, (Third Hearing)

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_472

HB493 **MBR-WORKERS' COMPENSATION** (SEARS B, HENNE M) To make changes to Ohio's Workers' Compensation Law and to make an appropriation.

Current Status: 5/28/2014 - Senate Commerce and Labor, (Third Hearing)

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_493

HB539 **WORKERS' COMPENSATION CLAIMS** (HENNE M) To defer the charging of workers' compensation claims to an employer's experience when a third party may be liable for the claim and to create the Subrogation Suspense Account within the State Insurance Fund to which any such deferral will be charged.

Current Status: 5/14/2014 - Introduced

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_539

SB176 **ILLEGAL ALIENS-WORKERS' COMPENSATION** (SEITZ B) To prohibit illegal and unauthorized aliens from receiving compensation and certain benefits under Ohio's Workers' Compensation Law.

Current Status: 1/29/2014 - Senate Commerce and Labor, (Second Hearing)

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_176

SB290 **PROFESSIONAL EMPLOYER ORGANIZATION-FEDERAL TAXES** (PATTON T) To permit a professional employer organization to file federal taxes in any manner permitted by federal law.

Current Status: 3/25/2014 - Senate Insurance and Financial Institutions, (First Hearing)

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_290

Chairman of the Board
RICK SCHOSTEK
Senior Vice President, Honda of America Manufacturing



President
ERIC L. BURKLAND

April 1, 2014

The Honorable Bob Hackett
Chairman, Insurance Committee
Ohio House of Representatives
77 S. High St., 11th Floor
Columbus, OH 43215

RE: House Bill 493

Dear Chairman Hackett:

The Ohio Manufacturers' Association (OMA) welcomes opportunities to work with its members, the Ohio Bureau of Workers' Compensation (BWC), and the Ohio General Assembly to continually improve the Ohio workers' compensation system for injured workers and employers alike. To that end, House Bill 493 contains two important improvements that are the subjects of this letter.

First, there are provisions in the bill that address the confusing and problematic jurisdictional issues that occur when Ohio employers have employees who temporarily work out of the state. House Bill 493 allows the Administrator to provide limited other-states' coverage to provide workers' compensation coverage for Ohio employees who are temporarily working in another state in addition to other-states' coverage, and proposes to remove the reciprocity provisions and honor extraterritorial coverage of workers only temporarily in Ohio. If an injury occurs, claims should be filed under the workers' compensation laws of the state where the payroll is required to be reported by that state's workers' compensation laws. Interstate jurisdiction issues have been problematic for Ohio employers for years; the provisions of this bill provide a welcome path toward a more comprehensive solution to this complex issue.

Second, House Bill 493 provides the final piece of enabling legislation for the BWC to complete its transition to a prospective premium payment system. The BWC has worked closely with OMA and other stakeholders in its implementation planning and has been responsive to input. This measure modernizes the payment practices of the BWC and aligns it with insurance industry practices. The BWC has planned for flexible installment premium payment plans for employers as well as a mechanism to true-up premium year to year. The OMA supports this legislation.

The OMA will continue to work with Administrator Buehrer and the General Assembly to ensure that Ohio's workers and employers have a world-class workers' compensation system.

My contact information is (614) 629-6814 or rbrundrett@ohiomfg.com. Kind thanks for your attention.

Sincerely,



Robert A. Brundrett
Director, Public Policy Services

TO: OMA Government Affairs Committee
FROM: Ryan Augsburger/Rob Brundrett
DATE: May 28, 2014
RE: Tax Policy Highlights

Overview

The General Assembly has been working non-stop since mid-January minus a quick two week spring break in order to campaign for the primary season. The House Ways and Means Committee has been very active over the last three months. The severance tax and the Governor's MBR proposals have been at the forefront of their work.

State Financial Condition

Real GDP was essentially flat in the first quarter. Forecasters are still expecting solid growth in the current quarter and remainder of the year.

Ohio employment increased by 600 jobs in March. The year-to-date increase in Ohio jobs is 14,000. The unemployment rate was just announced last Friday and Ohio was down to 5.7%

Leading economic indicators remain consistent with uninterrupted growth at a modest pace across the country and in Ohio.

Tax Reform Hearings

Neither the House or the Senate who held tax study committees in the past year have released any findings from those hearings.

Tax Legislation

House Bill 5

After almost a full year of hurry up and wait House Bill 5 passed the House floor in November. That capped off almost a year of testimony and aggressive lobbying by both the proponents and the opponents of the bill.

It appears that some members of the Senate leadership team have strong concerns regarding the bill. The Senate has scheduled a first hearing on the bill for sponsor testimony. There is still a strong organized opposition from municipals.

House Bill 135

Representative Dorothy Pelanda (R-Marysville) introduced a bill to rehab vacant industrial buildings. This is modeled on a bill from Indiana. The bill originally included a CAT credit which the OMA was able to successfully remove from the bill. It is currently pending in Senate committee and has not had a hearing since November.

Senate Bill 149/House Bill 219

Representative Jim Butler (R-Oakwood) and Senator Bill Beagle (R-Tipp City) have introduced companion bills that would authorize nonrefundable tax credits against the CAT for businesses that contribute to economic development projects undertaken by local governments and nonprofit businesses. The credit is equal to 60% of a business'

contribution to a project primarily benefiting a rural area, and 50% of a contribution to a project benefiting an urban area. There is concern with these bills that they will erode the CAT base creating more pressure to increase the CAT rate on businesses. The OMA sent letters to both sponsors and has worked with them and the committee chairmen to remove the CAT credits from the bills.

Senate Bill 210

Senator Chris Widener (R-Springfield) quickly moved to introduce legislation following the Medicaid expansion controlling board vote that would take the expected savings from expansion and provide a permanent income tax rate reduction of 4% for all tax brackets beginning in 2014. That would put the highest bracket at 5.176%. The bill has had four hearings. The last was in February. The projected savings with Medicaid expansion might have been overstated. Because of this new information bills relying on expansion money will not be passed until a true figure can be determined.

Senate Bill 228

Senator Chris Widener (R-Springfield) introduced legislation in the wake of the controlling board Medicaid expansion vote that would limit the controlling board's authority to approve the expenditure of certain federal and nonfederal funds that are received in excess of the amount appropriated or are not anticipated in the current biennial appropriations act. The bill also requires information about selected non Ohio companies and requires agencies to contact Ohio entities who did not respond to an RFP. The bill was voted out of the Senate is pending in a House committee, where it has had two hearings, the last in February.

House Bill 230

Representative Cheryl Grossman (R-Grove City) has recently introduced and provided sponsor testimony on HB 230. This bill creates a refundable CAT credit for a business that donates food inventory to charitable organizations, equal to a percentage of a federal income tax deduction taken by the business for the same donation. This bill also puts pressure on the CAT rate. The OMA has expressed its concerns with Rep. Grossman and has offered language that could create a transparent grant program. The bill just received a second hearing in Ways and Means Committee.

House Bill 246

Representatives Terry Blair (R-Washington Twp.) and John Rogers (D-Mentor on the Lake) introduced HB 246 that allows an employer who hires a recent post-secondary graduate to deduct over five years, all or a percentage of the employer's costs of employing that graduate from the employer's gross receipts subject to the commercial activities tax. This is another concern for manufacturers. While not as bad as a credit is still creates a hidden deduction that could eventually impact the CAT rate. OMA met with Rep. Blair and then Chairman Beck on this bill to stress our concerns. The bill's last hearing was in October 2013.

House Bill 289

House Bill 289, sponsored by Representative Kirk Schuring (R-Canton) addresses flaws in Ohio's Joint Economic Development Zone (JEDZ) law which goes beyond the original objective of supporting economic growth and development.

House Bill 289 contains the necessary provisions that resolve the unintended consequences of the JEDZ law, specifically that income tax revenues are being diverted

from their intended economic development purposes unrelated to economic development, possibly in violation of due process for those paying the tax. The bill has passed the House and has several hearings in the Senate.

House Bill 328

Representatives Ron Young (R-Leroy) and Christina Hagan (R-Alliance) introduced legislation from the House that would modify the authority of the controlling board to approve certain expenditures. This was reaction to the controlling board vote to expand Medicaid in the state of Ohio. The bill had its third hearing in late February where the committee accepted a sub bill.

House Bill 336

House Bill 336 sponsored by Reps Dave Hall (R-Millersburg) and Sean O'Brien (D-Hubbard) would provide tax breaks to consumers and businesses who purchase new vehicles or convert existing vehicles to run on natural gas. The bill also provides a phase in for the motor-fuel tax collections for compressed natural gas.

The bill remains a concern because one of the tax breaks included in the bill is a CAT credit for the purchase of a new alternative fuel vehicle or conversion of a traditional fuel vehicle to an alternative fuel vehicle. The bill was passed out of the House in late March and has been assigned to the Senate Finance Committee.

House Bill 375

In December House Speaker Pro Tem Matt Huffman (R-Lima) introduced legislation supported by the House Speaker that would increase the state's severance tax. The legislation drafted by House leadership and a portion of the oil and gas industry in Ohio would exclude the oil and gas industry from the CAT.

Two different substitute bills have been accepted by the House Ways and Means Committee. The latest version removes the CAT exclusion for C corps but includes the exclusion for pass through entities. The bill allows companies who are not excluded from the CAT to take a credit against the severance in the amount they pay in CAT. The bill also increases the severance tax rate to 2.5%. It passed this House a week ago and will begin having hearings shortly in the Senate. There is some question if there is enough support in the Senate to pass the current version of the bill. There is also a question whether the bill is supported by the Governor.

House Bill 402

This bill would authorize the Tax Commissioner to either apply a taxpayer's overpayment of a tax or fee to the taxpayer's future liability or issue a refund to the taxpayer with the taxpayer having to request the credit or refund. It would also require the Department of Taxation to notify taxpayers of tax or fee overpayments. The bill passed the House and had its second hearing in the Senate on May 8th.

Mid-Biennium Review

The Governor introduced House Bill 472 which became the mid-biennium review (MBR) bill. This bill was quickly broken up into a plethora of bills based on topics. The tax package stayed as HB 472 and the appropriations bill became HB 483.

House Bill 472 is centered around an 8.5% income tax reduction across the board phased in over three years. It will be paid by increasing the cigarette tax by \$0.60 per

pack over two years, increasing the severance tax rate to 2.75%, and raising the CAT from .26% to .30%. The bill had some early hearings, the OMA submitted a letter to leadership warning against the adverse economic impacts raising the CAT would create. Leadership has indicated if this package is going to be dealt with; it will wait until the fall.

House Bill 483 which contains a mix of random policy changes includes one CAT credit for historic rehabilitation for buildings. We were able to get this provision removed from the state budget but it has reappeared. The Senate last week finished their work on the bill and among other changes included an acceleration of the 10% income tax cut and a one year increase from 50% to 75% small business tax deduction.

Tax News

Ohio Ranked 18th Highest Tax Burden

The Tax Foundation released its annual state and local tax burdens rankings. Ohio is ranked 18th highest in tax burden. The organization “computes this measure of tax burden by totaling the amount of state and local taxes paid by state residents to both their own and other governments and then divide these totals by each state’s total income.”

The foundation says Ohio ranks 30th in per capita income.

The state and local tax burden estimates are for FY 2011 using the most recent data available as of January 2014.

Ohio Unemployment Taxes

The country’s recent recession put a tremendous burden on Ohio’s unemployment compensation trust fund. It fell to historic lows and was forced to borrow from the federal government in order to pay out the state’s unemployment compensation. The state borrowed more than \$3.6 billion from the federal government. The state still has an outstanding balance of \$1.6 billion. Because of this debt, state employers will continue to face increased FUTA taxes at the federal level. The offset credit is reduced by .3% each year the state is in debt. The potential FUTA tax rate for Ohio next year is 3.2%, including the BCR add-on.

Tax

Senate Passes "MBR" with Tax Changes

This week the Senate finished up its work on [House Bill 483](#), which was originally part of the Gov. Kasich's mid-biennium review (MBR) and contained many of the substantive tax provisions that were proposed by the governor with the exception of the administration's proposal to increase the severance tax (which is the subject of a separate bill, Sub. H.B. 375).

OMA tax counsel [Mark Engel](#) of Bricker & Eckler provides this brief [rundown](#) of the bill's main tax **Severance Tax Bill Includes CAT Exclusion**

This week the House Ways and Means Committee and the full House passed House Bill 375, the severance tax reform bill, with a commercial activity tax (CAT) exclusion for drillers that are pass-through entities.

Before the committee vote, OMA had sent a [letter](#) to Committee Chairman [Jeff McClain](#) (R-Upper Sandusky) requesting that no exclusions or credits to the commercial activity tax (CAT) be included as they weaken the CAT's broad base and threaten its low rate.

The OMA wrote, "Excluding this industry (oil and gas) from the CAT base narrows the base, reduces general revenue funds, and increases pressures to raise the rate."

It is uncertain that the Senate will act on the bill prior to summer break. *5/15/2014*

New Severance Tax Proposal

The House Ways and Means Committee was presented with a second modified version of HB 375, the severance tax proposal previously introduced in December 2013. This bill is the next step in a back and forth negotiation between the governor, who wants a larger, but still competitive severance tax in the state, and the House, which has been supportive of the oil and gas industry in its resistance to the governor's proposal. The OMA has supported the governor's position.

The governor had proposed a 2.75% tax on horizontal drilling, aiming to raise enough revenue to offset an 8.5% personal income tax cut over three years. House Republicans' latest substitute bill would raise the proposed tax rate to 2.5% of gross receipts from horizontal wells and would provide up to \$54.2 million toward an income tax cut in fiscal year

changes, which include accelerating the phase-in of income tax rate reductions and temporarily increasing the Ohio small business income deduction from 50% of the first \$250,000 in Ohio business income to 75%.

The bill heads to conference committee, where the House and Senate will resolve their differences. Here is the Legislative Service Commission [synopsis](#) of the bill's changes. *5/22/2014*

2016. That amount would increase to as much as \$166.1 million by FY 2019.

The bill provides for a flat exclusion of the first \$10 million in wellhead gross receipts. This exclusion is intended to serve as a cost-recovery mechanism for drillers. And, the bill provides a commercial activity tax (CAT) exclusion for drillers that are pass-through entities, a further deterioration of the CAT base.

Here is a [fiscal note](#) on the bill. And, here is a [bill summary](#) prepared by OMA tax counsel Mark Engle of Bricker & Eckler. *5/8/2014*

OMA Supports JEDZ Legislation Fix

This week the OMA sent a [letter](#) to Senator [Scott Oelslager](#) (R-North Canton), Chairman of the Senate Finance Committee, offering its support for [House Bill 289](#). The bill, sponsored by Representative [Kirk Schuring](#) (R-Canton) addresses flaws in Ohio's Joint Economic Development Zone (JEDZ) law which go beyond the original objective of supporting economic growth and development.

House Bill 289 contains the necessary provisions that resolve the unintended consequences of the JEDZ law, specifically that income tax revenues are being diverted from their intended economic development purposes unrelated to economic development, possibly in violation of due process for those paying the tax.

OMA's staff member on this issue and all tax matters is [Rob Brundrett](#). *4/24/2014*

The CAT and Manufacturing

Did you know?

Manufacturers are the second-largest group of commercial activity tax (CAT) taxpayers, representing 9.8% of all taxpayers (retail trade is the largest).

Manufacturers pay 27.8% of all CAT before credits and 26.2% of all CAT after credits – generally one-third more than the next largest taxpayer group (retail trade).

So, manufacturers pay more than two and a half times as much of the tax as the average of the rest of the CAT taxpayers, making manufacturing much more sensitive to changes in the tax rate. No surprise, because the scale of economic activity that surrounds manufacturing is much greater than any other sector.

Use this [CAT factsheet](#) to help elected officials understand the CAT and manufacturing. 4/16/2014

State Income Tax Refunds up 43%

Refunds from the Ohio income tax [increased](#) by 43% from last year to this, according to the state tax department. The average refund was \$505 this year. Last year, the average was \$288.

The increase is principally due to tax reforms made last June in the state budget developed by Governor Kasich. That budget included an 8.5% cut in the state's income tax rates for 2013, as well as a 50% deduction that small businesses could apply to the first \$250,000 of net income.

The Department of Taxation thinks that the savings this year for small businesses will be about \$147.5 million, because of the reforms. 4/17/2014

Impact of CAT Carve-Outs? \$370 Million in Foregone Revenue

At its March meeting, the OMA Board of Directors requested research into the impact of the multiple exclusions, deductibles and credits to the Ohio commercial activity tax (CAT). The directors were concerned about the effect of the carve-outs in narrowing the base of the tax.

The [research](#) has been completed. Estimates of total revenue foregone in FY 2015 by the state General Revenue Fund from various CAT exclusions, deductions and credits total \$373 million. Actual total foregone revenues will be higher than estimated total foregone revenues, which reflect indefinite revenues for casino receipts and undetermined revenues for the public services exclusion, petroleum receipts and motion picture credit.

The OMA believes that broadening the base would be a good way to raise revenues to help the governor achieve his aim of further lowering the state personal income tax, something the OMA supports. 4/10/2014

Tax Foundation Ranks Ohio 18th

The Tax Foundation released its annual state and local tax burdens [rankings](#). Ohio is ranked 18th highest in tax burden. The organization "computes this measure of tax burden by totaling the amount of state and local taxes paid by state residents to both their own and other governments and then divide these totals by each state's total income."

The foundation says Ohio ranks 30th in per capita income.

The state and local tax burden estimates are for FY 2011 using the most recent data available as of January 2014. 4/10/2014

Get the CAT Credit for Rehab of Historic Buildings Out of Bill

A commercial activity tax (CAT) credit for historic building rehabilitation is in the appropriations bill of the mid-biennium review, [House Bill 483](#). The OMA will attempt to remove the provision by offering an amendment.

The OMA sent this [letter](#) to legislative leaders last week citing negative impacts on manufacturing of the proposed CAT rate increase as well as CAT credits and exemptions.

If you haven't already, let your representative and senator hear from you about maintaining the integrity of the CAT. Here are some talking points for your use. 4/3/2014

Protect CAT Competitiveness

The Ohio General Assembly is currently conducting hearings on numerous bills that would weaken the competitiveness of the Commercial Activity Tax (CAT).

House Bill 472 would raise the current CAT rate by 15 percent, from .26 percent to .30 percent. House Bill 483 contains a CAT credit for the rehabilitation of historic buildings. And additional bills – HB 219, HB 230, HB 246, and HB 375 – include CAT credits and exclusions that would further erode the CAT-paying base.

The OMA has a long standing position of protecting the broad base and low rate of the CAT, because those elements are fundamental to the CAT's fairness and competitiveness. Increases to the CAT rate will drive up the cost of consumer goods and services and make Ohio businesses less competitive. Allowing

carve-outs and credits will erode the broad base of the CAT that is essential to keeping the rate low.

Protect your best interests. [Contact](#) your state legislators to urge them to reject any proposals that will increase the CAT rate or limit who is subject to pay it. Here is a [CAT Fact Sheet](#) to use. 3/26/2014

Permanent Tax Savings for Exporters of Any Size

OMA Connections Partner, McGladrey, [recommends](#) that U.S. manufacturers that export evaluate the tax benefits of an "interest-charge domestic international sales corporation" or IC-DISC. An IC-DISC is a domestic corporation that primarily engages in foreign sales and exporting activity, and it can provide permanent federal income tax savings for qualifying companies with little change to business operations.

According to McGladrey, IC-DISCs are simple to establish and, in many cases, the benefits significantly exceed the costs. Read McGladrey's IC-DISC [white paper](#). 3/26/2014

Tell Legislators the Effect of CAT Increase

In carving the mid-biennium review (MBR) into fourteen different bills, the House assigned two commercial activity tax (CAT) provisions to separate committees.

The 15% CAT rate increase, from .26% to .30%, was retained in House Bill 472, together with the remainder of the tax reform proposals. This bill will be heard in the House Ways and Means Committee. Here's the bill [analysis](#).

The CAT credit for historic building preservation was added to House Bill 483, which also includes miscellaneous policy provisions and appropriations. This bill will be heard in the Finance and Appropriations Committee. And, here is that bill's [analysis](#).

Both of these CAT changes run afoul of OMA's principle of preserving the tax's broad-base, low-rate. The OMA urges you to [communicate](#) to legislators the impact of the proposed CAT increase on your business. Legislators are looking for your input. 3/20/2014

CAT Tax Exemption for Alternative Fuel Vehicles

[House Bill 336](#), a bill that is intended to encourage the acquisition and use of motor vehicles propelled by alternative forms of motor fuel, was passed out of the House this week. The measure is sponsored by Rep. Sean O'Brien (D-Hubbard).

The bill provides for the treatment of compressed natural gas used to propel motor vehicles on the public highways as motor fuel for purposes of the motor fuel tax, the motor fuel gross receipts tax, and the commercial activity tax (CAT). It also creates a number of credits and exclusions related to the purchase of, or conversion of existing vehicles to, alternative fuel vehicles, including the income tax, the commercial activity tax, and the sales tax.

Unlike most CAT credit proposals, this bill's credit would sunset five years after the bill becomes effective.

Read a [bill analysis](#) prepared by OMA tax counsel Mark Engel of Bricker & Eckler. 3/13/2014

Governor Kasich Proposes 8.5% Personal Income Tax Cut

Governor Kasich continues his push for tax reform in his "mid biennial review," House Bill 472. He has championed a number of tax reductions in his term.

The centerpiece of the governor's tax changes is an 8.5% reduction in personal income tax rates implemented over three years, coupled with government savings and increases in tobacco, commercial activity, and severance taxes to help pay for the reduction in tax rates.

Read [an analysis](#) of the tax proposals prepared by OMA tax counsel Mark Engle of Bricker & Eckler. Of particular note to manufacturers is a proposed increase of the commercial activity tax from 0.26% to 0.3% of taxable gross receipts, an increase of 15.38%

The OMA has a longstanding position of advocating for a broad base and low rate in the CAT. Its position on these tax proposals will be established by the OMA Board of Directors, in consultation with the OMA Tax Committee and OMA Government Affairs Committee. 3/12/2014

Brown Announces "Manufacturing Community Investment Act."

As the U.S. Senate Finance Committee begins its consideration of tax extenders, Senator Sherrod Brown [launched](#) an effort to renew the New Markets Tax Credit (NMTC) while also providing assistance for communities suffering from manufacturing job loss.

Brown's bill, the "Manufacturing Community Investment Act," aims to "spur local job creation by extending and enhancing the NMTC to allocate additional dollars for investment in struggling manufacturing communities."

The legislation would extend the NMTC (which expired after 2013) for an additional three years, increase its annual allocation from \$3.5 billion to \$5

billion, and provide for an additional \$1 billion a year in 2014, 2015 and 2016 for manufacturing investments in communities which have suffered major manufacturing job loss. 3/12/2014

Governor Seeks Additional Income Tax Cuts

In his State of the State address this week, Governor Kasich announced his intention to seek legislative approval of a reduction of the top rate of the Ohio income tax to below 5%. The tax rate is scheduled to be 5.33% next year.

In a [fact sheet](#) on the speech, the governor's office notes: "Since taking office in 2011 (the governor) and the General Assembly have reduced taxes by \$3 billion by eliminating the death tax, cutting small business taxes in half and cutting the state income tax by 10 percent."

On its [website](#), the Ohio Society of Public Accountants reports "ongoing discussions by state officials include the possibility of significantly increasing the Commercial Activity Tax (CAT) rate, as well as taxes assessed on various "sin" products, such as tobacco, in exchange for further reducing Ohio's income tax rates. The goal is to get the top income tax rate below 5%." The society notes that Ohio reduced "state income tax rates by 4% in 2011 (the final phase of the 2005 tax reform law change calling for a total rate cut of 21%), and by an additional 10% in 2013 (fully rolled out in 2015). Efforts continue to further reduce the income tax rates to be more competitive with surrounding states and with other economic development competitors such as Florida and Texas." 2/26/2014

Governor's State of the State On Tap

Next Monday, January 24, Governor Kasich will give his State of the State speech in Medina. He is expected to outline the pillars of his coming (and closely guarded) mid-biennium review (MBR) bill and other initiatives for the coming year.

You can watch the governor's speech on the [Ohio Channel](#). The program starts at 7:00 p.m.

The governor seeks to further reduce Ohio personal income tax rates, and the MBR provides an opportunity for this potential tax reform.

One rumor around the state capital is that the governor will propose to fund it in part with an increase in the commercial activity tax (CAT) rate. 2/20/2014

OMA Tax Committee Studies Cost of Local Government



This week the OMA Tax Committee heard a [presentation](#) by Randy Cole, Ohio Controlling Board President and Office of Budget Management policy advisor. The presentation documents the [explosion](#) in number and [cost](#) of local taxing districts in Ohio over the past 100 years.

Cole described state initiatives that encourage shared services to improve economies among these independent government entities.

The OMA supports the administration's efforts that reduce the number and cost of local government in Ohio. 2/20/2014

Pictured: Randy Cole, President, Ohio Controlling Board

Pass-through Entities: Take Your 2013 Deduction!

OMA Connections Partner, GBQ Partners, reminds taxpayers of businesses structured as "pass-through entities" (PTEs) to consider how the recently passed Ohio tax reform legislation will affect their personal Ohio income tax returns for the 2013 tax year.

In June 2013, Governor Kasich signed into law House Bill 59, which introduced multiple legislative provisions that cut taxes for Ohio individual taxpayers. Among the cuts was the new Ohio Small Business Investor Income Deduction, which provides a substantial tax benefit to owners of pass-through entities doing business in the state of Ohio. The deduction allows individual taxpayers who invest in PTE businesses to exclude from their Ohio adjusted gross income 50 percent of Ohio net business income earned from all PTEs. The exclusion is available for the first \$250,000 of Ohio-sourced business income from PTEs. Read [more](#). 2/18/2014

Taxation Legislation
Prepared by: The Ohio Manufacturers' Association
Report created on May 19, 2014

- HB5** **MUNICIPAL CORPORATIONS INCOME TAXES** (GROSSMAN C, HENNE M) To revise the laws governing income taxes imposed by municipal corporations.
Current Status: 11/19/2013 - Referred to Committee Senate Finance
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_5
- HB24** **TAX EXPENDITURE REVIEW COMMITTEE** (BOOSE T) To create a Tax Expenditure Review Committee for the purpose of periodically reviewing existing and proposed tax expenditures.
Current Status: 12/4/2013 - House Ways and Means, (Third Hearing)
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_24
- HB26** **SALES-USE TAX EXEMPTION** (MAAG R) To exempt from sales and use taxes the sale or use of investment metal bullion and coins.
Current Status: 6/5/2013 - House Ways and Means, (Second Hearing)
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_26
- HB40** **INVESTIGATION OF LOST FUNDS-LIBOR** (FOLEY M) To require the Treasurer of State to investigate whether state treasury funds, custodial funds, or funds of state institutions of higher education were lost as a result of fraudulent manipulations to the LIBOR and to declare an emergency.
Current Status: 2/13/2013 - Referred to Committee House Policy and Legislative Oversight
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_40
- HB46** **SMALL CLAIMS DIVISION-TAX APPEALS BOARD** (AMSTUTZ R) To create a small claims division of the Ohio Board of Tax Appeals, to allow for parties to file a notice of appeal to the Board by facsimile or electronic transmission using electronic mail, to require the Board to establish a case management schedule for appeals, and to authorize the Tax Commissioner to expedite and issue a final determination for residential property value appeals with written consent of the parties.
Current Status: 2/13/2013 - Referred to Committee House Ways and Means
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_46
- HB54** **INTERNAL REVENUE CODE** (BECK P) To expressly incorporate changes in the Internal Revenue Code since December 20, 2012, into Ohio law, and to declare an emergency.
Current Status: 3/12/2013 - Referred to Committee Senate Ways and Means
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_54
- HB56** **BUSINESS PROPERTY TAX EXEMPTION** (GERBERRY R) To allow a board of township trustees to reduce the percentage or term of a property tax exemption granted to a business under a tax increment financing agreement if the business fails to create the number of new jobs the business agreed to create in the agreement.
Current Status: 3/12/2013 - House State and Local Government, (First Hearing)
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_56
- HB59** **BIENNIAL BUDGET** (AMSTUTZ R) To make operating appropriations for the biennium beginning July 1, 2013, and ending June 30, 2015; to provide authorization and conditions for the operation of state programs.

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

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_59

- HB63** **TAX CREDIT- OIL AND GAS PRODUCTION** (CERA J, O'BRIEN S) To establish a nonrefundable commercial activity tax credit for companies involved in horizontal well drilling or related oil and gas production services that hire Ohio residents or dislocated workers who have enrolled in or completed a federally registered apprenticeship program.
Current Status: 2/20/2013 - Referred to Committee House Ways and Means
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_63
- HB81** **TAX EXPENDITURES EFFECTIVENESS** (DRIEHAUS D, FOLEY M) To provide for the periodic appraisal of the effectiveness of tax expenditures.
Current Status: 2/27/2013 - Referred to Committee House Policy and Legislative Oversight
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_81
- HB107** **CAREER EXPLORATION INTERSHIPS-TAX CREDIT** (BAKER N) To authorize a tax credit for businesses that employ high school students in career exploration internships.
Current Status: 3/26/2014 - **SIGNED BY GOVERNOR**
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_107
- HB118** **BOND ISSUES BALLOT LANGUAGE** (ROEGNER K) To revise the ballot language requirements for bond issues.
Current Status: 6/11/2013 - House State and Local Government, (Second Hearing)
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_118
- HB135** **INCOME TAX CREDIT-VACANT INDUSTRIAL SITE** (PELANDA D, CERA J) To authorize a nonrefundable credit against the income tax and certain business taxes for the rehabilitation of a vacant industrial site.
Current Status: 11/12/2013 - **SUBSTITUTE BILL ACCEPTED**, Senate Ways and Means, (Second Hearing)
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_135
- HB138** **TAX APPEALS BOARD LAW CHANGES** (MCCLAIN J, LETSON T) To make changes to the law governing the Board of Tax Appeals, including authorizing a small claims division within the Board, requiring the Board to institute measures to manage certain appeals, requiring the Board to receive notices of appeal and statutory transcripts electronically, providing pleading standards for appeals to the Board, granting the Board authority to grant summary judgments and consider motions, vesting hearing examiners with the authority to determine credibility of witnesses and issue statements of fact and conclusions of law separately, and authorizing the Board to require parties to engage in mediation, and to authorize the Tax Commissioner to expedite and issue a final determination for residential property value appeals with written consent of the parties.
Current Status: 7/11/2013 - **SIGNED BY GOVERNOR**; Eff. 10/11/2013; Some Provisions Other Dates
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_138
- HB189** **JOBSONIO ACCOUNTABILITY ACT** (LUNDY M) To create the JobsOhio Accountability Act.
Current Status: 6/4/2013 - Referred to Committee House Policy and Legislative

Oversight

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_189

- HB198** **TAX INCREMENT FINANCING** (BUTLER, JR. J, BURKLEY T) To establish a procedure by which political subdivisions proposing a tax increment financing (TIF) incentive district are required to provide notice to the record owner of each parcel within the proposed incentive district before adopting the TIF resolution, and to permit such owners to exclude their parcels from the incentive district by submitting a written response.
Current Status: 4/1/2014 - **SUBSTITUTE BILL ACCEPTED & REPORTED OUT**, House State and Local Government, (Sixth Hearing)
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_198
- HB212** **SEVERANCE TAX-HORIZONTAL WELLS** (HAGAN R) To levy a tax on the severance of oil, gas, condensate, and natural gas liquids from horizontal wells, to distribute revenue from the tax to environmental and oil and gas regulatory purposes, local governments impacted and not impacted by horizontal well development, and a permanent fund to promote economic development, and to provide for the administration, investment, and use of the permanent fund.
Current Status: 1/21/2014 - House Agriculture and Natural Resources, (First Hearing)
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_212
- HB219** **CONTRIBUTIONS-ECONOMIC DEVELOPMENT PROJECTS** (BUTLER, JR. J) To authorize tax credits for contributions of money to economic and infrastructure development projects undertaken by local governments and nonprofit corporations.
Current Status: 12/4/2013 - House Ways and Means, (Third Hearing)
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_219
- HB224** **TAX CREDITS** (GONZALES A, TERHAR L) To make various changes to the administration of the investment tax credit and the venture capital loan loss tax credit, including the increase of the maximum amount of the investment tax credit and the venture capital loan loss tax credit and the elimination of the Industrial Technology and Enterprise Advisory Councils.
Current Status: 6/26/2013 - Referred to Committee House Ways and Means
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_224
- HB230** **TAX CREDIT-FOOD DONATIONS** (GROSSMAN C, ANIELSKI M) To authorize an income tax or commercial activity tax credit for businesses that donate food inventory to charitable organizations.
Current Status: 5/21/2014 - House Ways and Means, (Second Hearing)
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_230
- HB245** **PROPERTY TAX ROLLBACK** (BARBORAK N) To extend the 10% and 2.5% partial property tax "rollback" exemptions to new and replacement levies approved at the 2013 general election and to declare an emergency.
Current Status: 9/19/2013 - Referred to Committee House Finance and Appropriations
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_245
- HB246** **TAX DEDUCTION-COLLEGE GRADUATES** (ROGERS J, BLAIR T) To allow recent college graduates to claim an income tax deduction for qualified higher education expenses and allow employers of recent college graduates to deduct the employer's costs of

employing the graduate from the employer's gross receipts subject to the commercial activities tax.

Current Status: 10/2/2013 - House Ways and Means, (First Hearing)

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_246

HB260 ELECTRONICALLY FILED TAX RETURNS (GONZALES A) To allow the Department of Taxation to provide taxpayers who file electronic returns the option of receiving their income tax refund in the form of a credit card, debit card, prepaid card, or other device used to electronically transfer funds.

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

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_260

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

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

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_282

HB284 HISTORIC REHABILITATION TAX CREDIT INCREASE (SCHURING K) To increase the maximum historic rehabilitation tax credit allowed to a taxpayer, from \$5 million to \$25 million, and to limit the amount of such credit that may be claimed in each year to \$5 million.

Current Status: 10/10/2013 - Referred to Committee House Ways and Means

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_284

HB289 JOINT ECONOMIC DEVELOPMENT ZONE-DISTRICT (SCHURING K) To require subdivisions to obtain written approval from owners and lessees of real property located within a proposed or existing joint economic development zone (JEDZ) or joint economic development district (JEDD) before approving, amending, or renewing the JEDZ or JEDD contract, to require that income tax revenue derived from a JEDZ or JEDD approved, amended, or renewed after the bill's effective date be used to carry out the JEDZ or JEDD economic development plan before being used for other purposes, and to institute contiguity requirements for which subdivisions may create a JEDZ or JEDD.

Current Status: 5/20/2014 - Senate Finance, (Sixth Hearing)

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_289

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

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

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_312

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

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

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_319

HB329 FEDERAL FUNDS REPAYMENT-UNEMPLOYMENT BENEFITS (HALL D) To require the Director of Budget and Management to make payments on the balance of amounts borrowed by the state from the federal government to issue unemployment benefits and to make an appropriation.

Current Status: 11/6/2013 - Referred to Committee House Finance and Appropriations

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_329

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

Current Status: 3/31/2014 - Referred to Committee Senate Finance

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_336

HB345 LOST REVENUE-TAX INCENTIVES (BARBORAK N) To require the Director of Development Services to estimate the revenue that would be foregone by the state as a result of each tax incentive proposed to the Tax Credit Authority and publish that estimate on the web site of the Development Services Agency.

Current Status: 3/19/2014 - House Ways and Means, (First Hearing)

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_345

HB357 SALES-USE TAX CREDITS-RECYCLED ITEMS (BECKER J) To exclude credits afforded by vendors to consumers for conveying items of tangible personal property to the vendor for recycling or remanufacturing from the price of a sale for sales and use tax purposes.

Current Status: 5/21/2014 - House Ways and Means, (First Hearing)

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_357

HB365 BUSINESS TAX OVERPAYMENT (STINZIANO M, DUFFEY M) To require the Tax Commissioner to notify a taxpayer that the taxpayer has overpaid certain business taxes.

Current Status: 12/4/2013 - Referred to Committee House Ways and Means

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_365

HB375 MBR-SEVERANCE TAX-HORIZONTAL OIL AND GAS WELLS (HUFFMAN M) To levy a severance tax on well owners of oil and gas severed from horizontal wells, to create a nonrefundable income tax credit for the amount of horizontal well severance tax paid, to repeal a cost recovery assessment imposed on oil and gas well owners, to reduce the severance tax rate on natural gas extracted from nonhorizontal wells, to exclude from the tax base of the commercial activity tax gross receipts from the sale of oil or natural gas severed through use of a horizontal well, and to make an appropriation.

Current Status: 5/14/2014 - **PASSED BY HOUSE**; Amended on Floor Bill Vote 55-35

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_375

HB405 INCOME TAX CREDIT-CERTAIN DEGREES (BUDISH A, HOTTINGER J) To grant an income tax credit to individuals who earn degrees in science, technology, engineering, or math-based fields of study.

Current Status: 3/19/2014 - House Ways and Means, (First Hearing)

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_405

HB450 SALES TAX HOLIDAY (PATTERSON J) To provide a three-day sales tax "holiday" each August during which sales of back-to-school clothing, school supplies, personal computers, and personal computer accessories are exempt from sales and use taxes.

Current Status: 2/25/2014 - Referred to Committee House Ways and Means
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_450

- HB472** **MBR-MID-BIENNIUM BUDGET REVIEW** (MCCLAIN J) To make operating and other appropriations and to provide authorization and conditions for the operation of state programs.
Current Status: 3/26/2014 - House Ways and Means, (Third Hearing)
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_472
- HB478** **NEW MARKETS TAX CREDIT** (BOOSE T) To eliminate the requirement that a taxpayer receive a federal New Markets tax credit in order to qualify for the state New Markets tax credit, to allow taxpayers to claim the credit earlier in the credit schedule, and to allow credit-eligible investments to be made in low-income community businesses that derive 15% or more of annual revenue from the rental or sale of real property.
Current Status: 5/21/2014 - House Ways and Means, (First Hearing)
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_478
- HB483** **MBR-OPERATION OF STATE PROGRAMS** (AMSTUTZ R) To make operating and other appropriations and to provide authorization and conditions for the operation of state programs.
Current Status: 5/21/2014 - Senate Finance, (Sixth Hearing)
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_483
- HB492** **MBR-TAXATION** (SCHERER G) To provide authorization and conditions for the levy and administration of taxes in this state.
Current Status: 5/21/2014 - Senate Finance, (Sixth Hearing)
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_492
- HB510** **COMMERCIAL ACTIVITY TAX** (BRENNER A) To reduce the commercial activity tax (CAT) rate and minimum payment amounts and to reduce the proportion of CAT revenue allocated to the general revenue fund.
Current Status: 4/1/2014 - Referred to Committee House Ways and Means
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_510
- HB517** **MOTOR FUEL RECEIPTS TAX** (SMITH R, ROSENBERGER C) To change the motor fuel receipts tax to be imposed on gross receipts to a petroleum activity tax to be imposed on a hybrid of gallonage and the average wholesale price of gasoline and diesel fuel.
Current Status: 5/7/2014 - Referred to Committee House Ways and Means
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_517
- HCR6** **FEDERAL EXCISE TAX-MEDICAL DEVICES** (BRENNER A, HUFFMAN M) To urge the Congress of the United States and the President of the United States to repeal the new federal excise tax on medical devices.
Current Status: 4/30/2013 - Referred to Committee Senate Medicaid, Health and Human Services
State Bill Page: http://www.legislature.state.oh.us/res.cfm?ID=130_HCR_6
- SB27** **PROPERTY TAX EXEMPTION-MILITARY VETERANS** (SCHAFFER T) To exempt from property taxation the primary residences of military veterans who are 100% disabled from a service-connected disability.
Current Status: 2/27/2013 - Senate Ways and Means, (First Hearing)

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_27

- SB28** **INTERNAL REVENUE CODE (OBHOF L)** To expressly incorporate changes in the Internal Revenue Code since December 20, 2012, into Ohio law, and to declare an emergency.
Current Status: 3/22/2013 - **SIGNED BY GOVERNOR**; Eff. 3/22/2013
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_28
- SB29** **INCOME TAX REFUND-JUDGMENT DEBTOR TENANT (SCHAFFER T)** To enable a judgment creditor landlord to obtain a court order directing the Tax Commissioner to pay the judgment debtor tenant's income tax refund to the landlord.
Current Status: 2/27/2013 - Senate Ways and Means, (First Hearing)
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_29
- SB30** **AMERICAN RED CROSS CONTRIBUTIONS (SCHAFFER T)** To allow taxpayers to make contributions to the American Red Cross Ohio Disaster Response Readiness and preparedness Fund through their income tax returns.
Current Status: 2/27/2013 - Senate Ways and Means, (First Hearing)
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_30
- SB31** **INCOME TAX CREDIT-TEACHERS (SCHAFFER T)** To allow a credit against the personal income tax for amounts spent by teachers for instructional materials.
Current Status: 2/27/2013 - Senate Ways and Means, (First Hearing)
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_31
- SB42** **PROPERTY TAXES-SCHOOL SECURITY (MANNING G, GARDNER R)** To authorize school districts to levy a property tax exclusively for school safety and security purposes.
Current Status: 6/19/2013 - House Ways and Means, (Third Hearing)
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_42
- SB52** **PROPERTY TAX COMPLAINTS (COLEY W)** To permit property tax complaints to be initiated only by the property owner.
Current Status: 6/18/2013 - Senate Ways and Means, (Fourth Hearing)
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_52
- SB56** **INCOME TAX REFUNDS (KEARNEY E)** To require the Department of Taxation to provide taxpayers the option of receiving their income tax refund in the form of a prepaid debit card.
Current Status: 3/5/2013 - Senate Ways and Means, (First Hearing)
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_56
- SB76** **NONPROFIT CORPORATION CORRECTIONAL FACILITY TAX EXEMPTION (SCHIAVONI J)** To specify that a nonprofit corporation, the principal purpose of which is operating a halfway house, community-based correctional facility, or other venue offering rehabilitative residential programming to criminal offenders is presumed to be a charitable institution exempt from property taxation.
Current Status: 6/18/2013 - Senate Ways and Means, (Second Hearing)
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_76
- SB85** **TAX EXEMPTION-INVESTMENT METAL BOUILLON-COINS (JORDAN K, BEAGLE B)** To exempt from sales and use taxes the sale or use of investment metal bullion and coins.
Current Status: 4/16/2013 - Senate Ways and Means, (First Hearing)

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_85

- SB89** **EARNED INCOME TAX CREDIT (SKINDELL M)** To grant a state earned income tax credit equal to a percentage of the federal earned income tax credit.
Current Status: 6/11/2013 - Senate Ways and Means, (First Hearing)
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_89
- SB108** **INCOME TAX (JONES S)** To repeal the income tax deduction for wagering losses, to increase the income tax credit for the legal adoption of a child to \$10,000 for each child, and to increase the maximum income tax deduction for college savings contributions to \$10,000 annually for each beneficiary.
Current Status: 4/30/2013 - Senate Ways and Means, (Second Hearing)
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_108
- SB120** **TECHNOLOGY INVESTMENT TAX CREDIT PROGRAM (KEARNEY E)** To increase the total amount of credits that may be awarded under the Technology Investment Tax Credit Program from \$45 to \$145 million.
Current Status: 5/8/2013 - Referred to Committee Senate Finance
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_120
- SB149** **CONTRIBUTIONS-ECONOMIC DEVELOPMENT PROJECTS (BEAGLE B)** To authorize tax credits for contributions of money to economic and infrastructure development projects undertaken by local governments and nonprofit corporations.
Current Status: 11/19/2013 - Senate Ways and Means, (Third Hearing)
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_149
- SB159** **PROPERTY TAX ROLLBACK EXEMPTIONS (SCHIAVONI J)** To extend the 10% and 2.5% partial property tax "rollback" exemptions to new and replacement levies approved at the 2013 general election and to declare an emergency.
Current Status: 9/26/2013 - Referred to Committee Senate Ways and Means
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_159
- SB203** **INCOME TAX CREDIT-NONPROFITS (SCHAFFER T, TAVARES C)** To authorize an income tax credit for individuals that earn a nonprofit management degree or certain professional designations and to allow a sales tax exemption for out-of-state nonprofit corporations that relocate jobs to Ohio.
Current Status: 11/19/2013 - Senate Ways and Means, (First Hearing)
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_203
- SB210** **INCOME TAX RATE REDUCTION (WIDENER C)** To provide for a permanent income tax rate reduction of 4% for all tax brackets beginning in 2014.
Current Status: 2/25/2014 - Senate Finance, (Fourth Hearing)
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_210
- SB211** **INCOME TAX CREDIT (SCHAFFER T, PETERSON B)** To authorize an income tax credit for donations to the permanent endowment fund of an eligible community foundation.
Current Status: 11/19/2013 - Senate Ways and Means, (Third Hearing)
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_211
- SB243** **SALES TAX HOLIDAY (BACON K)** To provide a three-day sales tax "holiday" each August during which sales of back-to-school clothing, school supplies, personal computers, and

personal computer accessories are exempt from sales and use taxes.

Current Status: 3/26/2014 - House Finance and Appropriations, (First Hearing)

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_243

SB282

MUNICIPAL CORPORATIONS-INCOME TAX (JORDAN K) To prohibit municipal corporations from levying an income tax on nonresidents' compensation for personal services or net profits from a sole proprietorship.

Current Status: 2/19/2014 - Referred to Committee Senate Ways and Means

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_282

SB323

MOTOR FUEL RECEIPTS TAX (HITE C, SEITZ B) To change the motor fuel receipts tax to be imposed on gross receipts to a petroleum activity tax to be imposed on a hybrid of gallonage and the average wholesale price of gasoline and diesel fuel.

Current Status: 4/8/2014 - Referred to Committee Senate Ways and Means

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_323

SCR1

FEDERAL EXCISE TAX-MEDICAL DEVICES (JORDAN K) To urge the Congress of the United States and the President of the United States to repeal the new federal excise tax on medical devices.

Current Status: 2/13/2013 - Referred to Committee Senate Medicaid, Health and Human Services

State Bill Page: http://www.legislature.state.oh.us/res.cfm?ID=130_SCR_1

Chairman of the Board
RICK SCHOSTEK
Senior Vice President, Honda of America Manufacturing



President
ERIC L. BURKLAND

April 23, 2014

The Honorable Scott Oelslager
Chairman, Finance Committee
Ohio Senate
1 Capitol Square
Columbus, OH 43215

Re: H.B. 289 – Joint Economic Development Zone Law

Dear Chairman Oelslager:

It has come to our attention that Ohio's Joint Economic Development Zone (JEDZ) law is substantially flawed and does not fully meet its original objective to support economic growth and development.

House Bill 289 contains the necessary provisions that resolve the unintended consequences of the JEDZ law, specifically that income tax revenues are being diverted from their intended economic development purposes to purposes unrelated to economic development, possibly in violation of due process for those paying the tax. The Ohio Manufacturers' Association (OMA) supports House Bill 289 for the following reasons.

First, the bill sunsets the current JEDZ law at the end of 2014.

Next, the bill provides prudent guidelines for any JEDZ that might be proposed before the end of the year. Specifically, any new JEDZ must: 1) Provide an economic development plan for the zone and an implementation schedule of new or expanded services, facilities, or improvements; 2) Stipulate at least 50% of new revenue generated within the JEDZ must be used solely for expanded services, facilities, or improvements; 3) Create a joint economic development review council to evaluate the JEDZ's effectiveness and approve its economic development plan; and 4) Authorize employers or employees within a JEDZ to bring a civil action to suspend the income tax if the review council rules the JEDZ is not in compliance with its economic development plan.

Representative Scott Oelslager
Page 2
April 21 2014

Last, House Bill 289 retains joint economic development districts (JEDDs), which *are* functioning as viable Ohio economic development tools.

These important changes to the JEDZ law will help provide Ohio's businesses confidence that their tax dollars are used for legitimate economic development that increases opportunities in their communities. The OMA urges favorable consideration of HB 289.

Thank you for considering our opinions.

Sincerely,



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

Updated Severance Tax Proposal Presented in Ohio House of Representatives

Mark A .Engel
Bricker & Eckler LLP

On May 14, 2014, the Ohio House of Representatives passed the second modified version of the severance tax proposal previously introduced on December 4, 2013. The modified legislation, known as Substitute House Bill 375-II (Sub. HB 375-II), proposes to:

- Reduce the severance tax rate on persons extracting oil and gas by means other than horizontal wells (e.g. conventional wells);
- Impose a new, higher severance tax on oil and gas produced through horizontal wells based on “wellhead gross receipts” received at the point of first sale less specified production costs incurred prior to the point of first sale;
- Eliminate the regulatory assessment fee currently paid by severers of oil and gas;
- Divide the proceeds from the severance tax among the Ohio Department of Natural Resources (ODNR), local governments and the income tax reduction fund;
- Provide a non-refundable credit against the state income tax equal to the amount of any severance tax paid by a royalty interest owner; and
- Offer an exclusion from the commercial activity tax (CAT) for proceeds of the sale of oil and gas by persons paying the severance tax and that are also subject to the income tax.

The Severance Tax: R.C. 5749.02(B) & (C)

1. Conventional Oil and Gas Wells

The current volume-based severance tax is set forth in R.C. 5749.02(B), and is levied at a rate of 10 cents per barrel of oil and 2.5 cents per thousand cubic feet (MCF) of gas. Sub. HB 375-II sets up a two-tiered structure for the severance tax depending on the type of well producing the hydrocarbons (e.g. conventional vs. horizontal) and based on the value (rather than the volume) of the hydrocarbons produced with respect to horizontal wells. R.C. 5749.02(B)(5) and (6) provide that with respect to oil and gas produced and sold from conventional wells after October 1, 2014, oil remains taxed at 10 cents per barrel, while the tax on gas is reduced to 1.5 cents per MCF. The latest version of the bill eliminates the variation in rates tied to the age of the well, or to the level of production.

2. Horizontal Oil and Gas Wells

Sub. HB 375-II proposes new language in R.C. 5749.02(C)(1) to establish a different mechanism for calculating the severance tax upon persons who extract oil and gas through the use of a horizontal well. Prior to October 1, 2014, oil and gas produced through a horizontal well remain subject to the existing, volume-based severance tax rates. Beginning October 1, 2014, tax is imposed at a rate of 2.5% on the wellhead gross receipts obtained from the point of first sale of the oil or gas. As in the prior substitute bill, there is no reduced severance tax rate for low-producing wells. Unlike the prior substitute bill, there is no rate variation based on the age of the well.

In place of the lower tax rate applicable to oil and gas produced during the first two or three years of production contained in the prior substitute bill, in proposed R.C. 5749.031 Sub. HB 375-II provides for a flat exclusion of the first \$10 million in wellhead gross receipts. This exclusion is intended to serve as a cost-recovery mechanism for drillers.

Chart Summarizing Proposed Ohio Severance Tax Rates

Date	Vertical Well			Horizontal Well		
Existing Law	Gas – 2.5¢ per MCF Oil – 10¢ per barrel			Gas – 2.5¢ per MCF Oil – 10¢ per barrel		
HB 375 (as-introduced)	Gas – 1.5¢ per MCF Oil – 10¢ per barrel			Years 1-5	After Year 5	
				Gas/Oil – 1% of net proceeds	Gas/Oil – 2% of net proceeds (unless production falls below average of 100 MCF per day of gas, or 17 barrels of oil, in any calendar quarter)	
Sub. HB 375	Years 0-3	Years 4-20	After Year 20	Years 0-2	Years 3-20	After Year 20
	None	0.25% of gross receipts	0.10% of gross receipts	1% of gross receipts	2.25% of gross receipts	1% of gross receipts
Sub. HB 375-II	Gas – 1.5¢ per MCF Oil - 10¢ per barrel			Gas/Oil – 2.5% of wellhead gross receipts		

3. Severer and First Sale

The definition of “severer” responsible for filing returns and paying the tax is changed with respect to severers of oil and gas. New R.C. 5749.01(I)(2) provides that the severer is the person that has the right to first sell severed oil or gas.

Proposed R.C. 5749.01(N) defines “point of first sale” as the first point after production of oil or gas at which a severer or other person transfers ownership of the oil or gas for consideration. It serves as the point at which “wellhead gross receipts” are determined.

4. Wellhead Gross Receipts

As noted previously, Sub. HB 375-II bases the tax on “wellhead gross receipts.” Proposed R.C. 5749.01(M) defines “wellhead gross receipts” as the total amount received by a severer or other person from the first sale of oil or gas. Certain post-production costs are excluded from the calculation, but production costs are not.

5. Affiliate and Non-Arm’s Length Sales

Proposed R.C. 5749.02(C)(2) provides the tax commissioner with authority to determine by a preponderance of the evidence whether a first sale between affiliates is comparable to other transactions, or that a transaction between nonaffiliated entities is not conducted at arm’s length. In such cases, the statute provides cascading options for determining a comparable or arm’s length price. The provision also provides guidelines of the factors to be considered in determining whether a transaction between affiliates is comparable to other contracts.

6. Record Retention

Sub. HB 375-II reinstates the four year record retention requirement of existing R.C. 5749.13; the prior substitute bill had increased the record retention period to five year.

Elimination of the Regulatory Assessment in R.C. 1509.50

In addition to restructuring the calculation of Ohio's oil and gas severance tax, Sub. HB 375-II proposes to eliminate the regulatory assessment currently found in R.C. 1509.50. For most well owners, the existing regulatory assessment totals 10 cents per barrel of oil and ½ of one (1) cent per thousand cubic feet (MCF) of gas produced, which goes towards funding of ODNR's Division of Oil and Gas Resources.

Oil and Gas Severance Tax Fund: New R.C. 5749.02(D)(7)

Under new language in R.C. 5749.02(D)(7), Sub. HB 375-II proposes to create a new oil and gas severance tax fund within the state treasury to manage and distribute the collected severance tax payments. By June 25th of each year, the director of budget and management must transfer: (i) \$15 million to the oil and gas well fund; \$3 million to the well-plugging fund; and \$3 million to the geological mapping fund, which amounts are to be proportionately reduced if the amount in the fund totals less than \$21 million; (ii) of any remaining balance, the lesser of the amount remaining in the fund or 17.5% of the original amount credited to the fund to the local government reimbursement fund; and (iii) any remaining amount to the income tax reduction fund, which is to be used to provide temporary income tax rate reductions.

Local Government Reimbursement Fund: New R.C. 5747.56

The local government reimbursement fund is designed to return some of the severance tax money to the areas in Ohio where shale development is occurring. The money within this fund will be distributed in various proportions to: (i) the undivided local government fund and public library fund; (ii) the new severance tax infrastructure fund; (iii) the new matching revenue fund (used to match funds from federal or state grants not associated with employee compensation, benefits or other personnel costs); and (iv) the new severance tax trust fund (only for use after 2025 to fund projects fostering "long-term prosperity" and "a positive legacy"). *See e.g.*, R.C. 190.01-.04, and R.C. 321.50.

Non-Refundable Income Tax Credit for Royalty Interest Owners: New R.C. 5747.63

In R.C. 5747.63, Sub. HB 375-II proposes to establish a nonrefundable income tax credit equal to the amount of the severance tax paid for calendar quarters that end during the taxpayer's taxable year. Sub. HB 375-II provides the income tax credit only to a person with a royalty interest (defined to mean the "fee holder's share in the production from a well"). The credit is equal to the severance tax paid by the royalty owner multiplied by the lesser of 12.5% or the proportion of the tax which the royalty owner-taxpayer is contractually required to pay to the severer. The credit may not be carried forward and is not available if the taxpayer also takes an income tax deduction under R.C. 5747.01(A)(31) (the small business investor deduction). In order to facilitate the royalty interest owner's use of this credit, Sub. HB 375-II, like the prior substitute bill, imposes an obligation on the severer to provide an annual statement identifying the total amount of the severance tax paid by the person holding the royalty interest. While the original bill based the income tax credit on severance tax paid with respect to oil and gas extracted by means of a horizontal well, the credit in the substitute bill applies to any severance tax paid under R.C. 5749.02 with respect to oil and gas extracted by any means.

Exclusion from Commercial Activity Tax (CAT)

Similar to the prior substitute bill, Sub. HB 375-II contains an exclusion from the definition of gross receipts for purposes of the commercial activity tax in R.C. 5751.01(F)(2)(jj). This provision excludes receipts from the first sale of oil or gas sold after October 1, 2014, if the CAT taxpayer is subject to the personal income tax or is a pass-through entity, the direct or indirect owners of which are subject to the income tax on the income from the sale.

In addition, an amendment was added to the bill on the floor that provides a credit against the severance tax for CAT paid by C corporations. The credit equals the amount of CAT paid during a severance tax reporting period (calendar quarter), is nonrefundable, and may not be carried forward to subsequent reporting period.

Chairman of the Board
RICK SCHOSTEK
Senior Vice President, Honda of America Manufacturing



President
ERIC L. BURKLAND

May 12, 2014

The Honorable Jeff McClain
Chairman
Ways and Means Committee
Ohio House of Representatives
77 S. High St., 13th Floor
Columbus, OH 43215

RE: House Bill 375

Dear Chairman McClain:

The Ohio Manufacturers' Association (OMA) has been an ardent supporter of the 2005 tax reforms including the creation of the commercial activity tax (CAT). Some of the most competitive aspects of the CAT are its broad base and its low rate. Those advantages are maintained when the General Assembly stands firm against carve-outs and exemptions.

According to the Ohio Department of Taxation, manufacturers are the second-largest group of CAT taxpayers representing 9.8% of all taxpayers (retail trade is the largest). Manufacturers pay the largest share at 26.2% of all CAT after credits – generally one-third more than the next largest taxpayer group (retail trade). Manufacturers are concerned that new carve-outs, exemptions or credits will strain CAT proceeds and force an increase in its rate. It is only through the broad application of this tax that the rate can be kept low, thereby encouraging economic growth and equitable treatment of Ohio's business taxpayers. If the CAT base is eroded, we can expect reduced competitiveness for Ohio businesses.

The most recent version of H.B. 375 excludes receipts from the sale of oil or gas sold after October 1, 2014, if the CAT taxpayer is subject to the personal income tax or is a pass-through entity.

Excluding this industry from the CAT tax base narrows the base, reduces general revenue funds, and increases pressures to raise the rate.

The OMA appreciates the General Assembly's efforts to modernize the state's severance tax. As the bill moves forward, please consider the principles that make the CAT a competitive business advantage for Ohio: the CAT's broad base and low rate.

Thank you for your time and I would be happy to discuss this matter further.

Sincerely,



Robert Brundrett
Director, Public Policy Services
(614) 629-6814
rbrundrett@ohiomfg.com

enclosure Commercial Activity Tax Impact



Commercial Activity Tax Impact

The Commercial Activity Tax (CAT), which took effect on July 1, 2005, is an annual tax imposed on the privilege of doing business in Ohio and is measured by gross receipts from business activities in the state. The CAT applies to business entities with taxable gross receipts of more than \$150,000 per calendar year, and is levied on a tiered basis:

<u>Taxable Gross Receipts</u>	<u>CAT</u>
\$150,000 - \$1 million	\$150 minimum tax
\$1 million - \$2 million	\$800 plus 0.26% of gross receipts greater than \$1 million
\$2 million - \$4 million	\$2,100 plus 0.26% of gross receipts greater than \$1 million
\$4 million or more	\$2,600 plus 0.26% of gross receipts greater than \$1 million

Impact on Manufacturers

According to Ohio Department of Taxation *Fiscal Year 2013 Commercial Activity Tax Returns* data, manufacturers are the second-largest group of CAT taxpayers, **representing 9.8% of all taxpayers** (retail trade is the largest). And yet . . .

- In terms of **CAT revenues** based only on the 0.26% CAT rate for gross receipts in excess of \$1 million, **manufacturers pay 28.1% of the state's total** – far more than any other group. If the CAT rate is increased from 0.26% to 0.30%, as proposed by the governor in his 2014 mid-biennium review, manufacturers as a group will be required to pay roughly **\$69,430,000 in additional CAT payments per year, which represents a 14.7% tax increase**. That would be in addition to the increase in the minimum tax that was enacted as part of the 2014-2015 state budget bill.
- In terms of **total CAT revenues** paid, including the minimum tax, manufacturers still pay the most as a group – **27.8% of all CAT before credits** and **26.2% of all CAT after credits** – generally one-third more than the next largest taxpayer group (retail trade).

See next page for the financial impact of CAT exclusions, deductions and credits.

Foregone Revenue from CAT Exclusions, Deductions and Credits

Below are estimates of revenue foregone in FY 2015 by the state General Revenue Fund from various CAT exclusions, deductions and credits.¹ Dollar amounts are millions.

Exclusion of first \$1 million of taxable gross receipts	\$136.6 ²
Qualified distribution center receipts exclusion	\$89.7
Job creation credit	\$40.7
State and federal fuel excise tax exclusion	\$32.2
Job retention tax credit	\$13.2
Credit for increased qualified research and development expenses	\$11.1
Agricultural receipts	\$11.0 ³
Casino receipts in excess of "gross casino revenue"	>\$10.0 ⁴
Exclusion for exchanges of petroleum not involving monetary compensation	\$8.5
State and federal cigarette tax exclusion	\$6.6
Credit for net operating loss carry forwards and other deferred tax assets	\$5.5
Professional employer organization exclusion	\$2.7
State and federal alcoholic beverage excise tax exclusion	\$2.0
Motor vehicle transfer exclusion	\$1.9
Exclusion of real estate brokerage gross receipts not retained	\$1.5
Research and development loan program credit	<\$1.0 ⁵
Exemption for pre-1972 trusts	<\$1.0
Anti-neoplastic drug exclusion	<\$1.0
Horse racing taxes and purse exclusion	<\$1.0
Receipts from sale of uranium from qualifying uranium enrichment zone	<\$1.0
Exclusion of certain services to financial institutions	<\$1.0
Providing public services exclusion	No Estimate Available
Petroleum receipts ⁶	No Estimate Available
Motion picture credit	No Estimate Available
Estimated Total Foregone Revenues	More than \$373.2 million

NOTE: Actual total foregone revenues will be higher than estimated total foregone revenues, which reflect indefinite revenues for casino receipts and undetermined revenues for the public services exclusion, petroleum receipts and motion picture credit.

¹ Unless otherwise noted, the source for the data listed above is the Ohio Department of Taxation Tax Expenditure Report (Fiscal Years 2014-2015).

² Ohio Legislative Service Commission

³ Ohio Legislative Service Commission

⁴ Ohio Legislative Service Commission estimates foregone revenue from casino receipts in excess of "gross casino revenue" will be "tens of millions of dollars."

⁵ The Ohio Department of Taxation Tax Expenditure Report provides only general "less than \$1 million" estimates for six items in this list (rather than precise estimates as provided for the other items). For this reason, we have chosen not to include any foregone revenue for the six items with estimated foregone revenues of less than \$1 million each.

⁶ Motor vehicle fuel dealers pay a one-time tax of 0.65% on their sales of petroleum products.

Administration Proposes Tax Changes to Reduce Personal Income Tax Rates

By Mark A. Engel
Bricker & Eckler LLP

On March 11, 2014, the administration unveiled its second mid-biennium review bill. The bill, introduced as H.B. 472, highlights 6 major areas of interest for the administration. In the area of taxation, the centerpiece of the proposal is an 8.5% reduction in personal income tax rates implemented over three years, coupled with government savings and increases in tobacco, commercial activity, and severance taxes to help pay for the reduction in tax rates.

Income Tax:

The bill proposes to cut income tax rates across the board by 8.5% over three years, beginning with calendar year 2014. The top rate would be reduced as follows:

CY 2014 – 5.203%
CY 2015 – 4.960%
CY 2016 – 4.880%

In August of each year, the income amounts to which the rates apply are to be adjusted to account for inflation.

In an attempt to provide additional reductions to persons at the lower end of the income spectrum, the earned income tax credit in R.C. 5747.71 would be increased from 5% of the federal earned income tax credit to 15% beginning in 2014. The personal exemption would increase from \$1,700 to \$2,700, for persons with Ohio adjusted gross income less than \$40,000; and from \$1,700 to \$2,200, for persons with Ohio adjusted gross income between \$40,000 and \$80,000. The exemption remains at \$1,700 for persons with Ohio adjusted gross income in excess of \$80,000. Beginning in 2016, these amounts will be adjusted annually for inflation.

In addition to the tax increases discussed below, this reduction will be paid for in part by savings realized through lower borrowing costs and lower than expected homestead reimbursement payments.

Uncodified section 803.70 provides these provisions take effect with tax year 2014.

Commercial Activity Tax:

The commercial activity tax rate will be increased from 0.26% to 0.3% of taxable gross receipts (an increase of 15.38%). Uncodified section 812.20 provides that this change is not subject to referendum and so will go into immediate effect upon the signing of the bill, while uncodified section 803.81 provides the provisions take effect July 1, 2014. The minimum tax is unchanged from last year's legislation that phased out the exemption on the first \$1 million of taxable gross receipts.

Severance Tax:

By far the most significant changes are made to the severance tax. The severance tax on traditional, vertical wells is increased to \$.20 per barrel of oil, and \$.03 per MCF of natural gas (the assessment fee imposed by R.C. 1509.50 is repealed). R.C. 5749.02(B) is amended so that a new tax is imposed upon the “privilege of engaging in the severance of oil and gas from the soil or water of this state using a horizontal well.” The new tax is imposed at a rate of 2.75% on the gross receipts of a severer of oil or natural gas on or after July 1, 2014. The gross receipts means the total amount received by a severer without any deduction from the first sale of oil or gas severed through the use of a horizontal well made at arm’s length. If the sale is not arm’s length, then the tax is based on specified spot prices certified by the tax commissioner under new R.C. 5749.02(E) for the preceding year, multiplied by the quantity of such oil or gas.

Gas from a gas well that is not a horizontal well is exempt from taxation if the production from the well does not exceed 910,000 cubic feet per quarter, or 3,640,000 cubic feet per year if the severer is required to file returns annually.

There is a three-year cost recovery period for oil or natural gas severed through use of a horizontal well. In year 1, the first \$4 million in receipts are not taxed; in years 2 and 3, the first \$3 million and \$1 million, respectively, are not taxed.

A comprehensive distribution of the proceeds from the tax imposed upon oil or gas severed through the use of a horizontal well is provided in R.C. 5749.02(C)(7). The first proceeds from the tax are devoted to regulatory activities in amounts certified annually by July 1 by the director of budget and management as needed for oil and gas regulation, geological mapping, and plugging idle and orphaned wells. The remaining amount is divided quarterly as follows:

- 10 percent to the severance tax fund of each county,
- 5 percent to the severance tax infrastructure fund,
- 5 percent to the severance tax endowment fund, and
- 80 percent to the general revenue fund.

These provisions are all effective for oil and gas severed on and after July 1, 2014.

Tobacco Tax:

The tax on cigarettes will be increased 30 cents per pack during each of fiscal year 2015 and 2016. In addition, the tax imposed on tobacco products is imposed at a rate of 41% of the price during fiscal year 2015, and at 49% of the price during and after fiscal years 2016. E-cigarettes will be subject to tax as a “tobacco product.”

R.C. 5743.03(D) and (H) are amended so that cigarette stamps are purchased from the tax commissioner, rather than the treasurer of state. Conforming amendments are made to other sections of R.C. Chapter 5743 as well.

These changes are effective with respect to invoices dated on or after July 1, 2014.

Chairman of the Board
RICK SCHOSTEK
Senior Vice President, Honda of America Manufacturing



President
ERIC L. BURKLAND
March 26, 2014

The Honorable Bill Batchelder
Speaker
Ohio House of Representatives
77 S. High St., 14th Floor
Columbus, OH 43215

The Honorable Keith Faber
President
Ohio Senate
1 Capitol Square, 2nd Floor
Columbus, OH 43215

RE: Commercial Activity Tax

Dear Speaker Batchelder and President Faber:

The Ohio Manufacturers' Association (OMA) has been a supporter of the 2005 tax reforms, including the creation of the commercial activity tax (CAT). The most important characteristics of the CAT are its broad base, its low rate, and its broad application to business entities

The CAT was enacted to promote the four main elements of sound tax policy: (1) equality, (2) simplicity of compliance, (3) transparency and (4) minimal disruption in economic decisions. The CAT promotes equality in that it applies to virtually all business activity in the state. It is simple due to the minimal calculations needed to determine the tax base. It is relatively transparent; while there is some pyramiding, the effect of the pyramiding is ameliorated by the low tax rate. And finally, the broad base and low rate minimize the intrusion of tax considerations in economic decisions by firms.

We continue to believe that any increase in the CAT rates or creation of new credits against the CAT will compromise the integrity, intent and effectiveness of the CAT. It is only through the broad application of this tax that the rate can be kept low, thereby encouraging economic growth and equitable treatment of Ohio's business taxpayers. If the CAT base is eroded, we can expect reduced competitiveness for Ohio businesses.

As the General Assembly considers revisions to the CAT as proposed in various bills under consideration (HB 483, HB 472, HB 375, HB 246, HB 230...), the OMA urges you to protect the low rate and broad base of the CAT.

Thank you for considering our position. Please do not hesitate to contact us if you would like to discuss these items further or if we can be of any assistance.

Sincerely,

Eric Burkland
President
Ohio Manufacturers' Association

cc: House Finance Committee Members
House Ways and Means Committee Members
Senate Finance Committee Members
Senate Ways and Means Committee Members

Ohio Senate Committee Approves Omnibus Amendment to Tax Bill

Mark A. Engel
Bricker & Eckler LLP

Following the adoption of an omnibus amendment to House Bill 483 by the Finance Committee, the Ohio Senate on May 21, 2014 approved the amended bill. H.B. 483 was originally part of the administration's mid-biennium review and contained many of the substantive tax provisions that were proposed by the governor with the exception of the administration's proposal to increase the severance tax (which was the subject of a separate bill, Sub. H.B. 375). The amendments contained in the Senate-passed version of the bill made several changes.

Personal Income Tax

The amendment made a number of changes in the personal income tax. Those changes include:

- Accelerating the phase-in of income tax rates reduced in Am. Sub. H.B. 59. Under that bill, rates were reduced 8.5% in taxable year 2013, with additional reductions in 2014 and 2015 totaling 10% for all three years. The amendment shifts the remainder of the 10% reduction into 2014 and thereafter.
- Increasing personal exemption amounts in three levels for taxpayers with Ohio adjusted gross income (OAGI) under \$80,000 and indexes all amounts for inflation beginning in 2016.
- Increasing the earned income tax credit from 5% of the federal credit to 10%.
- For taxable years beginning in 2014, temporarily increasing the Ohio small business income deduction from 50% of the first \$250,000 in Ohio business income to 75%. The limit reverts to 50% for taxable years beginning in and after 2015.

Property Tax

Several changes to the property tax laws were made by the amendment:

- Exempting the property of a charitable organization that is used exclusively receiving, processing, distributing, researching, or developing human blood, tissue, eyes, or organs.
- Exempting the property of an LLC that is owned by a charitable or educational institution and formed for the sole purpose of qualifying for a federal or state tax credit for rehabilitating historic buildings, providing the property is certified as historic and is used for charitable, public, or educational purposes.
- Limiting the right to file property tax complaints to the property owner or his or her spouse, to designated agents of the property owner, and to the county recorder. All other parties that can currently file original complaints would be limited to filing counter-complaints.
- Reducing the assessment percentage for new tangible personal property belonging to a water-works company first subject to taxation in tax year 2014 or later to 25% of its capitalized cost less allowance for depreciation.

Other Taxes

A number of other tax provisions were also included in the amendment:

- Limiting the extension of the historic rehabilitation tax credit to the commercial activity tax to certificates with effective dates between December 31, 2013 and June 30, 2015.
- Authorizing the disclosure of sales and use tax return and audit information to boards of county commissioners as necessary for vendor compliance purposes.
- Easing some limitations on the ability of the Tax Commissioner and vendors to enter into prearranged agreements for the remission of sales tax to the state.
- Making minor changes to the provisions of the bill dealing with historic building rehabilitation tax credit certificates for owners of “catalytic projects.”
- Allowing counties of specified populations that impose a tax on lodgings to use up to \$500,000 annually to improve and maintain a sports stadium located in the county.
- Extending from 24 to 36 months the period in which the Tax Commissioner may spread the recovery of refund amounts from distributions to local governments, thereby easing the impact of such refunds on distributions.

Finally, the changes require municipal corporations levying an income tax to certify to the Tax Commissioner each year the amount of tax collected from residents, and from nonresidents. That information is to be posted by the Department of Taxation on its website.

The bill will have to be referred to a conference committee to resolve differences between the versions passed by the two houses.