

**Government
Affairs
Committee
August 20, 2014**

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

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

OMA Government Affairs Committee Meeting Sponsor:



OMA Government Affairs Committee

August 20, 2014



AGENDA

- Welcome & Self-Introductions** **Jeff Fritz**, DuPont, OMA Committee Chair
- OMA Counsel's Report** **Kurt 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**
- Guest Presentation: 2016 Republican National Convention:**
How we got here; Next Steps;
What are the Opportunities? **Doug Preisse**, Chairman, Franklin County Republican Party
David W. Johnson, CEO Summitville Tile and Chairman, Columbiana County Republican Party
Christopher Hess, Eaton Corp., OMA Committee Vice Chair
- Guest Presentation: 2014 Election Trends and Public Opinion** **John C. Green**, Ph.D., Director, Ray C. Bliss Institute of Applied Politics
Distinguished Professor, University of Akron
- Committee Leadership Transfer**
- Lunch**

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:



Douglas J. Preisse



Douglas J. Preisse's background combines more than two decades' experience in local, state, and national politics, as well as several years' experience in government service, consulting, and direct lobbying. Doug's career includes a seven-year association with the Ohio Senate, where he served as a majority caucus staff member, legislative aide, and campaign manager for several successful elections. He has maintained a close association with senate members and staff by continuing to be involved in the political process. After serving as Political Director for George Voinovich's successful first bid for Governor of Ohio, Doug served as Director of Constituent Affairs on the executive staff of the Governor. This office's responsibilities included the establishment of regional, economic development offices statewide; veterans' affairs; multicultural affairs; constituent group communications; and the Governor's volunteerism initiatives. Doug managed Governor Voinovich's reelection effort in 1994 in which Voinovich won reelection with the highest percentage of the vote since the early 19th Century.

Doug was appointed Executive Director of the 1992 and 1996 Republican Presidential Campaigns in Ohio, in which he coordinated Presidential and Vice Presidential travel and events development, and all aspects of the campaign in a major, targeted state. Doug has played leadership roles in many other successful local and state campaigns, most recently in the elections of the Governor John Kasich, State Treasurer Josh Mandel, and Ohio House Speaker William G. Batchelder.

In 2004, Doug was elected Chairman of the Franklin County Republican Party. This organization oversees the operations of one of the largest county party organizations in the country.

Doug's consulting and lobbying experience includes representing clients in the legislative and executive arenas, as well as grassroots organization and strategies involving local government.

In addition, Doug is a member of the Board of Trustees for the Columbus Museum of Art. He is also on the Program Committee for the Columbus Metropolitan Club and a member of the Columbus International Visitors Council.

John C. Green



Title: Director, Ray C. Bliss Institute of Applied Politics
Distinguished Professor

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Biography

John C. Green is a Distinguished Professor of Political Science. He is also a Senior Fellow with the Pew Forum on Religion & Public Life, and is best known for his work on religion and politics.

He is co-author of *The Bully Pulpit: The Politics of Protestant Clergy*; *Religion and the Culture Wars: Dispatches From the Front*, and *The Diminishing Divide: Religion's Changing Role in American Politics*. In addition, he is co-editor of *The State of the Parties*, now in its 5th edition, *Multiparty Politics in America*, and *Financing the 1996 Election*.

Green is the Director of the Ray C. Bliss Institute of Applied Politics, a bipartisan research and teaching institute dedicated to the nuts and bolts of practical politics. Green is widely known as an observer of Ohio and national politics, and he is frequently quoted in the national and state media.

Education

Ph.D. Cornell University

Public Policy “Hot Topics” August 20, 2014

Overview

Lawmakers left Columbus in June to focus on campaigns. They had worked steadily through early summer, mostly focused on the Governor’s mid-biennium review proposals. The General Assembly has possible session dates scheduled in mid-September and October, but it seems unlikely that they will be around much during peak campaign season. A post-election, “lame duck” session will follow the election. Lame-duck is always a time to be vigilant against adverse public policy.

Elections

Governor John Kasich tops the November ballot in his contest against Democrat Challenger Ed Fitzgerald of Cuyahoga County. Other statewide executive branch officeholders, all held by Republicans, are running to retain their seats against Democrat challengers.

Supreme Court and district Court of Appeals are also on the ballot as are races for Ohio’s 16 Congressional races.

In the General Assembly all 99 house seats are up. With a 60 seat majority currently, Republicans may net one or two seats in what looks to be a favorable year for Republicans. Approximately one half of the 33 state senate seats are up. Republicans enjoy a 23 vote majority and head into the election flush with resources.

Due to term-limits, both Speaker Batchelder and Minority Leader Heard will be leaving the legislature after this term. The House leadership competition remains unresolved with an edge to a team led by Cliff Rosenberger (R-Clarksville) and Ron Amstutz (R-Wooster).

The OMA has compiled 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. Finally, the OMA PAC is evaluating candidates on the ballot for possible endorsement.

Mid-Biennium Review (MBR)

The Governor’s MBR bill was introduced in March following state of the state. The main 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 passed 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.

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

After 18 months of wrangling, legislation to revise Ohio's alternative energy standards was signed into law by Governor Kasich in June. SB 310 enjoyed strong backing of Ohio legislative leaders. Following review and analysis of the bill for impact on the manufacturing sector, the OMA communicated strong opposition to the bill. See energy report.

Workers' Comp & Industrial Commission

The BWC announced another billion back to state fund employers. The BWC Board of Directors will be reviewing the proposal this week and it will be up for approval in September. Checks could begin reaching members in October. Also, legislation was approved earlier this year to allow the BWC to 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 held one hearing but indicated it is not necessarily on board with the House passed version.

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 held sponsor testimony prior to break. Meetings continue throughout summer, however it is still to be determined what a final product might look like.

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. However there is chatter that a CAT increase proposal may resurface in order to pay for a larger personal income tax reduction.

Civil Justice

No further action on Transparency in Private Attorney Contracting (TiPAC) legislation. Two differing bills have been introduced. 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.

Environment

In June the U.S. EPA proposed its rules for carbon emissions from the nation's power plants. The rules were proposed under section 111(d) of the Clean Air Act. The rule proposes a national reduction in power plant carbon emissions of 30% by 2030, from a base year of 2012.

The EPA says it built a formula for state-specific reductions: "EPA analyzed historical data about emissions and the power sector to create a consistent national formula for reductions that reflects the building blocks. The formula applies the building blocks to each state's specific information, yielding a carbon intensity rate for each state." Those "building blocks" are: making fossil fuel plants more efficient, fuel switching from coal to natural gas, increased use of solar, wind and nuclear power, and reducing electricity demand by increased energy efficiency. The 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.

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

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.

Human Resources – unemployment taxes

There is a major concern among employers regarding Ohio's \$1.4 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. The Speaker created a summer study committee to travel the state and bring possible recommendations to the legislature on how to address the debt and solvency issues.

Constitutional Modernization Commission

See counsel's report.

Leadership

U.S. Sanctions Against Russia: Impacts to U.S. Businesses

On July 29, 2014, President Obama imposed tough new sanctions on Russia due to the situation in Ukraine. These "Level 3" sanctions followed two previous rounds of sanctions that targeted individual persons and companies. Now the U.S. and the European Union have imposed sanctions against key sectors of the Russian economy for the first time. The three sectors targeted are Russia's banking and financial industry, oil and gas industry, and defense industry.

OMA Connections Partner, Roetzel says: "The impact of these sanctions on U.S. business and financial institutions is obvious. Any assets that they hold of any of the designated persons are frozen. Further, they are prohibited, along with all their foreign subsidiaries and affiliates, from having any business transactions whatsoever with the named persons or entities. A key challenge for U.S. companies is to make sure that they are not inadvertently dealing with "strawmen" who are actually acting by or on behalf of the named persons. Therefore, it is important to have systems in place to guard against this happening." Read [more](#). 8/10/2014

Latest Poll: Kasich Up 12%

The [latest poll](#) from Quinnipiac University has Governor Kasich up 12% over his Democratic challenger, Ed Fitzgerald. The governor leads 48% to 36%.

"Cuyahoga County Executive Ed FitzGerald, the Democratic challenger in the race for Ohio governor, remains largely unknown and is gaining little ground against Republican Gov. John Kasich," finds Quinnipiac. Kasich was up 50% to 35% in the May 14 survey.

"Less than 100 days before election, 65 percent of Ohio voters don't know enough about FitzGerald to form an opinion of him," says the pollster.

The Cincinnati Enquirer asks: "[Wait, what? OH Dem Gov Candidate Getting Less Well-Known During Campaign](#)."

The Cleveland Plain Dealer notes: "[Surprising hurdle for Ed FitzGerald: 55 percent of Northeast Ohio voters still don't know who he is](#)." 7/30/2014

August Recess: Time to Contact Federal Lawmakers at Home

The National Association of Manufacturers' (NAM) has built an "[August Recess Toolkit](#)."

NAM: "Members of the U.S. House and Senate will return home to their districts/states for a month-long recess period from August 4 through September 8. This is a perfect opportunity to contact your legislators to discuss critical issues of importance to the manufacturing community."

During this August recess, the NAM is asking manufacturers to focus outreach efforts on these areas: (1) Embrace reasonable and responsible environmental regulations (greenhouse gas and ozone), and (2) Reauthorize the Ex-Im Bank.

Go [here](#) to send a message to federal legislators. 7/29/2014

America's Competitors: 18 Times Bigger Export Credit Agencies

To understand more fully the dimensions of export credit activity globally, the National Association of Manufacturers (NAM) commissioned The Economist Intelligence Unit (EIU) to research and detail the activities and policies of the world's leading foreign export credit agencies (ECAs). That [research](#) demonstrates that major foreign ECAs are far larger than the U.S. Export-Import (Ex-Im) Bank and are growing strongly to support foreign manufacturers and exporters.

The study found: "(T)he nine largest foreign ECAs provided approximately \$488 billion in export financing support in 2013, more than 18 times the level of the Ex-Im Bank. Financing plays an important role worldwide in promoting global trade that supports jobs, manufacturing and a higher standard of living."

OMA director, David W. Johnson, CEO, Summitville Tiles, Inc., wrote in a [July 31 letter](#) to the Plain Dealer editor: "Since this is a lending function in which many U.S. commercial banks simply do not prefer to participate, allowing the authorization of the Ex-Im Bank to expire would mean thousands of small to mid-sized U.S. manufacturers would find it more difficult, if not impossible, to compete overseas. And this is at a time when major export nations like China are rapidly expanding their own export credit agencies."

Read more about the importance of the Ex-Im Bank in this NAM [briefing paper](#). 7/29/2014

Ohio Manufacturing Counts!

The facts are in and the news is good. Ohio is *still* powered by manufacturing.

- At **17.1%**, manufacturing contributes more to Ohio's GDP than any other industry sector.
- The average annual wage in Ohio manufacturing is **\$55,525** and the total manufacturing payroll of more than **\$36 billion** is greater than any other industry sector.
- More than **660,000** Ohioans work in manufacturing, one out of every 10 Ohioans.
- In 2013, Ohio exported more than **\$50 billion** in goods to 211 countries and territories.

OMA has prepared [Ohio Manufacturing Counts 2014](#) to give Ohioans an understanding of the importance of manufacturing to the state and to the future of the state. The data are from a wide variety of sources and are the most recent available.

Please share this resource widely with your elected officials, your employees, and within your community to communicate the importance of protecting and growing Ohio manufacturing.

Request copies of the print version of *Ohio Manufacturing Counts 2014* by emailing OMA's [Lisa Cummings-Dye](#) or call her at (800) 662-4463. 7/21/2014

American Steel Gains Victory on OCTG "Dumping"

Last week the U.S. Department of Commerce [ruled](#) that additional duties will be levied on imports of oil country tubular goods (OCTG) from eight countries, including South Korea. The department declared that these countries were illegally dumping low-cost steel pipes and tubing into the U.S.

Including the South Korean OCTG imports is a reversal of the department's preliminary ruling which exempted the country from additional duties.

The decision is still subject to ratification by the United States International Trade Commission. However, the ruling is considered a gain for American manufacturers that have been combatting unfair trade practices related to OCTG.

The 2011 edition of *Manufacturing & Distribution USA* ranked Ohio first among states in "iron and steel pipe and tube manufacturing" with 20% of all U.S. shipments. This is a big win for Ohio steel.

Here is OMA's [letter](#) to Commerce Secretary Penny Pritzker. 7/17/2014

2014 Ohio Election Guide Hot off the Press

The OMA's *2014 Ohio Election Guide*, produced with assistance from Hannah News Service, Inc., is now available. Here is the [link](#) to the *Guide*.

The *Ohio Election Guide* is created for Ohioans interested in excellence in government. It features: comprehensive information about candidates for House, Senate, judicial and statewide offices, updated district economic profiles, updated district demographics, and new district political indices that represent relative Republican/Democrat voting strength.

Guides in hard copy format may be purchased for \$85. Email [Lisa Cummings-Dye](#) or call her at (800) 662-4463; there is a limited supply for sale. 7/15/2014

French Oil Mill Machinery Co. CEO: Ex-Im Bank Saves American Jobs

OMA Board Director Dan French, Chairman and CEO of the French Oil Mill Machinery Company of Piqua, this week sent out a [strong rebuke](#) to critics of the Ex-Im Bank.

He wrote of his company and its use of Ex-Im: "The availability of competitive EX-IM financing probably saved about \$50-80-Million of US exports over the years, for sales which would otherwise have been lost to foreign companies. The availability of the EX-IM bank kept the profits and employment in the US, thus returning money to the US Treasury.

Those dollar amounts are peanuts compared to the price of a single Boeing 747, I realize, but the EX-IM bank kept about 500-800 jobs in Ohio and surrounding states, and enabled our company to survive and grow – pretty important results for those of us here!!"

[Tell your Ex-Im story](#) to your members of Congress! 7/16/2014

New McGladrey Report Shows Manufacturing Optimism, but ...

The [2014 McGladrey Manufacturing & Distribution Monitor](#) survey indicates that 36 percent of participating executives say their businesses are thriving. They are generally encouraged by sales growth over the past year, and they expect growth and hiring to continue. However, stricter regulations,

high corporate tax rates, increasingly aggressive state tax agencies, and an inability to plan for what the federal government may deliver in the future have all contributed to a continued uncertainty and frustration among executives trying to plan for the future.

In addition to the [comprehensive report](#), McGladrey prepared [state reports](#) and reports for these sub-industries: [food and beverage](#), [consumer products](#), and [distribution](#).

The 2014 survey summarizes thinking of leaders of principally U.S.-based manufacturing and distribution organizations. There were 1,147 total respondents, 775 manufacturers and 372 distributors. Thank you to the 34 OMA members who participated, and thus received their company's custom benchmark report. As a result, an OMA-specific report will be available in the near future.

McGladrey is an OMA Connections Partner. 7/16/2014

Manufacturing Day is October 3, 2014



It's not too soon to begin to plan your company's participation in MFG DAY 2014. Do a little or do a lot; it all supports the mission! Host an event, attend a local event, help with resources or spread the word.

There are excellent how-to resources available at the [MFG DAY web site](#), including an event host toolkit, an educator toolkit, and much more.

MFG DAY addresses common misperceptions about manufacturing by giving manufacturers an opportunity to open their doors and show, in a coordinated effort, what manufacturing is — and what it isn't. By working together during and after MFG DAY, manufacturers will begin to address the skilled labor shortage they face, connect with future generations, take charge of the public image of manufacturing, and ensure the ongoing prosperity of the whole industry. 7/16/2014

It's Cleveland!

The Republican National Committee this week [announced](#) that Cleveland will host the 2016 National Convention.

Ohio Republican Party Chairman Matt Borges said: "Hosting the 2016 Republican National Convention in Cleveland is a big win for Ohio and for our next Presidential nominee. We will have the opportunity to share Ohio's comeback story to the nation and demonstrate how powerful balanced budgets, lower taxes, and a focus on job creation can be. At the same time Republicans nationally will be focused on Ohio, the nation's most critical swing state."

In 2016, the rest of the country (and much of the world) will see what we in Ohio see: Cleveland is a great city of terrific neighborhoods on a beautiful lake, a city powered by an innovatively resurgent manufacturing base.

Now, as the Plain Dealer asks in an [editorial](#): "Republican Party picks Cleveland, will LeBron do the same?" 7/10/2014

Butler Continues Speaker Campaign

Rep. Jim Butler (R - Oakwood) says hold the phone, the race for becoming the next Ohio House Speaker is not over.

From a [Columbus Dispatch story](#) this week: "We are increasingly confident that we are going to be successful," said Butler (R-Oakwood), a former Navy jet-fighter pilot who is a lawyer with the firm Thompson Hine. "It's too early to tell definite levels of support. Any counting of votes for speaker now is like announcing poll results four months prior to an election."

Butler's support comes from the more conservative members of the House Republican caucus. 7/10/2014

Restore Highway Trust Fund to Solvency

The OMA joined with the National Association of Manufacturers in a letter urging Congress to take the necessary measures to return the Highway Trust Fund to a state of solvency.

The associations wrote to Congress: "Manufacturers need stable and reliable infrastructure to both thrive and compete in today's global economy. Unfortunately, the nation's infrastructure is out of date and resting on a legacy built by previous generations. To compete in the 21st-century economy, we have to

invest in and modernize our infrastructure with an eye toward economic growth, jobs and increased competitiveness. Congress must fix the Highway Trust Fund without delay.

Manufacturers have been integral to building our nation's transportation networks and systems at every step of the way. Each dollar spent in construction generates nearly 40 cents of manufacturing activity which in turn, creates jobs and economic opportunity for millions of Americans."

Both the House and the Senate are expected to take action on this legislation later this month. 7/10/2014

Economic Development Conference Coming Up

From OMA counsel Bricker & Eckler LLP: "The Ohio Economic Development Association (OEDA), JobsOhio and its Regional Network Partners, the Ohio Development Services Agency (ODSA) and the Mid-Ohio Development Exchange (MODE) are hosting the Mid-Year Briefing for economic development professionals and elected officials on Thursday, July 17 at the Marriott Columbus Northwest in Dublin, Ohio.

The agenda features updates about JobsOhio and ODSA programs, including topics such as strategies for job growth and increasing investment in local communities, and Bricker & Eckler will present an update on economic development legislative activity."

If you are involved with economic development work, you will want to find out more about this event [here](#). 7/10/2014

Cliff Rosenberger: Next Ohio House Speaker?

It [appears](#) that Cliff Rosenberger has emerged as the likely next Speaker of the Ohio House of Representatives. Rosenberger is from Clarksville in Southwest Ohio. He is in his second term of office. Find out more about Cliff [here](#).

Speaker Bill Batchelder is term-limited. His retirement from the job has caused months of speculation and jockeying for votes within the House Republican caucus. Recently, Rosenberger and Ron Amstutz, from Wooster, seemed to be the front runners.

Now, Amstutz has thrown his support to Rosenberger. In return, Amstutz would become speaker pro tem, the number two spot in House leadership.

The caucus will vote on the speakership after the November General Election. So, it is not over. Rep.

Jim Butler (R - Dayton) says he is still in the race and will continue to court support. 7/2/2014

Effort to Protect Export-Import Bank

The Exporters for Ex-Im Coalition released a new 3-minute [video](#) explaining the role of the U.S. Export-Import Bank (Ex-Im Bank) in supporting exporters of all sizes around the nation.

There is an overwhelming amount of misinformation in the debate over Congress' reauthorization of the Ex-Im Bank, which is currently set to expire on September 30th.

The purpose of the video is to educate elected officials about the critical impact the Ex-Bank has on employment and growth opportunities.

If your company benefits from the Ex-Im Bank, consider sharing your story and the video with your congressional representative. 7/1/2014

Port of Cleveland has Express Service to Europe



In April the Port of Cleveland started a regularly scheduled express freight shipping service between the Cleveland Harbor and Europe.

The Cleveland-Europe Express Ocean Freight Service is the only scheduled international container service on the Great Lakes.

The service can replace or augment Ohio manufacturers' use of East Coast ports to ship goods to Europe, which can reduce rail and truck costs, and simplify logistics.

Port representative David Gutheil said the service is the fastest and greenest route between Europe and North America's heartland, allowing regional companies to ship their goods up to four days faster than using water, rail, and truck routes via the U.S. East Coast ports.

For information, contact [David Gutheil](#), Vice President, Maritime & Logistics, Port of Cleveland, (216) 377-1363. Read [more](#). 6/20/2014

Take Action on Ex-Im Bank Reauthorization

The House Financial Services Committee is holding hearings to discuss reauthorization of the U.S. Export-Import (Ex-Im) Bank. Members of Congress are debating whether the Ex-Im Bank offers enough value to U.S. businesses and taxpayers to be reauthorized in September.

The National Association of Manufacturers (NAM) is asking manufacturers to contact their members of Congress to urge reauthorization. Linda Menghetti Dempsey, Vice President, International Economic Affairs, at NAM says: "The Ex-Im Bank is vitally important to manufacturing in the United States. Failure to reauthorize the Bank would mean unilateral disarmament for manufacturing employees—and their families—who are trying to compete in the global marketplace."

Ex-Im offers loans and guarantees to foreign purchasers of U.S. manufactured goods who meet strict lending qualifications when private-sector lenders can't or won't provide financing. Ex-Im, by law, cannot and does not compete with commercial lenders. Its mission is to fill gaps in commercial financing.

Ex-Im Bank was last reauthorized in May 2012, and the Bank's current charter expires on Sept. 30, 2014. It has been reauthorized by Congress multiple times, led by both Republicans and Democrats.

In fiscal year 2013, Ex-Im directly supported two hundred and five thousand jobs across the U.S. and had a broader impact on the manufacturing sector, which totals more than 17 million jobs. In that year, Ex-Im earned more than \$1 billion profit for the U.S. Treasury, mostly through fees collected from foreign customers. Eliminating Ex-Im would result in an increase in the U.S. deficit.

For more information and to contact your members of Congress, visit [Exporters for Ex-Im](#). 6/24/2014

Legislature Plans Remainder of 2014 Sessions

The official House and Senate [session calendar](#) was released and shows a few potential session days in September and early October, but a fairly robust schedule in the post-election or "lame duck" session.

Over the summer and fall, legislators will be campaigning in their districts.

Also, some have suggested that House Republicans may soon select their next speaker, who will follow term-limited Speaker Bill Batchelder (R-Medina) at

year's end. Potential contenders include Rep. Ron Amstutz, (R-Wooster) and Rep. Cliff Rosenberger (R-Clarksville). 6/26/2014

Ohio Matches U.S. GDP Growth in 2013

Real gross domestic product (GDP) increased in 49 states in 2013, according to [new statistics](#) released recently by the Bureau of Economic Analysis (BEA). Nondurable-goods manufacturing; real estate and rental and leasing; and agriculture, forestry, fishing, and hunting were the leading contributors to real U.S. economic growth. U.S. real GDP growth slowed to 1.8 percent in 2013 after increasing 2.5 percent in 2012.

Ohio's growth matched the national average of 1.8%, and ranked 26th among the states. Read a [spreadsheet](#) of the state data. 6/25/2014

Foreign Direct Investment in U.S. Cities

Brookings last week released a [report](#), "FDI in U.S. Metro Areas: The Geography of Jobs in Foreign-Owned Establishments," which analyzes foreign investments in cities across the country between 1991 and 2011.

Brookings found: "Foreign-owned U.S. affiliates directly employ some 5.6 million workers spread across every sector of the economy. The number and share of U.S. workers employed in foreign-owned establishments (FOEs) increased steadily through the 1990s before peaking in 2000 and then stagnating."

[Ohio](#) ranked 8th in 2011 in the number of jobs in foreign-owned establishments, 221,330. The top five industries by jobs in FOEs (% of total FOE jobs) in 2011: motor vehicle parts, 29,400 (13.3%); motor vehicles, 7,500 (3.4%); rubber products, 6,700 (3%); plastics, 5,000 (2.3%); and, investigation and security, 5,000 (2.3%).

Top five source countries for Ohio jobs: Japan, 47,000 (21.2%); England, 30,000 (13.5%); Germany, 25,200 (11.4%); France, 17,100 (7.7%); Canada, 16,200 (7.3%). 6/23/2014

Building a Nation of Makers

A commission chartered by the Miller Center at the University of Virginia, chaired by former Governors Haley Barbour (Mississippi) and Evan Bayh (Indiana), released a report offering ideas on how to create American middle-class manufacturing jobs. The aim of the report, "[Building a Nation of Makers](#)," is to "rebuild the American Dream" by focusing on the "longtime engine of middle-class jobs: American manufacturing."

The commission developed six ideas to “expand the innovative capacity of our manufacturing SMEs: talent investment loans to help firms upscale their human capital; upside-down degrees to encourage synergies between work experience and college education; a skills census to collect the data needed to enhance labor force efficiency; a national supply chain initiative to fully map America’s manufacturing supply chain ecosystems; renewed focus on technology and engineering skills for high school students; and a “big trends-small firms” initiative to connect SMEs with the latest technologies.” 6/25/2014

"Disruptive Complexity"

KPMG recently released its “[Global Manufacturing Outlook 2014](#).” It finds “explosive developments in technology, material science, advanced manufacturing and synergistic operating models are clearly beginning to redefine ‘the art of the possible.’”

KPMG: “Underlying this year’s survey results, we see a powerful theme – ‘Disruptive Complexity’ – that we believe will be a major force for all manufacturers to reckon with. The challenges of the past five years (largely characterized by global uncertainty, economic volatility, geo-political instability, shifting markets and natural disasters) have resulted in massive changes to the manufacturing landscape and there is every indication that these macroeconomic winds of change will continue to blow.

However, these may seem tame compared to the new forces created by the proliferation of data, scientific discovery, robotics, technology and artificial intelligence... just to mention a few. These new and powerful forces will intensify and forever change the dynamics, risks and success factors for global manufacturing companies.”

The Global Manufacturing Outlook 2014 is based on a survey of 460 senior executives conducted by Forbes on behalf of KPMG International that was completed in early 2014. Respondents represented six industries: aerospace and defense, automotive, conglomerates, consumer products, engineering and industrial products and metals. 6/26/2014

OMA-PAC Board of Directors Endorses Kasich

This week the OMA-PAC Board of Directors voted to endorse [Governor John Kasich](#) for re-election.

Kasich is a pro-manufacturing governor with significant achievements in his first term, including restoring fiscal health to the state government, reforming government operations, lowering taxes, and investing in infrastructure.

OMA-PAC urges a vote for Kasich this fall. 6/18/2014

OMA-PAC Board Endorses French and Kennedy for Supreme Court

The OMA-PAC Board of Directors has endorsed for re-election Justices [Judith L. French](#) and [Sharon L. Kennedy](#). Both justices have demonstrated thoughtfulness, prudence and a respect for the separate branches of government, which support manufacturing competitiveness.

The OMA-PAC urges November votes for French and Kennedy. 6/18/2014

OMA Board Elects Bill Sopko as Chairman

When it met this week, the OMA Board of Directors elected William E. (Bill) Sopko as its chairman to serve a two-year term. Bill is president of William Sopko & Sons Co., Inc., and Stamco Industries, Inc., Euclid.

Bill succeeds Rick Schostek, Executive Vice President, Honda North America, Inc., as OMA chair. Bill said, "It's important for OMA leadership to come from all sizes of manufacturers so that the breadth of Ohio manufacturing can be represented."

Rick remains on the board's executive committee.

Jeff Durham, Vice President, North American Region Manufacturing, Whirlpool Corporation, was elected First Vice Chairman.

Other directors elected to the board's executive committee are: Rick Jones, Vice President - Finance, Worthington Steel, Jane Neal, Senior Vice President & General Manager, AMG Vanadium, Inc., and Rick Pfeifer, VP & Chief Technical Officer, American Trim, LLC. 6/18/2014

OMA Board Re-elects Directors

Members of OMA's Board of Directors who were re-elected to three-year terms during the OMA's annual meeting this week included: **Christopher Farage**, VP Communications & External Affairs, Parker Hannifin Corporation; **Jeffrey L. Hollister**, President, Vanguard Paints & Finishes, Inc.; **James B. Krimmel**, President & CEO, Zaclon, LLC; **Frank Mehwald**, President & CEO, Atlantic Tool & Die Co.; **Richard J. Pfeifer**, VP & Chief Technical Officer, American Trim, LLC; **Rick Schostek**; Executive Vice President, Honda North America, Inc.; **William E. Sopko**, President, William Sopko & Sons Co., Inc.; and **Karl J. Weidner**, Vice President of Manufacturing, Midmark Corporation.

The OMA board has staggered terms and its additional members will be elected in subsequent years. 6/18/2014

Ohio Manufacturing Climate Scores “B+”

Ohio scored an overall “B+” for its manufacturing climate according to a [2014 Manufacturing and Logistics report](#) from Conexus Indiana. The report is prepared by the Ball State University Center for Business and Economic Research.

Ohio received an ‘A’ for logistics; a ‘C’ for human capital; a ‘C’ for worker benefit costs; a ‘C’ for its tax climate; a ‘C’ for expected fiscal liability gap; an ‘A’ for global reach; a ‘C+’ for sector diversification and a ‘C’ for productivity and innovation. 6/18/2014

MAPI: Accelerating Growth Ahead

The latest Manufacturers Alliance for Productivity and Innovation (MAPI) [industrial outlook](#) projects accelerating growth ahead.

MAPI: “The U.S. manufacturing outlook for 2014 and 2015 calls for an acceleration in the growth rate each year. Consumer-driven manufacturing growth will be relatively stable, supported by employment gains and rising wages. Households have low debt burdens and their wealth is rising because of higher stock and home prices. Businesses are more likely to invest thanks to the two-year federal budget, debt ceiling agreement, and renewed growth in Europe and Japan. Investment in manufacturing machinery and structures should lead the growth acceleration in investment-driven manufacturing production.” 6/16/2014

Fortune: Ohio among Growth Laggards in Past 20 Years

In its [annual survey](#) of the states, Fortune finds Ohio among the laggards in growth over the past 20 years.

Fortune: “Overall, nine states — California, Texas, Minnesota, North Carolina, Tennessee, Washington, Arkansas, Wisconsin, and Nebraska — have truly shined since 1995. Seven others — New York (despite tying California for the most number of companies in the Fortune 500), New Jersey, Connecticut, Pennsylvania, Ohio, Illinois, and Michigan — have disappointed. The collective market capitalization of companies in the nine leading states has grown an average 12% a year since 1995, close to doubling the gain (6.6%) for those based in the laggards.”

The magazine’s take on the future: “If there is good news for the more savaged of states, though, it is this:

The great reshuffling has left them with portfolios that may be more promising than the ones they started with. The same industries that prospered in the past 20 years may not be the anointed of the two decades to come. So the past laggards could do far better, and the recent winners are by no means certain to repeat.” 6/18/2014

Food Manufacturers: Note Labeling Suit Outcome

OMA Connections Partner, Dinsmore, [summarizes](#) last week’s Supreme Court 8-0 decision unanimously holding that compliance with federal labeling statutes cannot be used as a defense to lawsuits by competitors for false advertising under the Lanham Act.

In 2007, Coca-Cola released a juice drink under its Minute Maid brand called “Pomegranate Blueberry.” Despite the name, 99.4% of the beverage was made up of apple and grape juice.

POM Wonderful, a direct competitor of Coca-Cola in the juice market, sued in California for false advertising on the grounds that the name deceived customers into believing that Coca-Cola’s juice contained primarily pomegranate and blueberry and this confusion led to lost sales by POM Wonderful.

According to Dinsmore, food and beverage insiders have expressed concerns that the decision will lead to increased lawsuits relating to branding and labeling. 6/16/2014

Patent Troll Bill Doesn't Work

In an [extensive analysis](#) of House Bill 573, Wayne Serra of OMA counsel Bricker & Eckler concludes that the bill, intending to protect businesses from the damaging effects of “patent trolls,” fails to do so.

Serra writes: “Although the words “patent troll” are never used, this bill clearly is intended to curb practices seen as overreaching by a group of patent owners referred to as non-practicing entities (NPEs) or pejoratively, “patent trolls.” An NPE is usually understood to be a business entity that holds an issued patent and derives substantially all its revenue from licensing activities, as opposed to selling products or providing services covered by the patent. This is possible because U.S. patent law grants to patent holders an affirmative right to exclude others from doing what is covered by the patent but does not require an owner of a patent to manufacture or sell goods, or provide services covered by the patent.”

On the bill’s shortfalls, he says: “Although apparently directed at some of the more complained-of activities of NPEs, HB 573 fails to address how NPEs actually

operate in the marketplace for licenses to patents. It fails to provide real protections to manufacturers and other recipients of demand letters from NPEs. Some provisions fail to appreciate the nature of patents as legal instruments and the law already governing their enforcement. Many provisions are easily avoided by wording already in common use in demand letters sent by NPEs."

This issue is important to Ohio's innovative manufacturing base. To engage on the issue, contact OMA's [Rob Brundrett](#). 6/12/2014

Senate OKs Tolling for Brent Spence Bridge

The Ohio Senate voted 31-0 in support of House Bill 533 to allow tolling on public roadways to pay for reconstruction and replacement of existing toll-free roads and bridges. The bill now moves to the governor who is expected to sign it. The bill was fast-tracked, having been voted out of the House just a couple weeks ago. 6/5/2014

Legislators Head Home for the Summer

The Ohio House and Senate both wrapped up their work in the Statehouse, and headed home for the summer. No formal sessions are planned, at the moment, until after the November general election. However, it is likely that there'll be a week here and there that they'll come back into session. Meanwhile, there'll be lots of campaigning in the districts. 6/5/2014

Poll Supports Longer Terms for State Legislators

A new [report](#) by the University of Akron *Ray C. Bliss Institute of Applied Politics* updates Ohioans' views on four controversies concerning state government: legislative redistricting, early voting, term limits, and length of a single legislative term.

The findings include:

- Most Ohio registered voters are dissatisfied with the current process for legislative redistricting. However, a majority is satisfied with the current process of early voting.
 - Most Ohio voters are satisfied with the current eight-year term limit for state legislators. However, a majority would accept extending the limit to twelve years. At the same time, a majority approves increasing the length of a single legislative term to four years for state representatives and six years for state senators.
- Ohioans' views on these issues have changed little in the last decade, suggesting that these opinions are rooted more in voters' values than in experience of the political process.

These issues may be addressed by the Ohio Constitutional Modernization Commission, currently convened to study and propose possible changes to the state constitution. 5/29/2014

Senate Introduces TiPAC Legislation

Sen. [Bill Seitz](#) (R-Cincinnati) this week introduced legislation 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, [Senate Bill 344](#) is intended to address concerns about the propriety of contingency-fee arrangements for the prosecution of public claims.

The Senate bill is companion to [House Bill 238](#), previously introduced by Rep. [Jim Butler](#) (R-Dayton).

The OMA supports the measure. 5/29/2014

Have AEDs on Premise? New Liability Concerns

An amendment backed by personal injury trial attorneys was slipped into House Bill 247 and serves to modify the conditions for immunity for a premise owner with an automated external defibrillator (AED).

This has raised a concern among civil defense lawyers who believe that with this amendment, premise owners who deploy AEDs could face the prospect of costly and unfair lawsuits.

Together with the Ohio Alliance for Civil Justice, the OMA is calling for this amendment to be removed from the bill. Here's [more](#) about it and how to act if you're concerned. 5/29/2014

OMA in the Courts

In this [memorandum](#), OMA counsel Bricker & Eckler LLP provides an update on three cases pending in the Ohio Supreme Court in which the OMA has appeared as amicus curiae.

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.

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.

And finally, the OMA has a significant interest in ensuring that the Ohio EPA follows an appropriate and transparent rulemaking process before making determinations to limit waste water discharge amounts (via NPEDS permits) and thus filed amicus action. *5/29/2014*

Miscellaneous Legislation of Interest to Manufacturers

Prepared by: The Ohio Manufacturers' Association
Report created on August 18, 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: 6/3/2014 - House Appoints Managers; Conference Committee Appointees - Reps. Stautberg, Butler & Stinziano
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**; Eff. 7/10/2014

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: 6/17/2014 - **SIGNED BY GOVERNOR**; Eff. 9/17/2014

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: 5/27/2014 - **REPORTED OUT**, House State and Local Government, (Sixth 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: 5/27/2014 - **REPORTED OUT**, House State and Local Government, (Sixth 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: 5/27/2014 - **REPORTED OUT**, House State and Local Government, (Sixth 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: 6/3/2014 - Referred to Committee House Finance and Appropriations

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: 6/3/2014 - Referred to Committee Senate Ways and Means
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**; Eff. 7/1/2014
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: 6/11/2014 - **SIGNED BY GOVERNOR**; Eff. 9/11/2014

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_533

HB573 PATENT INFRINGEMENT (ROEGNER K) To prohibit a person from making a bad faith assertion of patent infringement, to permit a person aggrieved by a bad faith assertion of patent infringement to bring a tort action, and to authorize the Attorney General to investigate and to institute a civil action if the Attorney General believes a person has made a bad faith assertion of patent infringement.

Current Status: 6/3/2014 - Referred to Committee House Judiciary

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_573

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:** 6/17/2014 - **SIGNED BY GOVERNOR**; Eff. 9/17/2014
- 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:** 6/4/2014 - House State and Local Government, (Third Hearing)
- 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**; Eff. 7/10/2014
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: 5/27/2014 - **REPORTED OUT AS AMENDED**, Senate Transportation, (Third 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: August 18, 2014

RE: 2014 Government Affairs Update

I. 2014 Government Affairs Update - Overview.

Although the legislature has been on summer recess for several months, government affairs and political activities in Columbus and throughout Ohio have not slowed down. Below are some highlights of various electoral and policy items that have been the topic of discussion around Capitol Square in the last few months.

The Constitution Modernization Commission continues its work and is starting to present recommendations for changes to Ohio's Constitution. The Ohio House Unemployment Compensation Debt Study Committee has had its first meeting and is starting its exploration of the state's unemployment compensation system.

On August 11, 2014, U.S. District Judge Peter C. Economus heard arguments in a case challenging the elimination of "golden week" – the period of time when individuals may register to vote and cast a ballot – and a Secretary of State directive that limited weekend and evening voting hours.

With campaign season in full swing, we are closely watching fundraising numbers and polling data for statewide candidates – especially in the gubernatorial race – in anticipation of Election Day in November.

Finally, although the legislature is on summer recess, we are looking forward to lame duck session in the fall and continue to track legislation on behalf of the OMA.

II. Constitution Modernization Commission.

As we reported in the June 2014 Counsel Report, the Ohio Constitutional Modernization Commission ("OCMC"), which was created with the passage of H.B. 188, continues its work studying the Constitution of Ohio and is considering changes to update various Constitutional sections and provisions.

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Among the provisions garnering debate and attention are those on the topics of school funding, term limits, and redistricting.

With respect to school funding and public education, a proposal surfaced in March to require the Ohio legislature to provide the “organization, administration and control of the public school system.” The proposal was criticized by many school groups and advocates of public education. Another proposal suggested the removal of the words “thorough and efficient” which committee members suggested has been used to remove the debate of public education from the legislature to the courtroom. No timetable has yet been set for a formal proposal on education reform to the legislature, and we anticipate continuing debate on the possible changes both to Ohio system for funding education, as well as educational administration and control.

Possible changes to Ohio’s term limits restrictions have garnered significant debate and dissention among OCMC members and outside groups supporting the current eight-year limits and those groups seeking a possible extension. The committee is currently considering whether that number might be increased to 12 years to allow legislators more time to gain experience while in office before being forced out. As with education-related reforms, Ohio’s debate on term limits in the 1990s was significant and hard fought. Any change, if any change in the years for term limits might occur, will be the subject of considerable debate and consideration – and certainly an inevitably (and extremely costly) statewide ballot campaign.

Finally, the OCMC Legislative & Executive Branch Committee is considering a proposal which would leave Ohio’s redistricting and reapportionment process in the hands of a seven-member board. The Committee seems to agree that at least one minority party vote must be cast in favor of proposed Congressional and Ohio legislature districts, but debate continues as to whether two minority votes should be required. As with the continuing debate and consideration on term limits revisions, any redistricting and apportionment proposal will most certainly be met with heated debated, rhetoric, and a likely ballot campaign both for and against whatever proposals might be presented.

Any recommendations made by the Committees of the Constitutional Modernization Commission must receive a two-thirds vote by the full Commission to become an official recommendation.

III. Ohio House Unemployment Compensation Debt Study Committee.

On August 5, 2014, the Ohio House Unemployment Compensation Debt Study Committee held its first hearing. In opening the meeting, Chairwoman Barbara Sears (R-Sylvania), outlined six goals for the committee summer study committee. These goals include:

- Understand the history of the state's unemployment compensation (UC) system.
- Understand the program's hearing process both for employers and employees.

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- Understand the benefits for workers and the impact on businesses.
- Understand the program's effect on the unemployment rate.
- Understand the burden of the debt on businesses and employees.
- Understand the unemployment compensation system's unique nuances on certain employment groups.

At the initial meeting, the committee heard from Cynthia C. Dungey, Director of the Ohio Department of Job and Family Services (“ODJFS”) and Bruce Madson, the Assistant Director of Employment Services at ODJFS. Director Dungey’s remarks sought to dispel some of the myths about unemployment compensation and provide the Representatives with a brief overview of who is eligible for unemployment benefits, for how long benefits are available, how the program is funded, and why structural imbalances have caused the current insolvency.

Assistant Director Madson elaborated on the Director’s comments by more fully explaining federal tax (known as the “FUTA tax”) and state tax (“SUTA tax”) paid by employers for each covered employee. He stated that, while the federal tax rate is the same for all employers, state tax rates vary based on the employer’s experience rate to ensure that employers with larger numbers of layoffs pay higher taxes.

He also explained the relationship between federal government and the state with respect to money borrowed that must now be repaid. Assistant Director Madson stated that, while Ohio is insolvent, it has not defaulted on its debts since it has been making annual interest payments since 2011. Recall that Ohio, like many other states, borrowed billions of dollars from the federal government to assist in skyrocketing unemployment filings during the recent recession. Ohio still owes \$1.38 billion.

Committee members had the opportunity to ask questions of both witnesses and questions were primarily focused on how Ohio compares to other states on issues related to unemployment benefits, what the currently-inactive Unemployment Compensation Advisory Council learned during its study of these issues, the difference between tax-paying and reimbursement employers, what partial unemployment means, and generally where Ohio stands on efforts to pay down this debt.

The committee will next meet on August 19 in Mansfield with hearings continuing through the summer at locations around the state. After the conclusion of hearings, the committee will present recommendations. We have heard from the Speaker’s office that legislation on this issue will likely be introduced in the early part of next year for consideration by the 131st General Assembly.

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IV. NAACP v. Husted.

On May 1, 2014, the American Civil Liberties Union filed a complaint, on behalf of the NAACP, League of Women Voters, and other groups, in the U.S. District Court for the Southern District of Ohio, alleging that the reduction of early voting days and elimination of same-day registration, enacted by Senate Bill 238 and Secretary of State Directive 2014-06, is a violation of Equal Protection and the Voting Rights Act.

S.B. 238, and its related Secretary of State Directive, effectively ended “Golden Week” in Ohio – the ability for a one-week period of time to register to vote and vote on the same day. Generally, Ohio law requires that registered electors be registered for 30 days prior to being able to vote. This general requirement permits county Boards of Elections and/or the Secretary of State to verify certain information to ensure an individual registering to vote is a resident of the location they state, the person is not also registered at another location or another state, or other information to Constitutionally protect the voting franchise and ensure a valid registration and vote occurs.

The complaint alleges that the changes disenfranchise voters, especially minorities. The complaint also requested a preliminary injunction to block the law and directive from going into effect.

On August, 11, 2014, both sides presented arguments before Judge Peter C. Economus. The ACLU’s attorneys noted that low-income voters generally lack the flexibility to take time off work to vote and that many minority voters rely on church-provided transportation to reach polling places.

Attorneys representing the state argued that there is no evidence that these changes would prevent anyone from casting a ballot. They noted that Ohio offers more voting opportunities than most other states, including voting by mail – an application for which will be sent to every registered voter prior to the November election. The state also argued that eliminating “golden week” – where voters can register and vote on the same day – will help reduce instances of voter fraud.

This case is still pending and waiting for a decision by Judge Economus. If the Judge strikes down the law, the uniformity imposed by the Secretary of State’s directive would not go into effect which attorney’s for the state argue could result in a hodge-podge of early voting schedules around the state. However, longer periods for early voting could also increase turnout by African-American voters.

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V. 2014 Elections – Governor’s Race.

As we move into the last few months before the 2014 November elections, Governor John Kasich continues to lead Democratic challenger Ed FitzGerald in both fundraising and in the polls.

As of August 5, 2014 just three months out from the election, Governor Kasich had received a total of \$14.1 million in contributions and FitzGerald had received \$3.9 million. Kasich has more than \$11.5 million cash on hand headed into the election with FitzGerald having only about \$2.4 million cash on hand. Certainly, the money gap is significantly favoring Governor Kasich’s re-election efforts.

The latest polling shows a similar gap between the candidates. A poll from Quinnipiac University in late July showed Governor Kasich leading 48-36 percent. The poll found that 60% of Ohio voters are very or somewhat satisfied with how things are going in the state – a factor that helps the incumbent Governor. The poll also found that two-thirds of registered voters don’t feel they know enough about FitzGerald to have an opinion about him, which is a difficult hurdle for a challenger so close to the election.

It is worth noting that this poll was conducted prior to news breaking about a 2012 incident when police were called to a parking lot where FitzGerald was found with a woman at 4:30am and the subsequent discovery that the Cuyahoga County Executive has been without a valid drivers’ license for several years. Until further polling is done, it is unclear how these recent news stories may impact FitzGerald, as well as, the rest of the Democratic ticket, but certainly the prospects for Democrats headed into the November election cycle appear dim.

VI. 2014 Elections – Judicial Races.

Supreme Court of Ohio: Incumbent Justice Judith L. French was appointed to her seat by Gov. John Kasich following the retirement of former Justice Evelyn Lundberg Stratton, who retired January 1, 2013. Her challenger is Cuyahoga County Court of Common Pleas Judge John P. O’Donnell. Judge O’Donnell has served on the Court of Common Pleas Since 2002 and is of no relation to sitting Justice Terrence O’Donnell.

Justice Sharon L. Kennedy is also running for reelection. She was elected to her seat to complete an unexpired term ending December 31, 2014. Current State Representative Tom Letson (D-Warren) is running against Justice Kennedy. He is a fourth term state legislator and is not eligible to run for another term due to term limits.

Republican incumbents have significantly out-raised their Democratic challengers. After filing their latest campaign finance reports in July, Justice French and Justice Kennedy had received

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contributions totaling \$626,385 and \$522,069, respectively. Judge O'Donnell and Representative Letson had received contributions totaling \$144,136 and \$5,800, respectively.

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

Former Secretary of State Jennifer Brunner has filed to run for an unexpired term ending in 2016, challenging the incumbent Judge Amy C. O'Grady who was appointed to the seat.

Also in the 10th District, incumbent Judge Lisa L. Sadler is running unopposed for re-election. Franklin County Court of Common Pleas Judge Timothy S. Horton is running unopposed to fill the seat vacated by departing Judge John A. Connor.

As with the Ohio Supreme Court races, the incumbent judges have out-raised their challengers. After post-primary campaign filings in June, Judge O'Grady had received \$49,722 in total contributions compared to \$28,117 for Brunner. Judge Schuster has out-raised Kilroy \$74,086 to \$31,343.

VII. Pending Legislation.

We have been actively monitoring several bills for the OMA. All are still pending in the legislature, and we await, what, if any, movement might occur in the lame duck legislative session following the November 2014 election.

H.B. 225 – Offers of Settlement: H.B. 225 was introduced by Representative Jim Butler (R-Oakwood) 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 judgment is entered against a party that has rejected a settlement offer. The legislation also encourages the Ohio Supreme Court to amend Civil Rule 68 to make it consistent with the bill.

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

H.B. 238 – Transparency in Private Attorney Contracts Act ("TiPAC"): Introduced by Representative Jim Butler (R-Oakwood), H.B. 238 ("TiPAC") is currently pending in the House Judiciary Committee. The bill includes provisions to prohibit the state from entering into a

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contract with a private attorney for any legal matter where the budget for legal fees is estimated to be in excess of \$100,000, unless the Attorney General makes a written determination that he engagement of the private attorney would be in the public interest. The bill sets caps on contingency fees that a private attorney may receive and generally prohibits contingency fees from exceeding \$50 million, except in certain circumstances. A provision creating a preference for Ohio attorneys is included as is a requirement for the Attorney General to submit an annual report to the Senate President and Speaker of the House, describing the use of private attorneys during the preceding fiscal year. The goal of the legislation is to provide accountability and increased transparency in the Attorney General's office so that the public can better understand when, why, and how public dollars are being used to contract with private sector attorneys.

The bill has received five hearings and is still under consideration by the House Judiciary Committee – no additional hearings have been set thus far in 2014. It remains to be seen what might happen with TiPAC in the November-December 2014 lame duck legislative session.

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

H.B. 247 – Automated External Defibrillation (“AED”): Introduced by Representative Jerry Stebelton (R-Lancaster), H.B. 247 initially to provide that any person may perform automated external defibrillation (“AED”) and that training in AED and cardiopulmonary resuscitation (“CPR”) is recommended but not required.

The bill would extend qualified immunity from civil liability to premises owners and other persons involved with automated external defibrillator placement and use and would also modify the standards that must be met by a person possessing a defibrillator by providing that the person must encourage (rather than require) expected users to successfully complete a course in AED and eliminating a requirement that the person consult with a physician.

However, on May 21, 2014, the Senate Medicaid, Health, & Human Services Committee approved H.B. 247 and included an amendment – with no debate and no notification – modifying the qualified immunity for AED and CPR use and requiring AED owners to undertake “reasonable efforts” to maintain AED devices. By conditioning immunity on a factual question – did the premises owner take “reasonable efforts” to maintain the AED – it will become exceedingly unlikely that a court would dismiss frivolous and unwarranted cases. Thus cases which should be dismissed on summary judgment will remain alive since factual questions most often prevent summary judgment.

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The OMA, as a member of the Ohio Alliance for Civil Justice, communicated the significant civil justice concerns to Chairwoman Shannon Jones (R-Springboro) and the Senate Republican leadership and requested that the provision be removed for additional debate and review of the subject. H.B. 247 was re-referred to the Senate Reference Committee on May 28, 2014 and will likely be assigned to the Senate Civil Justice Committee for additional deliberation following the November 2014 election.

H.B. 317 – False Claims Act: Representative Barbara Sears (R-Sylvania) introduced H.B. 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 one hearing.

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

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

H.B. 333 was favorably reported by the House Judiciary Committee on May 21, 2014, and currently is pending approval by the full House of Representatives. With the legislature now in summer recess, H.B. 333 would likely not be considered until the lame duck legislative session in November-December following the 2014 general election.

S.B. 344 – Transparency in Private Attorney Contracts Act (“TiPAC”): Senator Bill Seitz (R-

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Cincinnati) introduced S.B. 344 on Thursday, May 22, 2014 as an Ohio Senate companion bill to Representative Butler's legislation (H.B. 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 S.B. 344 is designed to jump start the discussion in both chambers of the Ohio General Assembly on the issue of private attorney contracts.



MEMORANDUM

TO: Robert Brundrett

FROM: Bricker & Eckler LLP
Wayne M. Serra

RE: Analysis of Bill to Regulate Patent Assertion Activities -- 130 HB 573

DATE: June 6, 2014

I. Executive Summary

Bill 130 HB 573 would create three new subsections of the Ohio Revised Code at 2307.66, 2307.67, and 2307.68 to govern certain activities related to the assertion of patent rights. Specifically, the bill would create minimum requirements for the content of demand letters, create a private right to bring a tort action for bad faith assertions of patent infringement, and authorize the Attorney General to make an investigation and bring a civil action for injunctive relief against a person making a bad faith assertion of patent infringement. This bill, if enacted, would likely be easily avoided by those asserting patent rights, contains provisions that are likely unconstitutional, and would likely be preempted in its entirety by federal law. Similar legislation is under active consideration by Congress.

II. Analysis

Background

Although the words “patent troll” are never used, this bill clearly is intended to curb practices seen as overreaching by a group of patent owners referred to as non-practicing entities (“NPEs”) or pejoratively, “patent trolls.” An NPE is usually understood to be a business entity that holds an issued patent and derives substantially all its revenue from licensing activities, as opposed to selling products or providing services covered by the patent. This is possible because U.S. patent law grants to patent holders an affirmative right to exclude others from doing what is covered by the patent but does not require an owner of a patent to manufacture or sell goods, or provide services covered by the patent. Despite its focus on practices of NPEs that many companies find especially objectionable, the bill is not limited to NPEs. This bill would affect

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how manufacturers could assert their patents by requiring substantial legal analysis prior to sending demand or licensing letters and would expose those manufacturers to potential claims of bad faith patent enforcement for failure to engage in such analysis. Although this bill would provide manufacturers with a new civil claim against NPEs who make vague assertions of patent infringement, any such claim would likely be found to be preempted by federal law, resulting in wasted resources spent on unsuccessful litigation.

A typical course of action for an NPE is to create a list of potential infringers of the patent and send demand letters to those businesses on the list. Common criticisms by recipients of such demand letters include:

- vague allegations of infringement by failing to identify with specificity which products or component parts of products infringe,
- making allegations of infringement against customers, as opposed to the manufacturers of an allegedly infringing product,
- failing to identify the real party in interest by using shell business entities to nominally hold ownership to the patent,
- seeking licensing fees in the nuisance value range, and
- providing short time periods within which to evaluate claims of infringement under threats of litigation.

Sometimes, a copy of an unfiled complaint will be included with a demand letter.

Businesses often choose to take licenses to avoid costly patent litigation in federal court.¹ 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.

Substantive Requirements for Demand Letters

The proposed legislation would define a demand letter to be a communication that asserts that a target has engaged in patent infringement. This provision is problematic because it is easily avoided by a patent holder. Most demand letters sent by NPEs do not make explicit claims of patent infringement because of a fear that the recipient will preemptively file a

¹ When less than \$1 million in damages is claimed, defense of a patent infringement suit, inclusive of all costs, averages about \$650,000. When between \$1 million and \$25 million in damages is claimed, defense of a patent infringement suit, inclusive of all costs, averages about \$2.5 million. Source: AIPLA Report of the Economic Survey 2011.

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declaratory judgment action against them. Instead, a typical demand letter from an NPE uses general descriptions of technologies used by a target and describes the perceived importance of the patent in the general technology area. The bill defines a “target” as a person receiving an allegation of infringement, a threat of infringement litigation, or has had patent infringement litigation filed against them. A person whose customers have received a demand letter is also defined as a target.

Bad Faith Patent Assertion

1. Factors to prove bad faith.

The bill would create a tort of “bad faith patent assertion.” Courts would be permitted to consider the following factors when determining whether a patent was asserted in bad faith:

- whether a demand letter failed to contain the patent number, the name and address of “the patent owner or owners and assignee and assignees, if any” (sic), and factual allegations concerning the specific areas in which the target’s products, services, and technology “infringe the patent or are covered by the claims in the patent” (sic);
- whether the patent holder failed to conduct an infringement analysis;
- whether a patent holder failed to provide an infringement analysis within a reasonable period of time after being requested to do so by the target, whether payment of a license fee or a response was demanded to be provided within an unreasonably short period of time;
- whether an offer to license was for an amount not based on a reasonable estimate of the value of the license;
- whether the claim of infringement was meritless;
- whether the claim of patent infringement was deceptive; and
- whether the patent holder’ subsidiaries or affiliates have previously filed or threatened to file one or more actions based on similar claims of patent infringement and either that action lacked the information required of a demand letter or a previous similar claim of patent infringement was found to be meritless.

Courts could also consider other factors found to be relevant.

Each of these factors presents one or more issues. The requirements for a demand letter are inartfully drafted and fail to address the most common ways demand letters are worded. Because the primary purpose of a demand letter is to put the recipient on actual notice of the existence of the patent, a patent number is always included. The term “patent owner or owners and assignee and assignees” is redundant. An assignee is by definition the owner of a patent that

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has been assigned. There is no general requirement in patent law to disclose the identity of the owner of a patent, although in litigation the identity of the owner or exclusive licensee must be disclosed to prove standing to bring suit on the patent.

As for factual allegations regarding infringement, as previously mentioned, most demand letters from NPEs do not include any allegations of infringement. In addition, this provision is also inartfully drafted. As a matter of law, the claims of a patent define the scope of the rights granted by the patent. Therefore, infringement is evaluated on a claim-by-claim basis. A claim of a patent is what is infringed, not an entire patent itself. Therefore, to say that something infringes the patent or is covered by the claims of the patent is redundant. Moreover, although the bill uses the plural term “claims,” it is only necessary to infringe a single claim of a patent in order to infringe.

The bill also would permit courts to consider whether the patent holder failed to conduct an infringement analysis. This provision also misses the mark when it comes to dealing with many of the actual demand letters typically sent by NPEs. These letters routinely describe general technologies that a company may be using and purport to show the benefits of having a license to the patent to permit activities in that technology area. Because no allegations of infringement are made, no infringement analysis is provided or even sometimes conducted. This is also an issue with a subsequent provision that permits courts to consider whether such an analysis was provided within a reasonable amount of time after it was requested by the target.

Another factor, whether the offer to license was for an amount not based on a reasonable estimate of the value of the license, appears to be unworkable. The bill provides no guidelines for valuing a license. Valuations of intellectual property have subjective components and can spur honest differences of opinion. Although there is a considerable body of case law dealing with valuing patents and reasonable royalties for infringement of those patents, the law regarding valuation of licenses is not as well developed. In fact, many licenses that are the product of patent litigation settlements can be said to reflect the nuisance value of continuing the suit. Therefore, the bill leaves the question of license valuation wide open to interpretation.

In this scenario, there is a danger that manufacturers could be treated worse than NPEs. Manufacturers asserting patent rights in their markets can more readily value those patents because of the existence of sales records, recognized market boundaries and product substitutes, and known competitors. Manufacturers would likely be compelled to invest resources to have formal valuations performed prior to asserting rights, as opposed to the current situation where valuation can be performed in later stages of litigation or negotiation. Consequently, NPEs could attempt to avoid such outlays up front by emphasizing the subjective points of license valuation for their patents.

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A court would also be able to consider whether a claim of infringement was meritless. To evaluate this factor, the court necessarily would have to engage in the construction of claim terms and read those construed claims onto a device or process accused of infringement. In addition to previously mentioned issues regarding the lack of allegations of infringement made in typical NPE demand letters, claim construction is a complex and hotly debated topic that goes to the core of federal patent law.

Previous similar claims of patent infringement found to be meritless could also be considered when determining whether bad faith patent assertion had occurred. This factor is not a reliable indicator as to whether a patent is currently being asserted in bad faith because each infringement situation must be evaluated on a case-by-case basis. A so-called meritless assertion in one case can quite possibly be an airtight case of infringement in another. Additionally, patent infringement cases have historically been subject to high rates of reversal on appellate review. The bill fails to take that factor into account by limiting this factor to final adjudications of meritless assertions.

Perhaps most troubling is that the bill would permit courts to consider whether a filed action for patent infringement that lacked factual allegations of the type required in demand letters was a basis for finding bad faith patent assertion. Only the federal courts can adjudicate actions for patent infringement. This provision of the bill sets up the curious circumstance that a target could bring a claim for bad faith patent assertion in a state court based on a complaint that was filed in federal court. This would seem to violate principles of federalism and separation of powers under the Constitution of the United States.

As discussed above, many of these factors would necessarily require courts to construe claims and adjudicate whether claims of an asserted patent are infringed. This is a core component of federal patent law. By statute, the federal courts have exclusive jurisdiction over patent actions. Permitting state courts to make such adjudications would frustrate the federal patent scheme. Therefore, these provisions of the bill would be preempted by federal patent law.

2. Factors to disprove bad faith

In large part, the factors to be considered by courts overlap with those used to demonstrate bad faith. However, there are some factors that warrant further discussion. Those factors include:

- whether the patent holder 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;

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- whether the patent holder is an inventor or original assignee;
- whether the patent holder is an institution of higher education or technology transfer organization owned or affiliated with such an institution;
- whether the patent holder has previously made good faith efforts to enforce the patent or a substantially similar patent; and
- whether the patent holder has previously successfully enforced the patent or a substantially similar patent.

Many NPEs have made substantial investments in the creation of their targeting and licensing programs, and thus in the use of the patent it is attempting to assert. As mentioned previously, there is no federal law that requires a patent holder to manufacture goods or provide services that are covered by their patent. This provision of the bill would consider such activity to be potentially exculpatory. To at least that extent, the bill would appear to interfere with the statutory regime set by Congress when it created the Patent Act and likely is preempted.

To the extent that a court would be permitted to consider the identity of the patent owner, the bill both misses the mark and raises Constitutional issues. Many NPEs assert patents on behalf of inventors who own those patents. Also, it is not uncommon for NPEs to either engage inventors to further develop their inventions or prosecute continuation applications that result in new patents that issue to the NPE as the original assignee. In such cases, the NPE could claim that factor weighed against it being held liable for bad faith patent assertion. Further, many manufacturers own and license patents that do not cover products they currently manufacture and so would appear to be NPEs at least with respect to such patents. As for Constitutional issues, the bill seems to create multiple classes of patent holders with only some able to argue that factors weigh against a finding of bad faith patent assertion. To at least that extent, the bill appears to create issues with the Equal Protection clause.

With respect to previous enforcement actions, the bill states that a court can consider previous good faith business actions in connection with a patent holder's enforcement efforts when determining whether a later enforcement action is in bad faith. This provision appears to attempt to address an infringement scenario where a patent holder targets customers of a manufacturer on the basis of an identified product of that manufacturer that is alleged to infringe. However, even in this scenario, each infringement situation can be highly fact-dependent.

3. Exclusions from Bad Faith Enforcement

Although the bill permits consideration of these factors for enforcement efforts involving the same patent, it also does so for "substantially similar" patents. To this extent, this section of the bill is poorly drafted. The bill does not attempt to define what would make two or more

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patents “substantially similar” as recited and wholly fails to appreciate the nature of a patent. A typical patent has three parts: drawings, a detailed description that usually explains the drawings (together, the drawings and detailed description are called the specification), and one or more claims. The claims define the scope of the invention and thereby the scope of the right to exclude granted by a patent.

For various reasons, it is possible to have granted patents that have identical or nearly identical specifications, but very different claims. Conversely, it is possible for patents to have similar claims, but different specifications. The bill provides no guidance for these situations. Moreover, to the extent that a state court would need to engage in an examination of claims of patents to determine whether one or more patents are similar, it would necessarily be engaging in claim construction. This is an activity reserved to the federal courts as part of their exclusive subject matter jurisdiction over patent law.

The bill specifies that the following are not bad faith enforcement efforts:

- notify that a person has an ownership interest in a patent, the right to license a patent, or the right to enforce a patent;
- notify a person that a patent is available for license or sale;
- notify a person that they have infringed a patent; or
- seek compensation from a person for past infringement, or for a license, when it is reasonable to believe such compensation is owed.

Notifications of the existence of ownership interests and licensing rights are common features of demand letters. The right to enforce a patent cannot be separated from ownership of a patent without potentially affecting the owner’s standing to bring suit to enforce the patent. Although true that an exclusive licensee of a patent usually has standing to sue, NPEs and licensing associations generate revenue through the issuance of multiple non-exclusive licenses, not a single exclusive license.

As discussed, demand letters from NPEs commonly notify recipients that a license is available for the patent listed in the letter. To the extent that this bill intends to curb the use of vaguely-worded demand letters, this carve-out could operate to make that situation worse for manufacturers who find themselves targeted by providing a safe harbor for demand letters that do not make infringement allegations but rather are phrased to offer a license. The exception for

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a notification that a patent may be for sale would appear to insulate brokers and other participants, including manufacturers, in secondary markets for patents.²

Also as previously discussed, notifications to a person that they have infringed a patent; or attempts to seek compensation from a person for past infringement, or for a license, are generally not included in demand letters from NPEs because the NPE does not want to provide a basis for the recipient of the letter to file a declaratory judgment action to have a court declare that the patent is not infringed, is invalid, or both. The qualifying language, “when it is reasonable to believe” such compensation is owed would again require a state court to construe claims of a patent in order to determine whether it is reasonable for the patent holder to believe it is owed compensation. Because claim construction is a legal determination reserved to the federal courts, this provision is unworkable.

The bill expressly provides that this new cause of action would not apply to a demand letter or civil action that includes a claim for relief under 35 U.S.C. § 271(e)(2). This is a very narrow exception for a highly particularized situation that rarely, if ever, would be invoked in an action under this bill for bad faith patent assertion. Only manufacturers of covered drugs or biological products could ever be affected by this portion of the bill.

Section 271(e)(2) makes it an act of patent infringement for anyone to seek approval from the Food and Drug Administration (“FDA”) under section 505(j) of the Federal Food, Drug, and Cosmetic Act for certain drugs or biological products under patent protection. This provision of federal law is intended to speed resolution of patent issues that could prevent generic drugs from coming to market and has strict deadlines associated with actions brought under this provision. Because it is the filing of an application with the FDA by a manufacturer that is defined as an act of infringement (as opposed to the making, using, offering for sale, selling, or importing into the US as provided by 35 U.S.C. § 271(a)), it is difficult to envision NPEs having an impact in this area.

Civil Actions

1. Private Rights of Action and Bonds

In addition to the creation of a tort action for bad faith patent assertion, the bill would permit a court, on motion of the plaintiff and finding by the court that there is a “reasonable likelihood” that a defendant has engaged in bad faith patent assertion, post a bond in an amount

² Most companies do not consider the sale of a patent to be problematic in and of itself unless the sale is of a patent of strategic importance and there is a risk that a competitor or NPE could purchase the patent and later assert it against the company.

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equal to a “good faith estimate of the target’s costs to litigate the tort action and amounts reasonably likely to be recovered” and not to exceed \$250,000. This provision would essentially require a defendant to provide security for payment of a judgment in a suit the plaintiff has not yet won. This provision raises serious concerns under the Due Process clause of the Constitution of the United States in addition to implicating concerns of federal preemption.

2. Attorney General Actions

The proposed legislation would empower the Attorney General to investigate instances of bad faith patent assertion on his own or as a result of complaints. The Attorney General could subpoena witnesses, adduce evidence, and require the production of relevant matter. The Attorney General could also enlist the assistance of officials in other states to further an investigation.

A civil action brought by the Attorney General could seek injunctive or other equitable relief to prevent a party from “taking actions and making assertions or allegations that constitute a bad faith assertion of patent infringement.” The underlying principles in such a suit would be the same as in a private right of action. Such a suit or relief from such a suit would seem to implicate all the same Constitutional concerns discussed above. Additionally, because the Attorney General is a state actor and operating under color of law, any violations of clearly established Constitutional rights could be claimed by patent holders to be actionable in separate suits against the State of Ohio and its Attorney General for violations of civil rights.

III. Conclusion

Although apparently directed at some of the more complained-of activities of NPEs, Bill 130 HB 573 fails to address how NPEs actually operate in the marketplace for licenses to patents. It fails to provide real protections to manufacturers and other recipients of demand letters from NPEs. Some provisions fail to appreciate the nature of patents as legal instruments and the law already governing their enforcement. Many provisions are easily avoided by wording already in common use in demand letters sent by NPEs. Certain portions of the bill raise Constitutional issues, including Due Process and Equal Protection concerns. As a whole, the bill likely would be found to be preempted by federal patent law because it impermissibly intrudes upon and frustrates the federal patent law scheme and necessarily would require a state court to resolve issues of federal law reserved exclusively to the federal courts.

Legislative Schedules

Senate and House Sessions

September		
[Back to Top]	Senate	House
Tue. Sep 16		Session (if needed)
Wed. Sep 17		Session (if needed)
Thu. Sep 18		Session (if needed)
Tue. Sep 23	Committee Hearings	Session (if needed)
Wed. Sep 24	Committee Hearings	Session (if needed)
Thu. Sep 25	Committee Hearings	Session (if needed)
Tue. Sep 30	Session (if needed)	
October		
[Back to Top]	Senate	House
Wed. Oct 01	Session (if needed)	
Thu. Oct 02	Session (if needed)	
November		
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Wed. Nov 12	Session at 1:30 p.m.	Session at 1:30 p.m.
Thu. Nov 13	Session at 11:00 am.	
Tue. Nov 18	Session at 1:30 p.m.	Session (if needed)
Wed. Nov 19	Session at 1:30 p.m.	Session at 1:30 p.m.
Thu. Nov 20	Session at 1:30 p.m.	Session (if needed)
Tue. Nov 25	Session at 1:30 p.m.	Committee Hearings
December		
[Back to Top]	Senate	House
Tue. Dec 02	Session at 1:30 p.m.	Session (if needed)
Wed. Dec 03	Session at 1:30 p.m.	Session at 1:30 p.m.
Thu. Dec 04	Session at 11:00 a.m.	Session (if needed)
Tue. Dec 09	Session at 1:30 p.m.	Session (if needed)
Wed. Dec 10	Session at 1:30 p.m.	Session at 1:30 p.m.
Thu. Dec 11	Session at 11:00 a.m.	Session (if needed)
Tue. Dec 16	Session at 1:30 p.m.	Session (if needed)
Wed. Dec 17	Session at 1:30 p.m.	Session at 1:30 p.m.
Thu. Dec 18	Session at 11:00 a.m.	Session (if needed)

Ohio Manufacturers' Association

Election Services Links

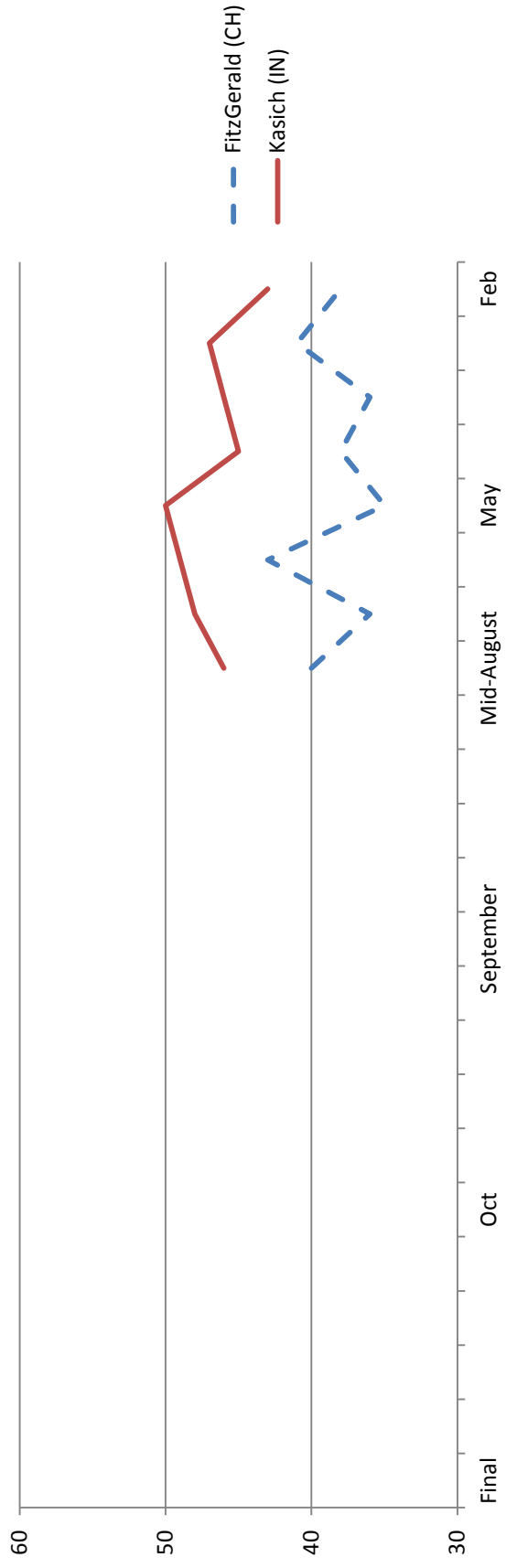
OMA Election Guide:

<http://www.ohiomfg.com/grip-assets/pdf/leadership//ElectionGuide-2014FINALweb-compressed.pdf>

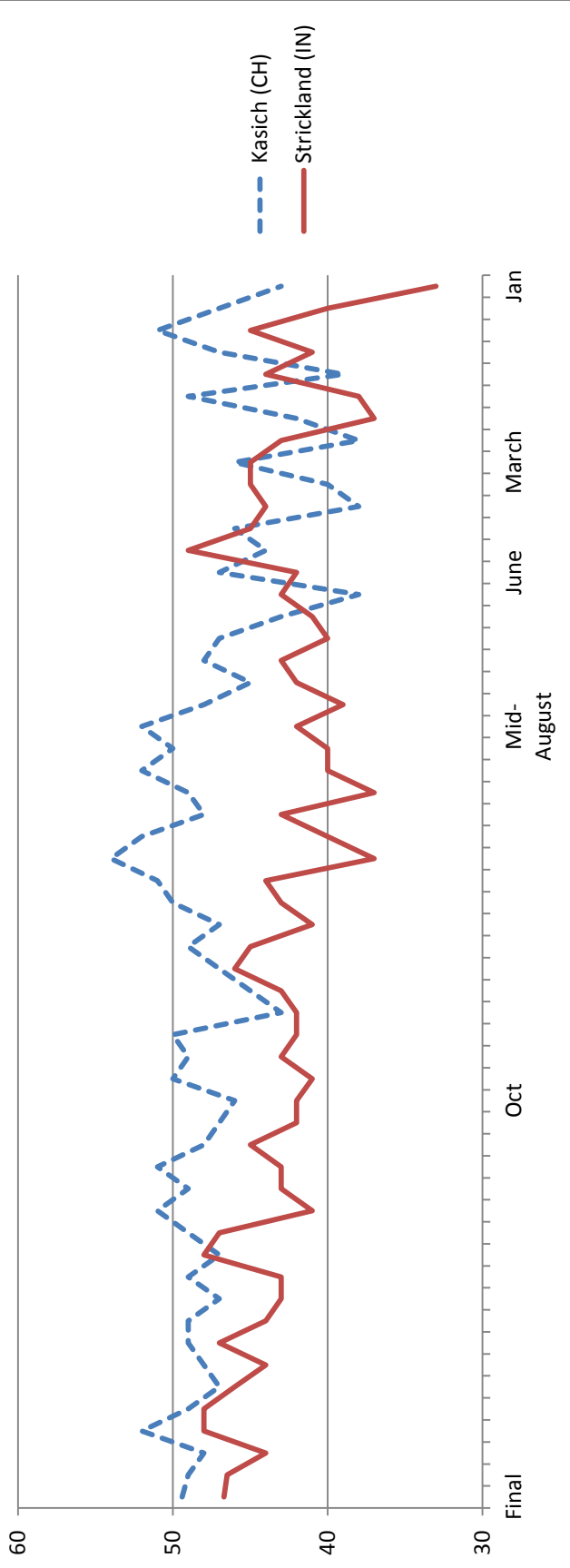
OMA Manufacturing Counts:

<http://www.ohiomfg.com/ManufacturingCounts2014.pdf>

Ohio Gubernatorial Race 2014 Polling



Ohio Gubernatorial Race 2010 Polling



Ohio Governor - Kasich vs. FitzGerald

Candidates



John Kasich (R)*



Ed FitzGerald (D)

Ohio Snapshot

RCP Average: **Kasich +8.2**
 RCP Ranking: **Leans GOP**
 2014 Key Races: **OH-6 | OH-14**

Polling Data

Poll	Date	Sample	MoE	Kasich (R)	FitzGerald (D)	Spread
RCP Average	4/14 - 7/28	--	--	47.0	38.8	Kasich +8.2
Quinnipiac	7/24 - 7/28	1366 RV	2.7	48	36	Kasich +12
CBS News/ NYT/ YouGov	7/5 - 7/24	3624 RV	--	49	43	Kasich +6
Rasmussen Reports	5/7 - 5/8	750 LV	4.0	45	38	Kasich +7
SurveyUSA*	4/24 - 4/28	618 LV	4.0	46	36	Kasich +10
Magellan Strategies (R)	4/14 - 4/15	857 LV	3.4	47	41	Kasich +6

All Ohio Governor - Kasich vs. FitzGerald Polling Data

Race Analysis

2006 saw one of the largest gubernatorial blowouts in Ohio gubernatorial history, as Congressman Ted Strickland blew out Republican Secretary of State Ken Blackwell by a 60-37 margin. Blackwell was seen as a rising star by state and national Republicans, but the national Democratic tide, combined with Blackwell's across-the-board conservatism, led to a huge defeat in this swing state.

But Strickland's tenure as governor was turbulent, as the state shed both jobs and population. He lost in 2010 -- albeit by a narrow margin -- to former congressman John Kasich, who had been employed as a partner at Lehman Brothers, the investment firm whose collapse precipitated the financial system collapse of 2008.

Kasich's term likewise got off to a rocky start, as his attempts to weaken public employee labor unions was roundly rejected by Ohio voters in a referendum. But his approval ratings rebounded somewhat, while Democratic nominee Ed FitzGerald, the Cuyahoga (Cleveland) County executive, saw his campaign get off to a rough start as well. Kasich maintains a solid lead in the polls, but has never really cracked the 50 percent mark. This is a competitive race, but Kasich has the edge.

To: OMA Government Affairs Committee
From: Ryan Augsburger / Rob Brundrett
Re: Energy Public Policy Report
Date: August 20, 2014

Electricity Rates and Regulation

Utility cases approved by the PUCO 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. A movement to return to cost-of-service regulation may be afoot. See attached media story by Cleveland Plain Dealer.

Federal Greenhouse Gas Regulations GHG and 111(d)

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. At the same time, state officials from Ohio EPA and the PUCO are holding meetings to consider Ohio options. State legislation to empower state regulators has been approved. See Environment Report.

Capacity Prices

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

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. See Energy Report.

PJM Interconnection

The OMA Energy Group hosted a meeting on July 30 with PJM and PUCO Chairman Thomas Johnson. Contact staff for a copy of the PJM presentation materials that addressed market pricing trends as well as impact on USEPA 111(d) rule and FERC order 745.

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

Legislation to revise Ohio's energy standards was signed into law by Governor Kasich following swift legislative action this Spring. The issue has been reported and discussed at OMA meetings for nearly two years.

Recall the legislation revised existing Ohio energy policy on renewables, efficiency, and "advanced energy." After thoroughly researching the matter, the OMA adopted a position supportive of continued efficiency standards and a streamlined opt-out from the rider costs for industrial customers. OMA-commissioned research demonstrated that benefits of Ohio efficiency standards outweigh their costs and that large energy users may need the option to opt-out.

After SB 58 stalled late in 2013 due to concern in the Senate about the bill's effect of enriching electric utilities by significantly increasing consumer bills, SB 310 was introduced in March. SB

310 froze the alternative energy standards for two years and created a legislative study committee to assess the impacts of the standards. The bill also revised what constitutes as energy efficiency and provides an industrial opt-out. Governor Kasich signed the bill into law in mid-June. Contact staff for a detailed analysis.

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. Together with a customer cost cap (on energy efficiency costs) the OMA fashioned a compromise proposal that also would have provided a study committee and either benchmark reduction or one-year freeze. This compromise enjoyed broad support but was not adopted.

Manufactured Gas Plant Remediation Costs

In Spring of 2013, lawmakers advanced a legislative proposal to revise a standard in utility law that would have required customers to pay 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 did not deter 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 2014 mid-biennium review (MBR) or mini-budget bill (HB 483) initially included a provision that would require customers to pay gas utilities to recover the cost of 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. The Ohio Supreme Court handed us a partial victory in May.

Polar Vortex *Pass-Through* Charges

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

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. Representatives of Columbia Gas, a leading proponent appeared at the OMA energy committee in March to make the case and respond to questions. OMA staff and counsel has offered suggestions for improvement. Action on the bill could occur later in the year. The issue raises questions over the role of state government support for economic development within a deregulated utility environment.

“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. He succeeds Todd Snitchler who has since joined a local law firm.

Utility Rates Plans Pending Review at PUCO

Electric security plans (ESP) are pending approval at the PUCO. Some have just been proposed. Others have been pending for months. The OMA Energy Group coordinates energy counsel in intervention actions.

PUCO Approves “Reasonable Arrangement”

A new reasonable arrangement application for Warren Steel Holdings was approved by the PUCO in July and will affect customer costs in the FirstEnergy service territory.

“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

Key Points on Carbon Rules

The Partnership for a Better Energy Future (PBEF) has developed a [useful document](#) that summarizes key points about the aggressive U.S. EPA's proposed carbon regulations.

The document is designed to communicate simply the issues raised by the regulations: legal problems, economic impacts, electricity reliability, global context, process and timeline, lack of flexibility, technological achievability, use of 2012 as a baseline, and follow-up regulations on other industries.

It is a good document to share with elected officials. 8/13/2014

FirstEnergy Calls for Regulation

In its Q2 earnings call, FirstEnergy [announced](#) a retreat from the Ohio retail market and a plan to ask the Public Utilities Commission of Ohio (PUCO) to reregulate some of its generation plants.

FirstEnergy CEO Tony Alexander said: "(W)e intend to exit the medium commercial and industrial or MCI and mass market retail channels as existing contracts expire, but we will continue to serve strategic large industrial and commercial customers as well as our governmental aggregation..."

Leila Vespoli, Executive Vice President, Markets and Chief Legal Officer, discussed the company's recent PUCO filing to provide electric service for a three-year term from June 1, 2016 through May 31, 2019.

She said: "We have named this plan, Powering Ohio's Progress, as it provides numerous benefits that support reliable electric service, uplift our customers from volatility and retail price increases and encourages growth and development of the State's economy.

A highlight of the plan is the Economic Stability Program which provides for a rider to cover the cost associated with the proposed purchase power agreement between the Ohio utilities and FirstEnergy Solutions.

The proposed PPA would dedicate the output of Davis-Besse, SAMA and a portion of OVEC for approximately 3,200 megawatt or an average of approximately 23 terawatt hours annually beginning in June 2016 and running through May 2031."

In other words, the company would like to return to a regulated rate for that load, paid for by a rider on customer bills. 8/11/2014

PJM and PUCO Leaders Visit OMA Energy Group

Members of the [OMA Energy Group](#) this week held a discussion with Kerry Stroup of PJM Interconnection and Tom Johnson, Chairman of the Public Utilities Commission of Ohio. Stroup [described](#) trends in electricity capacity and generation pricing. Chairman Johnson discussed with the group the operation of the commission, as well as the state process for responding to the federally proposed carbon regulations of power plants. 7/31/2014

Large-Scale Interstate Natural Gas Pipeline Planned

A major interstate natural gas transmission pipeline has been proposed that would transport product from Marcellus and Utica formations to delivery points in Ohio, Michigan and Ontario, Canada.

The ET Rover Pipeline, a subsidiary of Energy Transfer Partners, is in the pre-filing process with the Federal Energy Regulatory Commission.

The Rover Pipeline Project as currently proposed will consist of approximately 380 miles of 36-inch and 42-inch diameter mainline pipeline, with capacity up to 3.25 billion cubic feet per day.

Here's more [information](#); see also map on page 4 of this [document](#). 7/21/2014

PBEF Petitions U.S. EPA to go Back to Drawing Board on Proposed Carbon Rules

The Partnership for a Better Energy Future (PBEF), of which OMA is a member, sent this [letter](#) this week to U.S. EPA's Administrator Gina McCarthy laying out five high-level concerns with the proposed carbon standards for existing power plants. This letter was sent in advance of a press call with executives from the National Association of Manufacturers (NAM), U.S. Chamber, and other PBEF members.

The letter makes the following requests to EPA: 1) Go back to the drawing board on the proposed rule, and 2) At a minimum, expand the public outreach beyond the four scheduled hearings and extend the comment deadline by 60 days.

The five concerns expressed in the letter: 1) The rule will increase electricity prices and negatively impact the economy; 2) The method for calculating the proposed standards exceed EPA's statutory authority; 3) EPA has failed to demonstrate that the targets and "building blocks" are technologically achievable; 4) The rule sets bad precedent for future regulation of other sectors; and 5) There has been inadequate public engagement and the agency is adhering to a rushed and arbitrary rulemaking deadline. 7/20/2014

Ohio Energy Standards: What Elected Leaders Said This Week

Following passage earlier this summer of legislation that revises Ohio's energy standards (SB 310), state officials made comments this week hinting at things to come. SB 310 froze energy efficiency and renewable energy standards and created a panel of legislators to study the costs and benefits of the standards.

Ohio Speaker of the House William Batchelder told Hannah News Service that he expects swift action on the SB 310 study committee, implying that appointments could come as soon as September.

In responding to reporters' questions, Governor John Kasich defended his commitment to "green energy" telling an audience of regional chamber of commerce members near Mansfield that critics of the energy standards have two years to come up with an alternative. The Columbus Dispatch reported that the governor said "If they don't give us something that works, we go back to the old standards." 7/17/2014

Hands-on Opportunity to Boost Your Facility's Energy Savings

OMA members from all energy-supply territories in the state can participate in an energy work group led by OMA's consulting energy engineering partner, [Go Sustainable Energy LLC](#).

Access the most up-to-date information, contacts, and opportunities in Ohio in the areas of combined heat and power (CHP), waste heat recovery (WER), and energy efficiency (EE).

Plant engineers, facility staff, and others responsible for implementing and managing energy efficiency are participating in the work group. The work group meets via web-conference every other month. Read [more](#). And [click here](#) to receive work group meeting invitations, which have detailed agendas.

Also, for a limited time, OMA members can access a no-charge CHP assessment for their facilities. Contact [John Seryak](#), OMA's energy engineer consultant, for details. 7/8/2014

Ohio Natural Gas Production Doubles, in One Year

Ohio's natural gas production nearly doubled from 2012 to 2013 because of increasing activity in the Utica shale and continued development of midstream

infrastructure, the Ohio Department of Natural Resources (ODNR) [said in a release](#) this week.

ODNR "projects all oil and gas wells in Ohio produced 8 million barrels of oil and 171 billion cubic feet of gas in 2013. Compared to 2012, Ohio's total oil production increased by 62 percent and natural gas production increased by 97 percent. The percentage increase in natural gas production is the largest in Ohio history, and the total production is the fourth highest annual total in state history. ODNR also released production data for the first quarter of 2014. A total of 418 wells reported production of 1.9 million barrels of oil and 67 billion cubic feet of gas."

The department noted: "The production growth depends heavily on the development of the midstream infrastructure needed to transfer the resources to market. In a little more than 24 months, a new industry developed, including 11 processing facilities and miles of new pipelines. Companies have spent or have committed more than \$6 billion on midstream infrastructure." 7/2/2014

Member Spotlight: Cooper Tire Shares Cost Savings Projects

Anthony Smith, PE & Six Sigma Black Belt - Energy Management, Cooper Tire & Rubber Company, shared with members of the OMA Energy Committee this week how his company has achieved savings from energy reduction projects and process improvements. Here's his [presentation](#).

Manufacturers routinely share case studies in energy reduction and savings at OMA Energy Committee meetings. The next OMA Energy Committee meeting is September 18; register at [My OMA](#). 6/26/2014

DP&L Customers: 50% Bonus Rebates July - September

Dayton Power & Light (DP&L) offers [50% rebate bonuses](#) on motor, drive and compressed air efficiency projects July through September.

Additionally, DP&L is offering at no cost to the first 30 customers who request it, a mini audit of their compressed air systems. An energy engineer will perform an onsite assessment of your compressed air system and make recommendations for improving efficiency. Opportunities to take advantage of DP&L's bonus air compressor rebates will be identified. Contact [John Seryak](#) at Go Sustainable Energy LLC for more information. 6/26/2014

Energy Legislation

Prepared by: The Ohio Manufacturers' Association
Report created on August 18, 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: 5/27/2014 - Senate Finance, (First Hearing)

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: 6/16/2014 - **SIGNED BY GOVERNOR**; Eff. 6/16/2014 Other Sections Eff. on Other Dates

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

HB568 PUCO-MAXIMUM FEES (MCGREGOR R) To require the Public Utilities Commission to set the maximum fees that a manufactured home park operator, condominium unit owners association, and landlord may charge for electric, gas, water, or related services, or for sewage disposal service provided to a resident, unit owner, or tenant when a submeter is used to measure public utility service to the premises.

Current Status: 6/4/2014 - House Public Utilities, (First Hearing)

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_568

- 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

FirstEnergy's free-wheeling retail company offered fixed rates that ruined the market, frustrated competitors



By **John Funk, The Plain Dealer**

on August 15, 2014 at 7:00 AM, updated August 16, 2014 at 9:04 AM



FirstEnergy Corp.'s unregulated subsidiary, FirstEnergy

Solutions, is retreating from retail sales and returning to generating and selling power wholesale into the regional grid. FES won't be missed, say its competitors, who saw its low fixed-price contracts as unsustainable. *FirstEnergy Corp.*

AKRON, Ohio -- The collapse of FirstEnergy Corp.'s retail marketing company is news -- but not to national retail power suppliers or to local electricity brokers working with them.

For months they saw it coming, a failure signaled in the spring when FirstEnergy Solutions said it would be passing on to its customers the "polar vortex" surcharges that grid manager PJM Interconnection levied against the company.

Then a week ago during a **quarterly financial conference** Anthony Alexander, FirstEnergy's CEO, confirmed the rumors.

He said the company had decided that FirstEnergy Solutions -- which also owns the corporation's power plants -- would focus on selling its power into wholesale markets and stop pitching retail deals to commercial and

most industrial customers, leaving only a few very large industrial customers and its long-term, less risky municipal retail contracts serving residential customers.

"While we have experienced a relatively stable and predictable wholesale market for the past several years, we believe that a fundamental change in markets is under way as available generation is being reduced due to environmental rules and competitive markets rely more heavily on natural gas and other less reliable resources," he said.

He was referring to the power shortages and price spikes that occurred last September during unusually hot weather and during January's "polar vortex" episodes when arctic temperatures invaded the nation, knocking out power plants and pushing demand up.

Less than 24 hours earlier, the company had **filed a new rate plan** with state regulators that included an instantly controversial provision that ratepayers be forced to subsidize two of the company's aging power plants, suggesting the company is struggling to remain competitive.

About 70 FirstEnergy Solutions sales and sales-support positions **will be cut next week**, leaving the company's commercial and industrial customers scratching their heads, and competitors scrambling to grab new customers as their contracts with the Akron-based company run out.

Competitors -- about 30 of them in Ohio alone -- are ready for what will be a marketing bonanza. And they are not shedding tears.

"They took a strategic approach to sell their generation at retail prices that were less than the wholesale market (prices) that would support them," said J.D. Burrows, vice president of marketing at Houston-based competitor GDF Suez Energy Resources, North America.

"It is my opinion that FirstEnergy Solutions' behavior was irresponsible. It is almost unbelievable. They bought market share but in the long run, they short-changed their customers," he said in an interview earlier this week.

"And they have ruined the market," he added. "Now, the rest of us have to go back and re-educate the market."

Calling that criticism "unfair and unprofessional," FirstEnergy Solutions spokeswoman Diane Francis on Friday said the company had saved customers a lot of money.

"Through our competitive offers, we have helped our customers, from the individual homeowner to the largest industrial business, save more than half a billion dollars," she said.

"And we were making those money-saving offers available when no other suppliers were," she added.

"However, because of market conditions that are preventing us from being able to offer low, predictable prices to new residential and certain business customers, we have decided to no longer pursue those retail channels. We will continue to honor all of our customer contracts and maintain our high level of customer service."

GDF Suez Energy Resources, NA, is a division of the French multinational GDF Suez. Globally it serves about 100,000 customers and owns about 600 power plants. The U.S. division tailors its retail contracts to each commercial and industrial customer, Burrows said.

Typically, the rates GDF Suez offers commercial and industrial customers are variable, he said, indexed in this region to daily wholesale prices published by PJM.

Another Houston-based company, Direct Energy, which is a subsidiary of UK-based Centrica plc, and the largest U.S. competitive power retailer, dealt with FirstEnergy's low, fixed price by offering a suite of efficiency and technological upgrades to reduce the amount of electricity their customers used.

That has been effective, particularly with larger companies that regard power prices as a risk, but one that can be managed, said the company.

"Customers at this level know where the market is and understand it (a contract) is about more than just a low price," said Teresa Ringenbach, a Columbus-based senior manager of government & regulatory affairs.

Direct Energy also markets to businesses that want fixed-rate contracts but the price will include the risk the power supplier is shouldering, she said, but no fine-print "pass-through" charges such as the "polar vortex" charges. Smaller companies want these kind of contracts.

"They tend to be smaller independently owned companies, and larger franchised companies who want to know what they will be paying next year and don't want to spend days watching power markets," she said.

Baltimore-based Constellation Energy, now part of the Exelon Corp., headquartered in Chicago, is another major national competitive supplier that sees FirstEnergy's problems as an opportunity.

"I will admit they have been very aggressive over the last several years," said Mark Huston, president of Constellation's retail business division.

"We try to price in risk factors because we are in for the long haul. We have seen competitors in the past offering predatory pricing. But we held to our discipline.

"When you don't have periods of [wholesale] market volatility, they become complacent. We have seen competitors not price in their risk. And they make a decision not to be in it for the long haul," he said.

"I won't speak to whether FirstEnergy was doing that. But they are leaving."

It's the same story at the grass-roots level among local brokers who help commercial clients choose contracts offered by the big suppliers, much as an independent insurance company helps consumers choose an affordable insurance policy.

"They have been eating FirstEnergy's lunch for some time," said Matt Brakey, president of Brakey Energy, a Cleveland-based energy broker who shops for electric contracts for his commercial clients with major retail power companies, including Constellation Energy, Direct Energy and GDF Suez, and once, FirstEnergy Solutions.

FirstEnergy's low-priced deals turned out to be not-so-fixed following last January's unusual storms that pushed sub-zero, arctic temperatures deep into much of the nation, increasing power demand and simultaneously knocking out power plants.

"FirstEnergy Solutions went from a don't-lose-any-business-no-matter-what price, in order to retain customers, to raising its prices well above everyone else," Brakey said.

He and other brokers said the decision by FirstEnergy Solution to push "polar vortex" surcharges stemming from the two January storms onto its commercial and industrial customers was a signal of big trouble ahead. (The company has backed down from charging consumers a much smaller surcharge.)

"Everybody is dancing on FirstEnergy Solutions' grave," said Chris Greulich, president of Chagrin Falls-based North Shore Energy Consulting, referring to other big power suppliers who have had to compete against its low prices.

His preliminary analysis of 2013 state records shows that FirstEnergy Solutions accounted for 53 percent of the electricity sold to commercial and industrial customers through retail contracts.

Greulich's analysis puts 22 competitors, including Constellation, Direct Energy and Suez in the single digit percentage of the total amount of power delivered under retail contracts to commercial and industrial customers in the state.

"This is a huge opportunity for us," he said, "because over the years, FES has been both our greatest partner and also our greatest competitor at the same time."

AEP keeping it ‘green’

Most investor-owned utilities in Ohio don't plan any changes to energy-efficiency programs despite new law



DISPATCH FILE PHOTO AEP Ohio says it will maintain its energy-efficiency programs despite a new state law easing requirements. One way AEP encourages savings is paying a bounty for old, less-efficient refrigerators.

By [Dan Gearino](#) *The Columbus Dispatch* • Wednesday July 23, 2014 7:55 AM

“Green”-energy efforts in Ohio might not be in suspended animation after all.

All but one of Ohio's regulated electricity utilities plan to continue with their green-energy programs despite a new state law that allows the companies to put a two-year freeze on the initiatives.

As a result, changes in that industry might not be as [drastic as environmental advocates have feared](#).

American Electric Power and Duke Energy say they will stick with existing plans for energy-efficiency (programs that help customers reduce energy use) and renewable energy (investments in solar, wind and other renewable sources) that were in place before the law changed. Dayton Power & Light says it will keep its current plan through at least 2015.

That leaves FirstEnergy as the only utility considering a large pullback.

“It’s not Armageddon,” said Pablo Vegas, president and chief operating officer of AEP Ohio, in an interview. “We didn’t dive off the cliff as some of the opponents said we were going to.”

For AEP, current programs include incentives to recycle old refrigerators, rebates for businesses that upgrade to more efficient equipment, and discounts on energy-use audits.

Each of the four major electricity utilities were asked by *The Dispatch* recently about their plans, several months before the companies need to disclose their intentions to regulators.

During the legislative debate over the bill that resulted in the two-year freeze — Senate Bill 310 — many opponents assumed that utilities would use the law to completely stop their green programs during that time, leading to a loss of jobs and investment. [Gov. John Kasich signed the bill in June.](#)

But the key part of the law might be that each utility gets to choose its response.

FirstEnergy spokesman Doug Colafella said the company is reviewing its options and has not made any decisions.

Despite this public stance, FirstEnergy had advised some customers and vendors that it is likely to suspend its energy-efficiency programs, according to multiple sources, including John Seryak, CEO of Go Sustainable Energy in Clintonville. His company, which helps businesses improve their efficiency, mainly serves customers in AEP territory.

“(FirstEnergy) clearly doesn’t want to run their programs,” he said. He was one of many business leaders who urged lawmakers to reject the bill this spring.

FirstEnergy helped lead the push for the bill, joined by several large manufacturers and business groups. Other utilities supported the measure but were much less vocal.

“It’s really been about FirstEnergy from the get-go,” said Rob Kelter, senior attorney for the Environmental Law and Policy Center, an opponent of the changes. “The other utilities decided it wasn’t worth being involved in a legislative bloodbath when they could just continue with what they’re doing right now.”

Opponents remain concerned that the new law will harm the economy, and they want to see more details from the companies.

“It’s early, and we need to see how the new law is interpreted and implemented,” said Ted Ford, CEO of Ohio Advanced Energy Economy, a trade group for clean-energy companies.

AEP’s energy-efficiency programs, which cost \$78 million last year, will keep the same levels of funding and staffing, Vegas said. Customers pay for this with an electricity-bill charge of about \$3 per month for a typical household.

As for renewable energy, AEP has long-term contracts with solar arrays and wind farms that were designed to meet the old standards. Those contracts remain in place, even though the standards have changed.

The efficiency and renewable programs were developed to comply with a 2008 state law that required utilities to meet escalating annual benchmarks for conservation. The new law puts a two-year freeze on the benchmarks and makes a variety of other changes.

The new law applies mainly to investor-owned electricity utilities, the companies that serve the large majority of the state's consumers.

FirstEnergy has about 2.1 million customers, or 43 percent of the total affected by the law. AEP is next with 1.5 million, or 30 percent, followed by Duke with 695,000, or 15 percent, and Dayton Power & Light with 573,000, or 12 percent.

"We believe that our portfolio of (energy-efficiency) offerings benefit our customers, the company and help the environment," said Duke spokesman Blair Schroeder in an email.

Dayton Power & Light said it will continue with its current plan until the end of 2015 and is reviewing options for the following years.

AEP's Vegas said his company was active behind the scenes during the debate, trying to preserve the programs that are popular with AEP customers but also trying to increase the utilities' flexibility in complying with the law.

"We were very engaged in the conversation, trying to get a balanced approach," he said.

dgearino@dispatch.com

TO: OMA Government Affairs Committee
FROM: Ryan Augsburger / Rob Brundrett
RE: Environment Public Policy Update
DATE: August 20, 2014

Overview

The General Assembly recently adjourned for the summer. Ohio EPA has a version of the MBR still pending and will be revisited by the General Assembly in the fall. U.S. EPA and its existing source standards will be a dominate subject for Ohio moving through the next year. Other agency issues will be dealt with through the regulatory process where the agency remains very active.

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.

The agency recently let the OMA know that they are scaling back some of their priorities in hopes of having some legislation in place for the fall. Considering the amount of time they have worked on the project, portions of the rewrite should be ready to be introduced. This might be a bill with a chance to move in lame duck.

Senate Bill 150

Senate Bill 150 was signed by Governor Kasich in May. The bill is geared toward the agriculture industry. It 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.

This bill was back in the news recently because of the Lake Erie algae bloom and the drinking water ban in Toledo. New legislation can be expected aimed at reducing manure and fertilizer runoff from farms.

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 legislation into 14 different bills. EPA and Agriculture have their own MBR – House Bill 490. The bill had numerous hearings in the House. One issue of note concerns changes to 6111, the Water Pollution Control Law. The bill creates a knowing and

reckless standard for violations of ORC 6111.99. Currently, all criminal violations of Ohio's Water Pollution Laws are misdemeanors, regardless of their severity or the intent of the violator. The suggested changes by Ohio EPA changes the way the agency would enforce violations.

House Bill 506

Last week Representatives Thompson (R-Marietta) and Cera (D-Bellaire) sponsored House Bill 506, which was developed in anticipation of the U.S. EPA's 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 revealed last week. 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 rules from U.S. EPA. The was passed by the House prior to break.

Regulations

U.S. EPA 111(d)

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

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

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

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

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

Ohio EPA has held two interested party stakeholder meetings to discuss the proposed rule and possible comments.

Beneficial Use

This spring Ohio EPA released the much anticipated draft permits for foundry sand and alum sludge. 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. OMA submitted comments on the ESO.

Universal Waste

At the end of 2012 Ohio EPA solicited comments through the early stakeholder outreach program on the expansion of universal waste in Ohio. The agency wanted to examine whether additional hazardous wastes should be designated as universal wastes and specifically if hazardous waste aerosol cans and spent antifreeze should be designated universal wastes.

The OMA submitted initial comments on this topic requesting certain paint and paint related wastes.

The OMA was approached by Ohio EPA to see what sort of backing the expansion of universal waste would have among members. The OMA recently put together a working group to work with Ohio EPA on this topic.

Water Nutrient Work Group

Ohio EPA has been working on reducing the amount of nutrients that enter Ohio's waterways. The OMA has two members on the working group Ohio EPA created to review the issue. The group is meeting monthly to determine what is the best way to implement the state's water nutrient strategy. This group remains focused on the water nutrient implementation process it was created to help implement. However new light may be focused on the group with the recent water issues in northwest Ohio.

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.

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

A new study by NAM finds that imposition of a 60 ppb ozone standard could reduce U.S. Gross Domestic Product by as much as \$3.4 trillion through 2040 and dramatically increase energy costs across all sectors.

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. Most recently they announced their rules for existing electricity generating units.

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

The Legal Hurdle for 111(d)

The United States Supreme Court's recent decision in [UARG v. EPA](#) offers insight as to how future courts will evaluate the authority of the U.S. EPA under the Clean Air Act to regulate greenhouse gas emissions from power plants and other stationary sources.

From OMA Connections Partner Jones Day: "The question that EPA must address, and future courts will have to resolve, is whether § 111(d) provides "clear congressional authorization" to support the proposed guidelines for existing power plants. In *UARG*, the Supreme Court noted that it is skeptical "[w]hen an agency claims to discover in a long-extant statute an unheralded power to regulate a significant portion of the American economy." Given the unusual scope and significance of the proposed guidelines, EPA will need to identify specific provisions of § 111(d) that justify its proposed approach."

Read [more](#) from Jones Day about U.S. regulatory developments. 8/13/2014

House Starts Work on Lake Erie Water Quality

Two weeks ago the city of Toledo enacted a drinking ban on its municipal water supply due to toxins from algae in Lake Erie. As a result, [Speaker Batchelder](#) (R-Medina) released this [statement](#): "Given the recent events in Toledo, it has become even more evident that we must thoughtfully continue to work toward a solution to the water quality and algae conditions impacting Lake Erie. Based on his steadfast leadership and diverse knowledge on agricultural and environmental issues, I have tasked Chairman Dave Hall with studying this issue further through the House Agriculture and Natural Resources Committee."

Rep. [Dave Hall](#) (R-Millersburg) is now planning hearings on the issue. And, the Lake Erie caucus, which is made up of state lawmakers whose districts about Lake Erie, is holding an informal hearing this week.

For the past year the OMA staff and members have participated in the Ohio EPA's [Water Nutrient Technical Advisory Group](#) to advise the agency as it develops surface water quality standards for nutrients. Right now, the group is deliberating a proposed [stream nutrient assessment procedure](#). This matter has implications for all manufacturers with any discharges of phosphorus or nitrogen into streams or wastewater treatment facilities. Contact OMA's [Rob Brundrett](#) for more information. 8/14/2014

Most Costly U.S. Regulations, Ever?

The OMA and the National Association of Manufacturers (NAM) yesterday [released](#) a study that finds the proposed U.S. EPA ozone regulations could be the most expensive regulations ever administered against American manufacturers.

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

The [study](#) finds that imposition of a 60 ppb ozone standard could reduce U.S. Gross Domestic Product by as much as \$3.4 trillion through 2040 and dramatically increase energy costs across all sectors.

The [potential effect](#) on Ohio: \$204 billion reduction in Gross State Product through 2040; 218,415 lost jobs (or job equivalents) in Ohio each year through 2040; \$156 billion increase in compliance costs for Ohio businesses through 2040; \$2,730 in additional costs paid by Ohio households annually in the form of higher prices for goods and services; Up to 32 percent increase in household natural gas prices and up to 15 percent increase in household electricity prices (nationwide), and; Estimated shutdown of 81 percent of Ohio's coal-fired generating capacity.

NAM is mounting a national campaign to increase understanding of the potential impact of the new federal ozone requirements. As part of that campaign, NAM has produced a [video](#) discussing the creation, transport and regulation of ground-level ozone. Pass it on to help get the message out. 7/31/2014

Supreme Court OK's EPA GHG Authority, but with a Rebuke

The U.S. Supreme Court this week upheld the right of the U.S. EPA to regulate greenhouse gas emissions from stationary sources under the Clean Air Act. The case, "[Utility Air Regulatory Group v. Environmental Protection Agency](#)," is the latest in a string of rulings endorsing the EPA's authority to regulate carbon as a pollutant under the Clean Air Act.

However, and in a victory for manufacturers, the court gave the EPA a tongue-lashing for essentially legislating policy with its "tailoring rule," which the court rejected. By striking down the "tailoring rule," the court ruled that EPA does not have the power to require burdensome new permits for greenhouse gas emissions for all stationary sources. With the "tailoring rule," the EPA had claimed an authority to

“tailor” regulations to targets of its own determination, rather than those legislated by Congress. Essentially, EPA had claimed authority to regulate the entire U.S. economy.

“An agency has no power to ‘tailor’ legislation to bureaucratic policy goals by rewriting unambiguous statutory terms,” Justice Scalia wrote. Chief Justice Roberts and Justices Kennedy, Clarence Thomas and Samuel A. Alito Jr. joined that part of the decision.

Here is an [analysis](#) of the decision by OMA counsel, [Frank Merrill](#), of Bricker & Eckler LLP. 6/25/2014

Legality of U.S. EPA Carbon Rules Questioned

A [memorandum](#) authored by the law firm of Troutman Sanders, which is working with the Partnership for a Better Energy Future (PBEF), an organization co-lead by the National Association of Manufacturers and the U.S Chamber, and of which the OMA is a member, outlined the legal hurdles it says the U.S. EPA must overcome in order for its recently proposed carbon reduction standards to pass judicial scrutiny.

It states: “The proposal is the type of results-driven regulation – where an agency “creatively” interprets its statutory authority to achieve the agency’s own policy agenda – that courts have routinely overturned.”

And goes on to say: “Beyond these basic threshold flaws, the legal infirmities of EPA’s 645-page proposal are too numerous to summarize here. One fault, however, predominates over all others. EPA is requiring States to submit plans that essentially reengineer their electric utility systems. EPA does not remotely have the power to do so.” 6/19/2014

OMA Members Receive Ohio EPA’s £3 Silver Award

Ohio EPA recently [awarded](#) six companies including two OMA members the 2014 Encouraging Environmental Excellence (£3) Award at the silver level. The £3 program recognizes organizations committed to environmental excellence.

The recipients include OMA members MillerCoors, Trenton, and Sherwin Williams, Breen Technology Center, Cleveland.

Of the bronze, silver and gold levels, silver award recipients have demonstrated a commitment beyond compliance, having integrated outstanding environmental management into their core business functions, developed aggressive performance goals

and created a process to communicate the company’s environmental progress to the local community.

Nominations for the 2015 £3 Silver Level are being accepted through June 27, 2014. 6/19/2014

OMA to EPA: Co-Products Should Not Be Regulated

The OMA’s Rob Brundrett this week submitted [comments](#) to the Ohio EPA regarding its proposed “beneficial use” rules.

Brundrett wrote: “In our previous comments, we suggested that a new category be incorporated into any beneficial use rule package to clarify that certain industrial by-products are not “wastes” and are therefore exempt or excluded from further regulation... It appears that Ohio EPA agrees with our previous comment, and the “co-product” concept is Ohio EPA’s initial proposal in this regard. While we applaud Ohio EPA’s efforts in this regard, the proposed Ohio EPA “co-product” concepts go beyond our intentions.”

He suggested improvement: “(T)he “co-product” concept, as initially proposed, goes beyond what is necessary, especially from a documentation standpoint. If a material or “co-product” is excluded from the definition of “solid waste,” its further use should not be regulated by Ohio EPA.” 6/12/2014

EPA Issues Flexible Standards for Cooling Water Intake Structures

On May 19, the U.S. Environmental Protection Agency released a final rule with Clean Water Act standards for cooling water intake structures at existing manufacturing facilities and power plants. The final standards are more flexible than those proposed by EPA for existing facilities in April 2011. Still, many facilities will face significant compliance costs and more burdensome application requirements when renewing their wastewater discharge permits under the National Pollution Discharge Elimination System.

Read more in this [commentary](#) from OMA Connections Partner Jones Day. 6/9/2014

Environment Legislation
Prepared by: The Ohio Manufacturers' Association
Report created on August 18, 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: 5/22/2014 - **SIGNED BY GOVERNOR**; Eff. 8/21/2014
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
- SB356** **FERTILIZER APPLICATOR CERTIFICATION** (BROWN E) To include manure as fertilizer for purposes of fertilizer applicator certification, to revise the operation date of the fertilizer applicator certification requirements, and to declare an emergency.

Current Status: 8/14/2014 - Introduced

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_356

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 (JECKER 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

OVERVIEW OF THE CLEAN POWER PLAN

CUTTING CARBON POLLUTION FROM POWER PLANTS

On June 2, 2014, the U.S. Environmental Protection Agency, under President Obama's Climate Action Plan, proposed a commonsense plan to cut carbon pollution from power plants. The science shows that climate change is already posing risks to our health and our economy. The Clean Power Plan will maintain an affordable, reliable energy system, while cutting pollution and protecting our health and environment now and for future generations.

Our climate is changing, and we're feeling the dangerous and costly effects right now.

- Average temperatures have risen in most states since 1901, with seven of the top 10 warmest years on record occurring since 1998.
- Climate and weather disasters in 2012 cost the American economy more than \$100 billion.

Although there are limits at power plants for other pollutants like arsenic and mercury, there are currently no national limits on carbon.

- Children, the elderly, and the poor are most vulnerable to a range of climate-related health effects, including those related to heat stress, air pollution, extreme weather events, and others.

Nationwide, the Clean Power Plan will help cut carbon pollution from the power sector by 30 percent from 2005 levels.

- Power plants are the largest source of carbon pollution in the U.S., accounting for roughly one-third of all domestic greenhouse gas emissions.
- The proposal will also cut pollution that leads to soot and smog by over 25 percent in 2030.

Americans will see billions of dollars in public health and climate benefits, now and for future generations.

- The Clean Power Plan will lead to climate and health benefits worth an estimated \$55 billion to \$93 billion in 2030, including avoiding 2,700 to 6,600 premature deaths and 140,000 to 150,000 asthma attacks in children.

States and businesses have already charted the path toward cleaner, more efficient power.

- States, cities and businesses are already taking action.
- The Clean Power Plan puts states in the driver's seat to a cleaner, more efficient power fleet of the future by giving them the flexibility to choose how to meet their goals.

With EPA's flexible proposal, we can cut wasted energy, improve efficiency, and reduce pollution – while still having all the power we need to grow our economy and maintain our competitive edge.

- The agency's proposal is flexible—reflecting the different needs of different states.
- The proposal will put Americans to work making the U.S. electricity system less polluting and our homes and businesses more efficient, shrinking electricity bills by roughly 8 percent in 2030.
- It will keep the United States—and more importantly our businesses—at the forefront of a global movement to produce and consume energy in a better, more sustainable way.

Join the conversation

- In the coming months, we'll be listening to feedback and seeking new ideas about the best ways to reduce carbon pollution from existing power plants: <http://www.epa.gov/cleanpowerplan>

BY THE NUMBERS

CUTTING CARBON POLLUTION FROM POWER PLANTS

On June 2, 2014, the U.S. Environmental Protection Agency, under President Obama's Climate Action Plan, proposed a commonsense plan to cut carbon pollution from power plants. The science shows that climate change is already posing risks to our health and our economy. The Clean Power Plan will maintain an affordable, reliable energy system, while cutting pollution and protecting our health and environment now and for future generations.

Cleaning Up Power Plants

- Power plants are the **largest source** of carbon dioxide emissions in the United States, making up roughly **one-third** of all domestic greenhouse gas emissions.
- All told—the Plan puts our nation on track to cut carbon pollution from the power sector by **30 percent** by 2030—that's about **730 million metric tonnes** of carbon pollution.
- That's equal to the annual emissions from more than **150 million cars**, or almost **2/3s of the nation's passenger vehicles** – or the annual emissions from powering **65 million homes, over half the homes in America.**

Big Public Health and Climate Benefits

- The Clean Power Plan has public health and climate benefits worth an estimated **\$55 billion to \$93 billion** per year in 2030, far outweighing the costs of **\$7.3 billion to \$8.8 billion.**
- Reducing exposure to particle pollution and ozone in 2030 will avoid a projected
 - **2,700 to 6,600** premature deaths
 - **140,000 to 150,000** asthma attacks in children
 - **340 to 3,300** heart attacks
 - **2,700 to 2,800** hospital admissions
 - **470,000 to 490,000** missed school and work days
- From the soot and smog reductions alone, for every dollar invested through the Clean Power Plan—American families will see **up to \$7** in health benefits.

- The Clean Power Plan will reduce pollutants that contribute to the soot and smog that make people sick by **over 25 percent** in 2030.
 - **54,000 to 56,000 tons** of PM_{2.5}
 - **424,000 to 471,000 tons** of sulfur dioxide
 - **407,000 to 428,000 tons** of nitrogen dioxide

Number of power plants covered by the Clean Power Plan

- In the U.S., there are **1,000 fossil fuel fired power plants** with **3,000 units** covered by this rule.
- Utility planners are already making plans to address an aging fleet. The average age of coal units is **42 years**. The average age of oil units is **36 years**. The average age of natural gas combined cycle units is **14 years**.

State climate, energy efficiency and renewable energy policy statistics

- States, cities and businesses have set energy efficiency targets, increased their use of renewable energy, and made agreements to cut carbon pollution. These are the kinds of programs that states will be able to use to cut carbon pollution under this proposal.
 - **47** states with utilities that run demand-side energy efficiency programs
 - **38** states with renewable portfolio standards or goals
 - **10** states with market-based greenhouse gas emissions programs
 - **27** states with energy efficiency standards or goals

Proposed State Plan Dates

June 30, 2016 – Initial plan or complete plan due

June 30, 2017 – Complete individual plan due if state is eligible for a one-year extension

June 30, 2018 – Complete multi-state plan due if state is eligible for two-year extension (with progress report due June 30, 2017)

THE ROLE OF STATES

STATES DECIDE HOW THEY WILL CUT CARBON POLLUTION

On June 2, 2014, the U.S. Environmental Protection Agency, under President Obama’s Climate Action Plan, proposed a commonsense plan to cut carbon pollution from power plants. States, cities and businesses across the country are already taking action to address the risks of climate change, and EPA’s proposal recognizes this progress. The Clean Air Act creates a partnership between EPA and the states—with EPA setting a goal and the states deciding how they will meet it. Each state will choose the best set of cost-effective strategies for its situation. The Clean Power Plan will help maintain an affordable, reliable energy system, while cutting pollution and protecting our health and environment now and for future generations.

STATES GET TO DECIDE

- Before issuing the Clean Power Plan, EPA heard from more than 300 stakeholder groups, including states, utilities, labor unions, nongovernmental organizations, consumer groups, industry and others to learn more about what programs are already working to reduce carbon pollution. We learned that states are leading the way—especially through programs that encourage energy efficiency and renewable energy.
- States can choose to rely on measures EPA used to calculate the goal to varying degrees, as well as on other measures that were not part of the goal-setting analysis.
- States can choose to participate in multi-state programs that already exist or may create new ones
- States that have already invested in energy efficiency programs will be able to build on these programs during the compliance period to help make progress toward meeting their target.
- States can choose how to meet the goals – they have up to two or three years to submit final plans depending on whether they work alone or in partnership with other states and up to 15 years for full implementation of all emission reduction measures, after the proposed Clean Power Plan is finalized.
- States get to decide when individual power plants must make reductions.
- EPA’s guidelines also provide flexibility and encourage states to look across their whole electric system to identify strategies to include in their plans that reduce carbon pollution from fossil fuel fired power plants.
- Some of the measures states can choose to rely on in their plans include, but are not limited to:
 - demand-side energy efficiency programs
 - renewable energy standards
 - efficiency improvements at plants
 - co-firing or switching to natural gas
 - construction of new Natural Gas Combined-Cycle plants

- transmission efficiency improvements
 - energy storage technology
 - retirements
 - expanding renewables like wind and solar
 - expanding nuclear
 - market-based trading programs
 - energy conservation programs
- States can choose to integrate plans with the long-term planning and investment processes already used in this sector, and design them in ways that address region- and state-specific needs.
 - The proposal gives states significant flexibility to develop a program that addresses the unique needs of generators within each state. It provides states the ability to craft requirements that vary the timing and magnitude of reductions to address individual challenges that municipal utilities and rural electric cooperatives may face.
 - States can decide how to treat plants nearing the end of their useful life and how to help plants avoid “stranded investments.”
 - Together, the choices that states can make about when power plants must make reductions and about how they can do so will allow states to work with sources, planners and regulators to address individualized issues that may arise. The states and EPA will rely on the continued discussions with a broad variety of stakeholders – including utilities, Regional Transmission Operators, and state public utility regulators – to make sure all issues are appropriately considered and addressed.
 - By setting a state-specific goal and giving states the choice about what to include in their plans, EPA is ensuring that states have the flexibility they need to drive investment in innovation, while ensuring reliability and affordability.

FOR MORE INFORMATION

EPA will accept comment on the proposal for 120 days after publication in the Federal Register and will hold four public hearings on the proposed Clean Power Plan during the week of July 28 in the following cities: Denver, Atlanta, Washington, DC and Pittsburgh. The proposed rule, information about how to comment and supporting technical information are available online at: <http://www.epa.gov/cleanpowerplan>



Ohio EPA 111(d) Stakeholder Group

May 19, 2014

Purpose / Goal of Stakeholder Group

- 111(d) plan may be most complex state plan ever needed
- Ohio EPA required to develop plan to submit to U.S. EPA
- Need stakeholder input/ideas/discussion on elements of Ohio plan



Basic Ground Rules for Stakeholder Group

- Focus on plan that is needed – what are key elements
- May need subcommittees to work on specialized topics
- Not seeking consensus from stakeholders



Basic Ground Rules for Stakeholder Group

- Not a forum for debate on legality of requirement – that will occur elsewhere

Guidelines for State of Ohio Plan

- Maintain Reliability
- Minimize Cost to utilities and consumers
- Include Compliance Flexibility, where possible
- Achieve Required Reductions



What is 111(d)?

- Specific provision of the Clean Air Act
- Applies to non-criteria pollutants
 - e.g. H₂S, sulfuric acid mist, CO₂
- Once U.S. EPA adopts New Source Performance Standard (NSPS) for non-criteria pollutants for certain source category, 111(d) comes into effect
- Requires control of that non-criteria pollutant from that specific source category



111(d) for Electric Generating Units

- In this case, once U.S. EPA adopts the NSPS for CO₂ for Electrical Generating Units, 111(d) becomes effective
- 111(d) is designed to be a state program
- Section 111 calls for "best system for emission reductions"
- 111(d) specifies that state plan may consider "remaining useful life of existing source"



111(d) for Electric Generating Units

- Wide spectrum of opinions on what is "best system for emission reduction"
- Some believe U.S. EPA has wide authority to require wholesale changes to electric generation system in the US
- 111(d) never applied in that manner– has always been source oriented or "Inside the fenceline"
- Waiting to see U.S. EPA proposal
 - Due June 2, 2014



111(d) for Electric Generating Units Schedule

- U.S. EPA proposes state guidelines – June 2014
- U.S. EPA adopts state guidelines – June 2015
- States required to submit plans – July 1, 2016
- States will have only one year to develop rules to regulate the electrical generation system!



U.S. EPA Actions on New and Existing Power Plants

- What have we been doing?
 - Provided comments to U.S. EPA with our concerns
 - Working with PUCO to ensure coordination and that we account for impacts on system reliability
 - Consulting with other states such as Kentucky, Indiana, Pennsylvania, South Dakota, Texas, etc. to understand possible impacts of rule



Ohio Electrical Generation Capacity

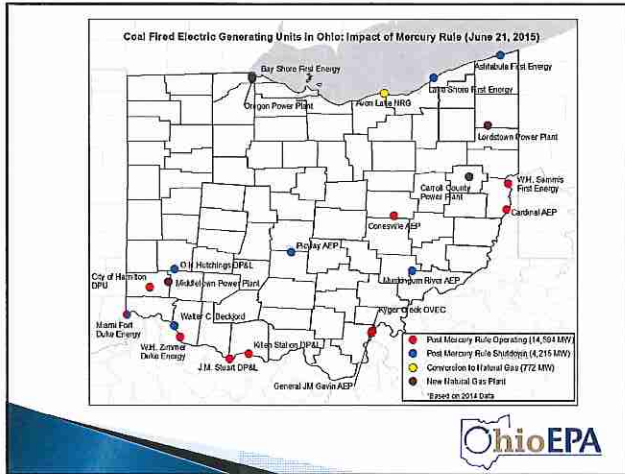
- Initial Coal = 19581 MW
- Mercury Rule Closure = 4215 MW
- Conversion to Gas = 772MW
- Total Gas – 8866 MW
(Simple Cycle= 6030 MW Combined Cycle = 2836 MW)
- Total Nuclear = 2120 MW
- "At Risk" Coal Capacity Due to CO₂ ≈ 5000 MW
- New Gas Capacity (Proposed) = 2800 MW
- Announced closure, gas conversion and "at risk" capacity ≈ 10,000 MW



New Natural Gas Capacity

- Four natural gas facilities have proposed to build in Ohio:
 - Oregon Power Plant – 800 MW
 - Not yet under construction
 - Carroll County Power Plant – 700 MW
 - Not yet under construction
 - Middletown Power Plant – 500 MW
 - Not yet under permit, application just filed
 - Lordstown Power Plant – 800 MW
 - No application yet
- No new gas plants will be on line before closures in 2015





111(d) Stakeholder Group

- Discussion Topic:
 - How can Ohio more accurately quantify and articulate the loss of electricity-generating capacity with the proposed regulatory changes? What does this loss of capacity mean to consumers (industrial, commercial, residential) in terms of reliability and pricing?



111(d) Stakeholder Group

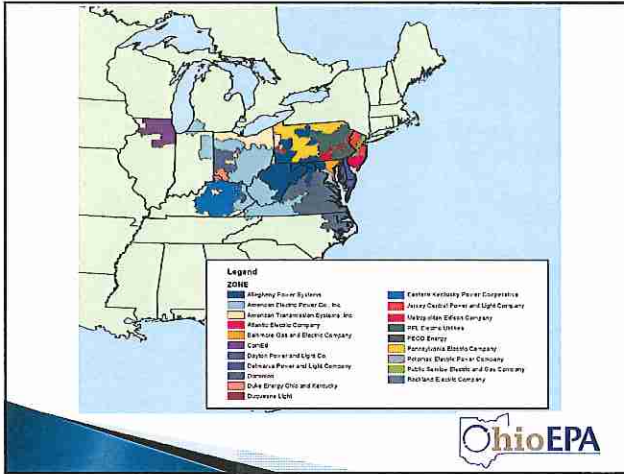
- Discussion Topic:
 - What is the role of the energy efficiency and alternative energy in our plan?
 - How can reductions be projected in the future to be made part of the state plan?



111(d) Stakeholder Group

- Discussion Topic:
 - Should we consider a system-based approach (within the state or regional)? Do the Regional Transmission Organizations such as PJM have a role? If so, how? What are the pros and cons of this approach?





111(d) Stakeholder Group

- Discussion Topic:
 - Are there other impacts that need to be considered besides electric generating costs?
 - Impacts on manufacturing jobs, coal?
 - How can these be calculated?

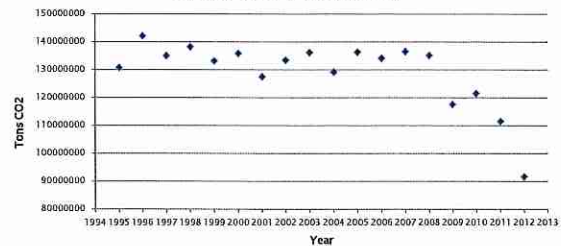


111(d) Stakeholder Group

- Discussion Topic:
 - What should be the base year for Ohio?



Annual CO2 Emissions
Ohio Electric Generating Units



111(d) Stakeholder Group

- Available Resources?
 - What resources are available to assist with plan development?



111(d) Stakeholder Group

- Frequency of Meetings
 - Once proposed rule is issued – busy time, will schedule a meeting about 30 days after proposal
 - After comments are submitted – need to continue to develop key elements while rules are finalized
 - Once rules are final – review final rule, modify draft plan, start to write rules, work towards meeting deadline



Thank you for
attending!



Ozone and Greenhouse Gases

The Coming Regulatory Storm

Ross Eisenberg

Vice President, Energy & Resources Policy
National Association of Manufacturers

reisenberg@nam.org

June 2014

The NAM Agenda



Goal 1: The United States will be the best place in the world to manufacture and attract foreign direct investment.

Goal 2: Manufacturers in the United States will be the world's leading innovators.

Goal 3: The United States will expand access to global markets to enable manufacturers to reach the 95 percent of consumers who live outside our borders.

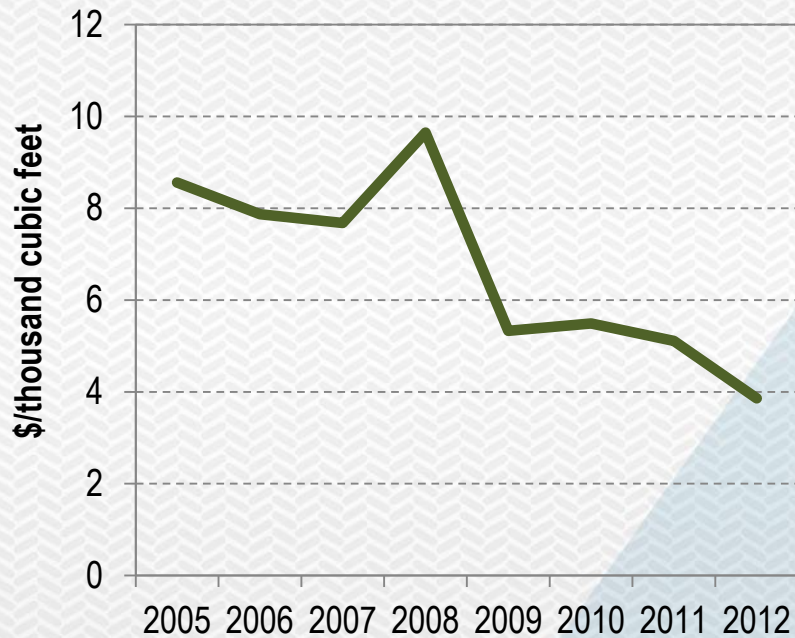
Goal 4: Manufacturers in the United States will have access to the workforce that the 21st-century economy demands.

Energy Boom Driving Manufacturing Renaissance

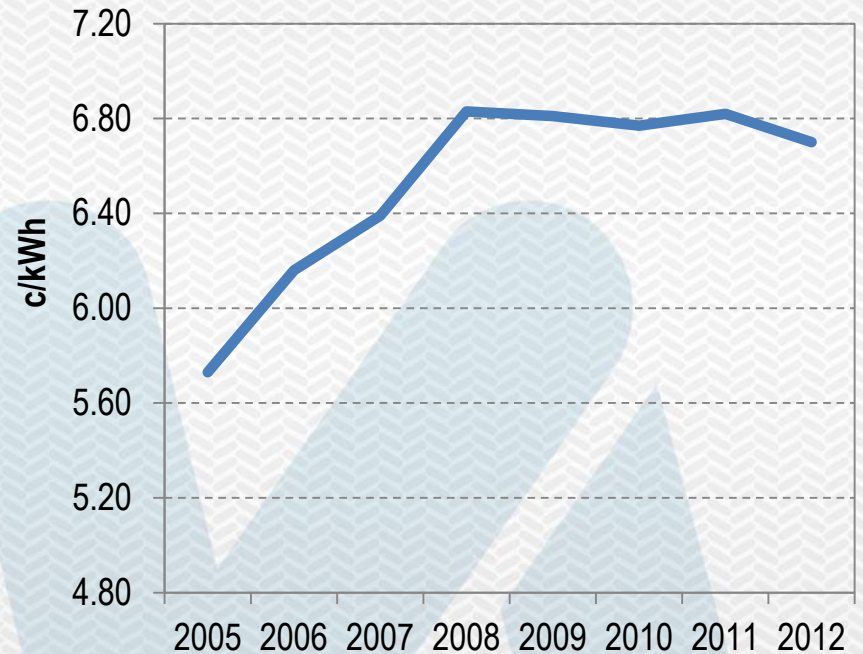
- In 2012, supported more than 2.1 million jobs and contributed \$284 billion to GDP.
- By 2020 will support more than 3.3 million jobs and 3.9 million jobs by 2025.
- Increase value of output for manufacturing of \$258 billion in 2020, and \$328 billion in 2025.
- 136 announced manufacturing plants representing a cumulative investment of \$91 billion
- Manufacturers closing factories in other countries and returning to the United States

Energy Boom Impact on Manufacturers Energy Costs

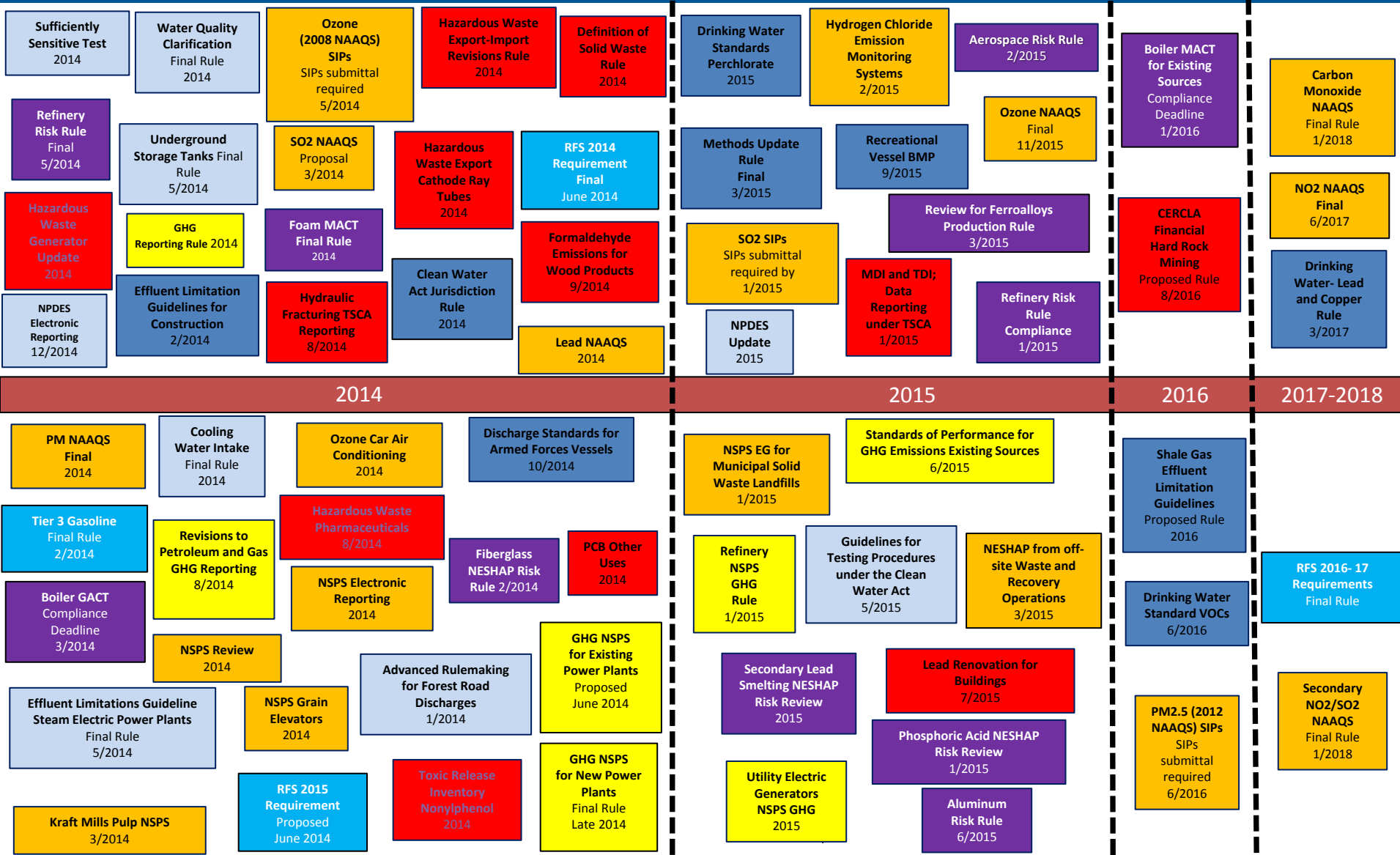
U.S. Natural Gas Industrial Price



Average U.S. Retail Price of Electricity Industrial Consumers

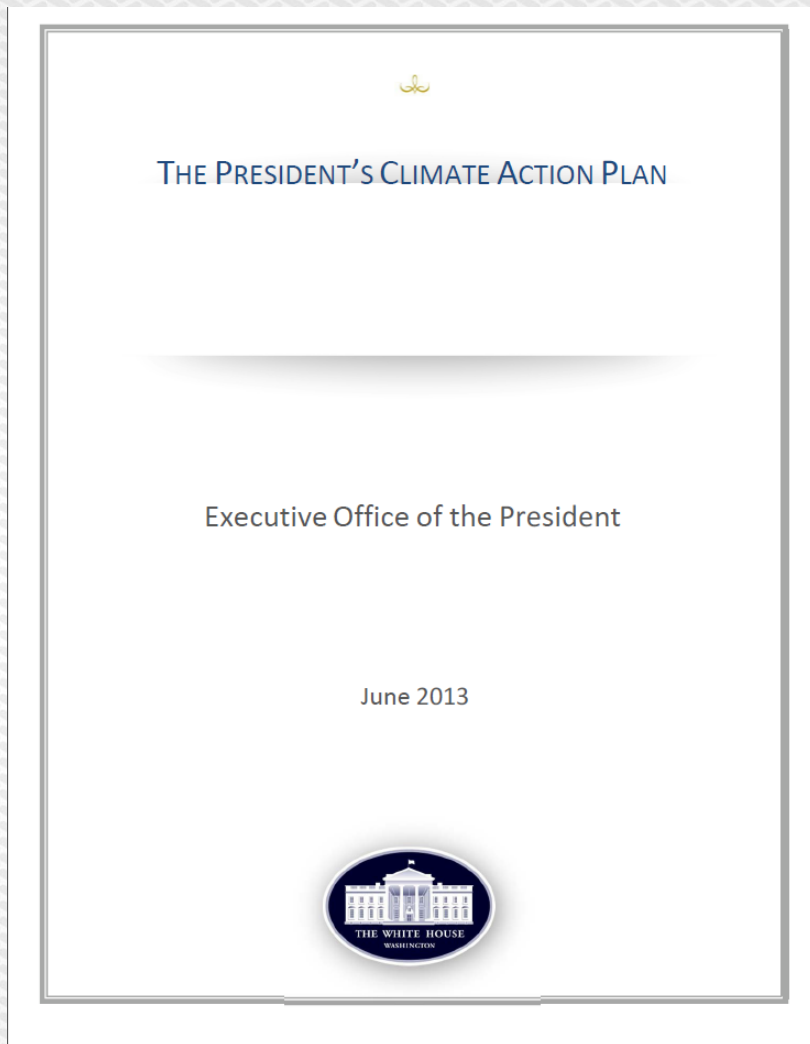


EPA Rulemaking Timeline



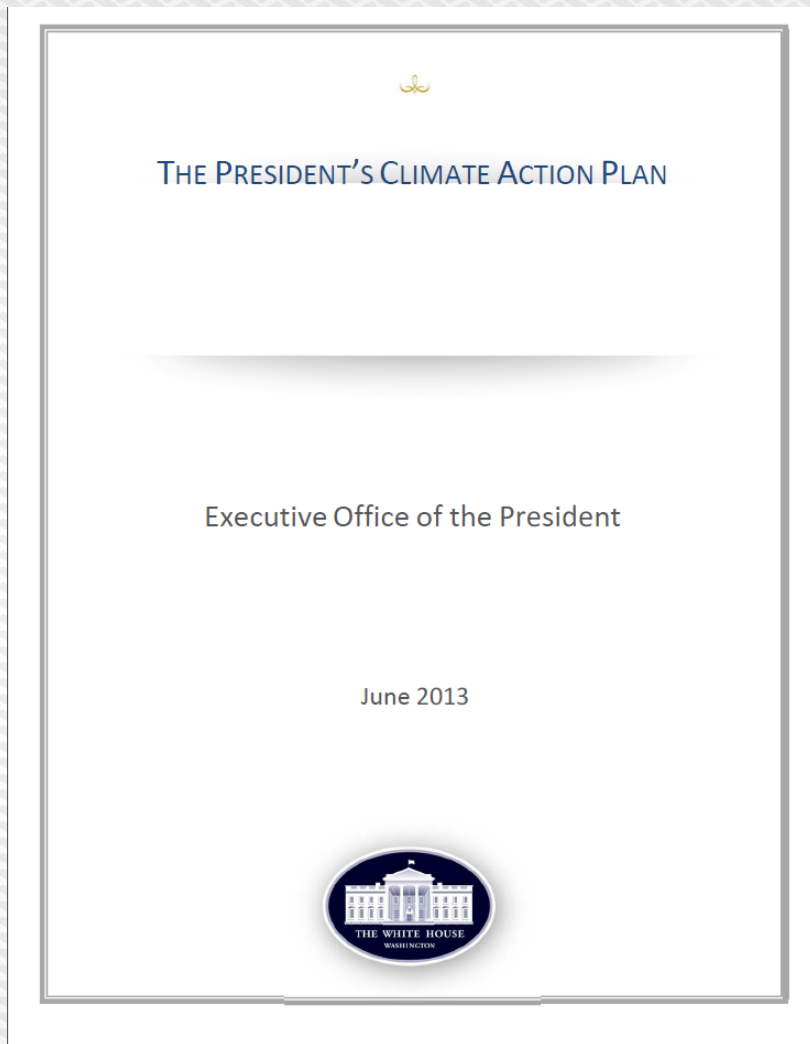
Air Quality Regulations
Fuel Regulations
GHG Regulations
Air Toxic Regulations
Hazardous Materials Regulations
Other Regulations

Greenhouse Gases: Overview



- Three Key Goals
 - 17% reduction in carbon emissions from 2005 to 2020
 - Prepare United States to adapt to climate change
 - Take leadership role in international climate change efforts
- Wide Range of Issues Addressed
 - Commitment to reduce carbon from new and existing utilities
 - Government purchase and installation of renewable energy
 - Incentives and guarantees for renewable energy
 - Investments in infrastructure for adaptation

Greenhouse Gases: Schedule of Regulation



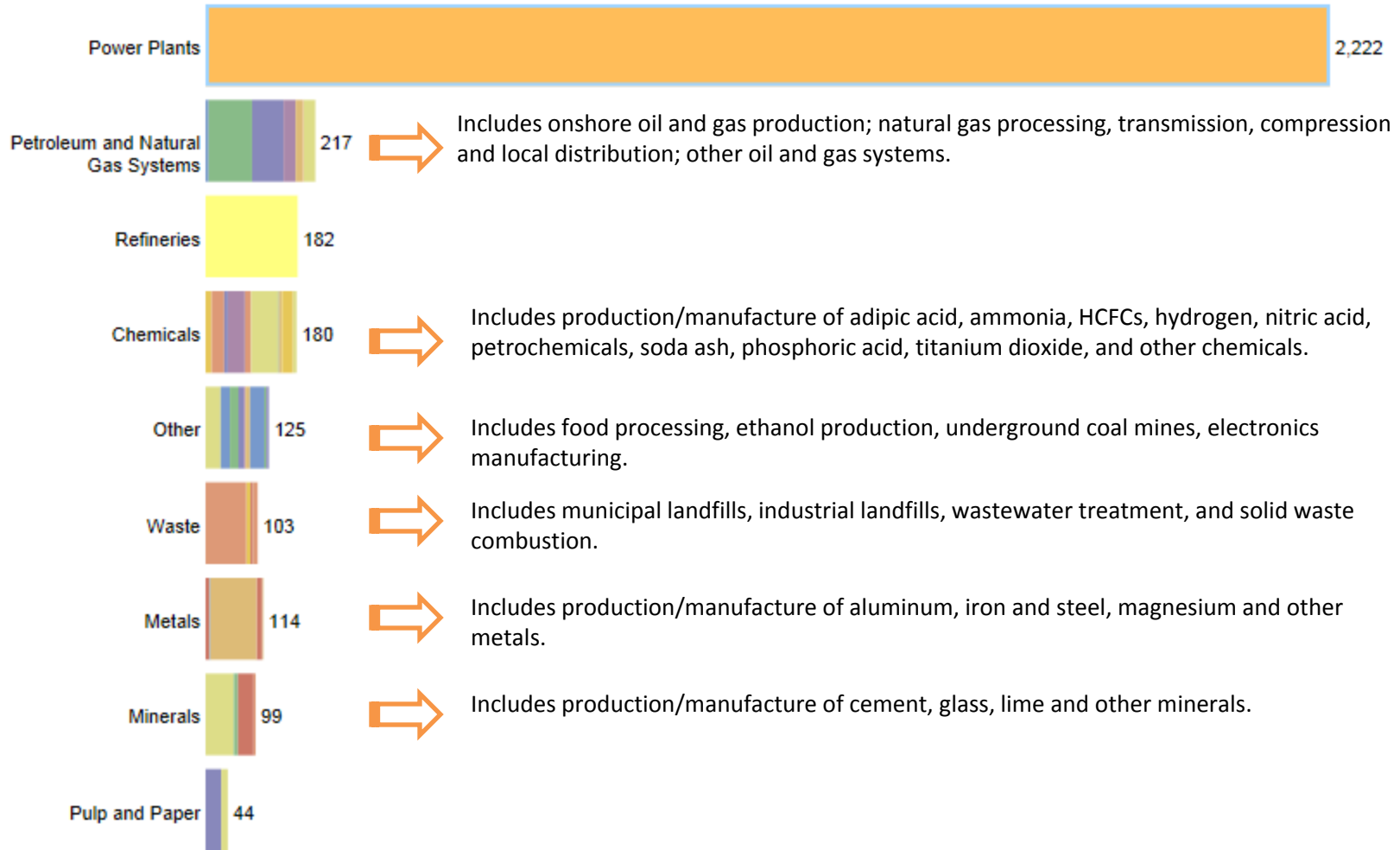
- NSPS for New Fossil Fuel-Fired Power Plants
 - Proposed 9/20/13; comment period closed May 2014
 - Three separate standards: new large natural gas plants, 1,000 lb/mwh; new small natural gas plants, 1,100 lb/mwh; new coal-fired power plants, 1,100 lb/mwh
 - To meet coal standard, partial CCS will be required; conventional coal-fired power plants are essentially banned going forward
- NSPS for Existing Fossil Fuel-Fired Power Plants
 - Proposed 6/1/14; Final rule expected 6/1/15
 - 111(d) SIP submittals due 6/30/2016; states may request one-year extension for single-state implementation plans, two-year extensions for multi-state implementation plans
 - Massively complicated regulation that ultimately requires 30 percent reductions from 2005 levels by 2030
- Post-2015: Refineries, Nat Gas, industrials

111(d) Rule overview

- *Determines each state's reductions by the state's capacity to implement "four blocks" of reduction strategies:*
 - **Block 1:** Reduce carbon intensity of coal generation through heat rate improvements – a 6% across-the-board reduction
 - **Block 2:** Replace carbon-intensive coal generation with existing and under-construction NGCC facilities
 - All NGCC facilities operate at 70% capacity
 - Emissions reductions vary based on current dispatch levels
 - **Block 3:** Replace carbon intensive coal generation with nuclear and renewable energy generation
 - Nuclear: complete all new construction; avoid projected retirement of 5.8% of current fleet
 - Renewable energy: increased generation to achieve regional average of current RPS mandates.
 - **Block 4:** Reduce demand for carbon-intensive coal generation through demand-side efficiency improvements.
 - Average annual energy efficiency improvements of 1.5%
- *Then allows states to choose their compliance options:*
 - Inside the fence: only fossil fuel EGUs are liable for achievable reductions at the facility through heat rate improvements, fuel switching, CCS and co-firing
 - Outside the fence: EPA allows states to hold "other entities to be legally responsible for actions under the plan that will, in aggregate, achieve the emission performance level." Includes displacing fossil fuels with renewable and nuclear energy, demand side management, and transmission and distribution energy efficiency measures.
 - Linking with existing state GHG regimes, such as AB32 (California economy-wide cap and trade), RGGI (Northeast US utility-level cap and trade) and CO Clean Air, Clean Jobs Act
- *Ohio is looking at about a 22% reduction from 2012 levels during the "interim goal" period (2020-2029) and a 28% percent reduction by 2030.*
 - According to EPA, Ohio's 2012 emission rate is 1,850 lbs/MWh. 2030 goal for Ohio is 1,338 lbs/MWh
 - EPA projects PJM to retire 4,622 MW of generating capacity by 2020 under these rules, all coal



U.S. - Direct GHG Emissions of Selected Gases Reported by Sector/Subsector in Million Metric Tons of CO₂e (2011 reporting period)



Source: Environmental Protection Agency (ghgdata.epa.gov)



RELIABLE & AFFORDABLE ENERGY

The Partnership for a Better Energy Future is leading the business and industrial community in support of a unified strategy and message in response to the Administration's greenhouse gas (GHG) regulatory agenda. This agenda is just underway and will ultimately extend to nearly every sector of the industrial economy, from refining to manufacturing to agriculture and mining. To this end, the Partnership's fundamental mission is to ensure the continued availability of reliable and affordable energy for American families and businesses.

LEARN MORE

TAKE ACTION

JOIN US

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JOIN US

If your organization would like to join the Partnership for a Better Energy Future, please provide the information below.

SUBMIT

These two regulations for power plants will set the stage for similar regulations of other sectors like refining, chemicals, natural gas development, iron and steel, pulp and paper, food production, aluminum, glass, brick, cement and other manufacturing.

Regulation for New Power Plants

BACKGROUND ON REGULATIONS

in a regulatory agenda that is the most costly ever imposed on the U.S. GHG regulations for power plants will impact a significant portion of the industrial economy. This agenda will determine the state which fuels can power our economy and increase energy costs for consumers and industry in the country.

Timeline

in an executive memorandum directing EPA to limit carbon emissions from power plants. The memorandum called for the regulation for new power plants by September 2013 and the regulation for existing power plants by November 2013.

September 2013

Proposed New Power Plants Regulation

Oct. - Nov. 2013

EPA Listening Sessions

Nov. 2013 - Jan. 2014

Comment Period for New Power Plants Regulation



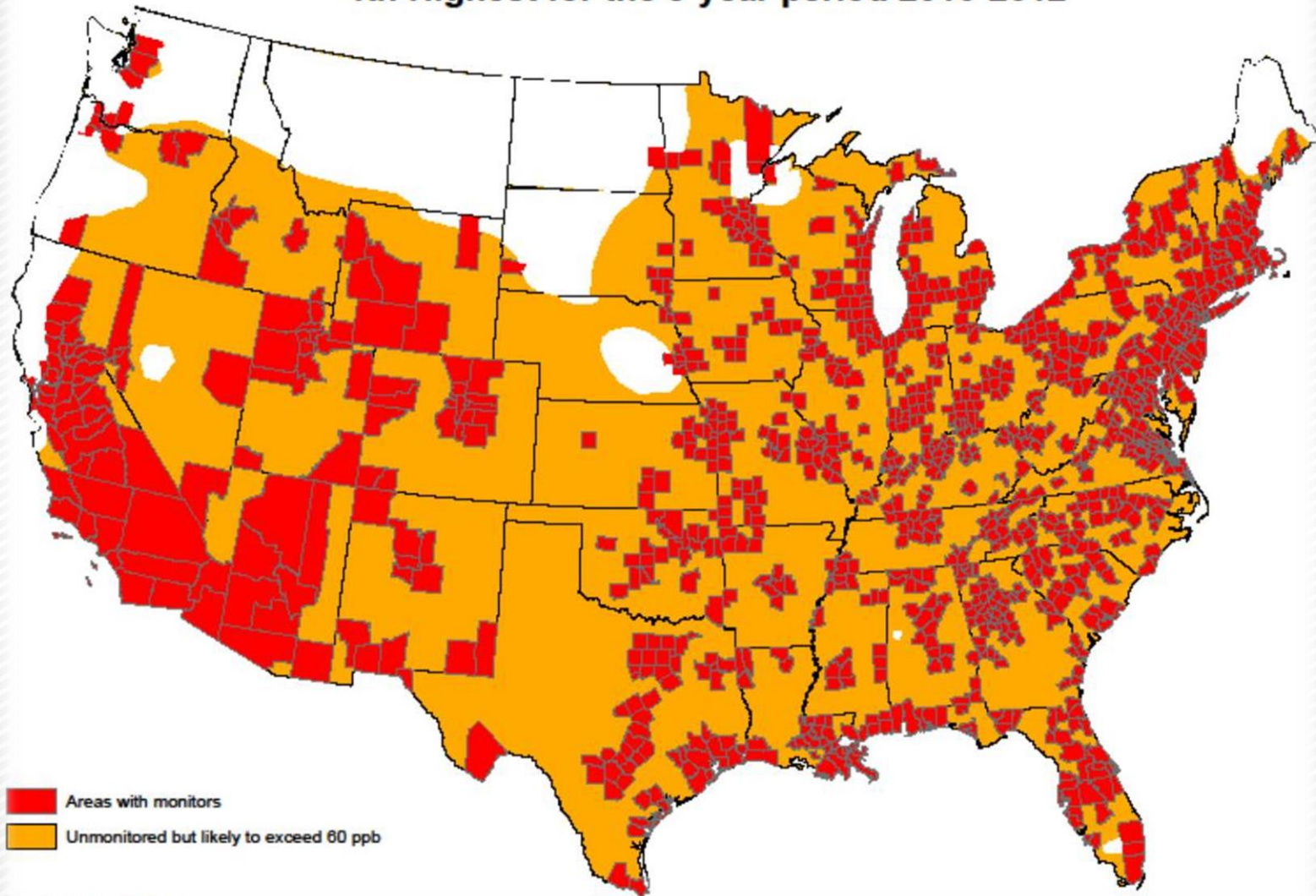
8-Hour Ozone Nonattainment Areas (2008 Standard)



Source: Environmental Protection Agency



NAAQS Ozone 8-hr Design Values 4th Highest for the 3-year period 2010-2012

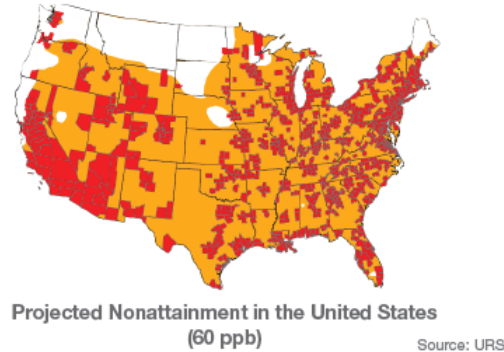
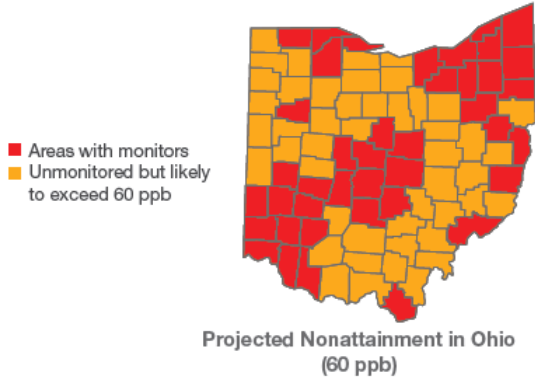


Source: URS, June 4, 2013



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.



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).

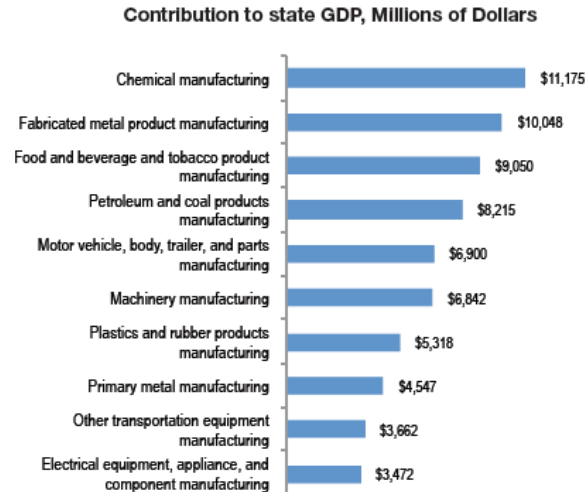
Growth Stifling Regulations Are Coming

- > 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**.

At Risk: Top 10 Manufacturing Industries in Ohio



Source: U.S. Bureau of Economic Data.

MANUFACTURING
MAKES AMERICA
STRONG



NATIONAL ASSOCIATION OF
Manufacturers



FOR IMMEDIATE RELEASE

July 31, 2014

CONTACT

Rob Brundrett, 614.224.5111

**National Association of Manufacturers' Study:
Ohio Faces Economic Harm from New EPA Ozone Standard**

New federal ozone rule would result in income losses equivalent to 218,000 Ohio jobs annually and cost the U.S. economy \$3.4 trillion

[WASHINGTON]: Ohio manufacturers and households could face significant economic harm if the Environmental Protection Agency (EPA) moves to lower its ground-level ozone (smog) standard later this year, according to a new [study](#) conducted by NERA Economic Consulting for the National Association of Manufacturers (NAM) and The Ohio Manufacturers' Association (OMA). The study finds that a new EPA ozone standard set at 60 parts per billion (ppb) –well below the current standard of 75 ppb that many states are still working to meet – could be the most costly regulation in the nation's history, costing the U.S. economy trillions of dollars while imposing burdensome new costs on Ohio businesses and consumers.

Imposition of a 60 ppb ozone standard could reduce U.S. Gross Domestic Product by as much as \$3.4 trillion through 2040 and dramatically increase energy costs across all sectors, according to the study. The harmful economic impact in Ohio would be substantial and include the following:

- \$204 billion reduction in Gross State Product through 2040
- 218,415 lost jobs (or job equivalents) in Ohio each year through 2040
- \$156 billion increase in compliance costs for Ohio businesses through 2040
- \$2,730 in additional costs paid by Ohio households annually in the form of higher prices for goods and services
- Up to 32 percent increase in household natural gas prices and up to 15 percent increase in household electricity prices (nationwide)
- Estimated shutdown of 81 percent of Ohio's coal-fired generating capacity

“Manufacturing in the United States is making a comeback, and we’re reducing emissions at the same time, but tightening the current ozone standard to near unachievable levels would serve as a self-inflicted wound to the U.S. economy at the worst possible time,” said NAM President and CEO Jay Timmons. “This rule would undermine our work to expand manufacturing in the United States, making it almost impossible to increase operations, create new jobs or keep pace internationally.”

-- more --

“We are rapidly approaching a point where we are requiring manufacturers to do the impossible,” added NAM Vice President of Energy and Resources Policy Ross Eisenberg. “The EPA is considering setting ozone levels below what exists at national parks, such as Yellowstone and Denali. It is vital that the Obama Administration allow existing ozone standards to be implemented rather than move the goalposts with another set of requirements for manufacturers. Trillions of dollars are at stake.”

“Ohio manufacturers have invested billions of dollars in environmental control technologies and more efficient processes, efforts that have significantly reduced harmful emissions,” said OMA President Eric Burkland. “We are making progress. New, more stringent standards will impose significant anti-competitive costs on manufacturers and their customers.”

“This study uses the most up-to-date available EPA information and a state-of-the-art model of the economy to assess the compliance costs and economic impacts of a stricter ozone standard, concluding, as the EPA did in 2010, that the costs would be enormous,” said NERA Economic Consulting Senior Vice President and Environment Practice Co-Chair Dr. David Harrison. “EPA needs to greatly expand the scope of its analyses if it is to thoroughly assess the cost and impacts of a revised ozone standard.”

President Obama halted EPA's previous proposal to modify the federal ozone standard in 2011, citing "regulatory burdens and uncertainty." With so much at stake for states, municipalities, manufacturers and American consumers, NAM also announced it will be mounting a broad education campaign in key states during Congressional recess and throughout the fall to increase understanding of the potential impact of new federal ozone requirements. As part of that campaign, NAM has produced a new [video](#) discussing the creation, transport and regulation of ground-level ozone.

For more information, visit www.nam.org/ozone.

#

About OMA: The mission of The Ohio Manufacturers' Association is to protect and grow Ohio manufacturing. Through the OMA, manufacturers and manufacturing stakeholders work directly with members of the Ohio General Assembly, state regulatory agencies, the judiciary community and statewide media with the sole focus of improving business conditions for manufacturers in Ohio.

About NAM: The National Association of Manufacturers is the largest manufacturing association in the United States, representing small and large manufacturers in every industrial sector and in all 50 states. Manufacturing employs nearly 12 million men and women, contributes more than \$1.8 trillion to the U.S. economy annually, has the largest economic impact of any major sector and accounts for two-thirds of private-sector research and development.

About NERA: NERA Economic Consulting is a global firm of experts dedicated to applying economic, finance, and quantitative principles to complex business and legal challenges. For over half a century, NERA's economists have been creating strategies, studies, reports, expert testimony, and policy recommendations for government authorities and the world's leading law firms and corporations. NERA brings academic rigor, objectivity, and real world industry experience to bear on issues arising from competition, regulation, public policy, strategy, finance, and litigation.

What Could New Ozone Regulations Cost Ohio?



\$204 Billion Gross State Product Loss from 2017 to 2040

218,415 Lost Jobs or Job Equivalents per Year

\$156 Billion in Total Compliance Costs

\$2,730 Drop in Average Household Consumption per Year

\$30 Billion More for Residents to Own/Operate Their Vehicles Statewide (2017 to 2040)

Up to a **15 Percent Increase** in Residential Electricity Prices (National Average)

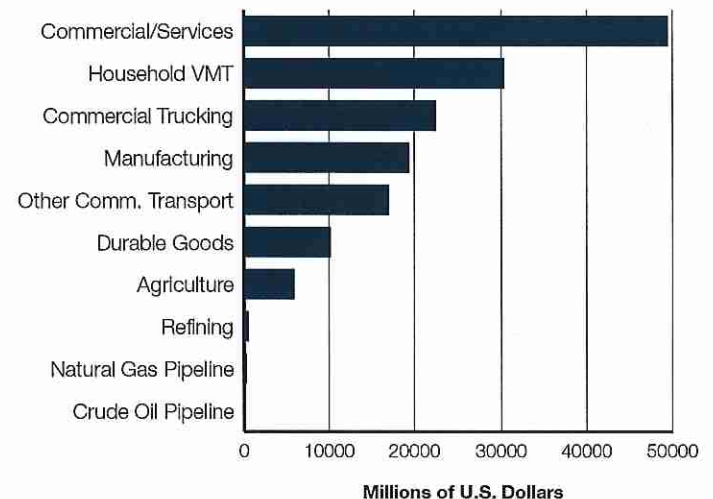
Up to a **32 Percent Increase** in Residential Natural Gas Prices (National Average)

Shutdown of **81 Percent** of **Ohio's** Coal-Fired Generating Capacity

Expensive New Ozone Regulation Will Put the Squeeze on Ohio

The Environmental Protection Agency's (EPA) new ozone regulation could be the most expensive ever issued on the American public, costing the nation \$270 billion to \$360 billion annually. This regulation would hurt manufacturers and could increase costs for households in Ohio while reducing workers' incomes by the equivalent of 218,415 lost jobs,¹ according to a new study by NERA Economic Consulting and commissioned by the National Association of Manufacturers.² Cities, towns and rural areas across the United States would see reduced economic growth as unachievable permitting requirements prevent businesses from expanding or opening up new operations. Local and state governments would have to revisit vehicle inspection programs. Manufacturers would need to make technical and formula changes to their products and pay for replacement equipment.

Figure 1: Total Compliance Costs by Sector to Meet a 60 ppb Ozone Standard



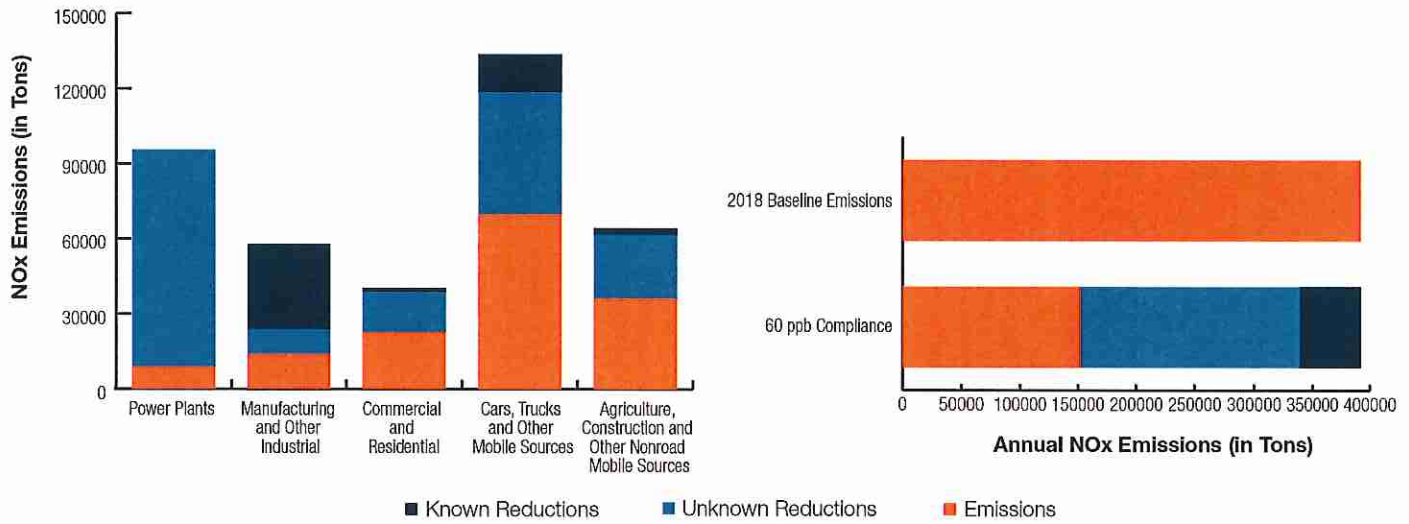
¹ Total job equivalents equal total labor income change divided by the average annual income per job. Job impact estimates represent the average annual impact from 2017 through 2040.

² NERA Economic Consulting analyzed the economic impact of tightening the National Ambient Air Quality Standard (NAAQS) for ground-level ozone to 60 parts per billion (ppb). In its Second Draft Policy Assessment for the Review of the Ozone NAAQS, the EPA indicated it is considering lowering the standard to 60 ppb.

Are These Regulations Even Attainable?

New ozone regulations could cost Ohio hundreds of billions of dollars to reduce emissions to federally required levels. The EPA has identified only **22 percent** of the controls needed to meet the standard. The remaining **78 percent** of reductions would have to be met with unknown controls that the EPA has not yet identified but which would likely have to include early shutdowns and scrapping of existing facilities, equipment and vehicles.

Figure 2: Ohio Nitrogen Oxide (NOx) Emissions and Known and Unknown Control Measures Necessary to Achieve a 60 ppb Ozone Standard

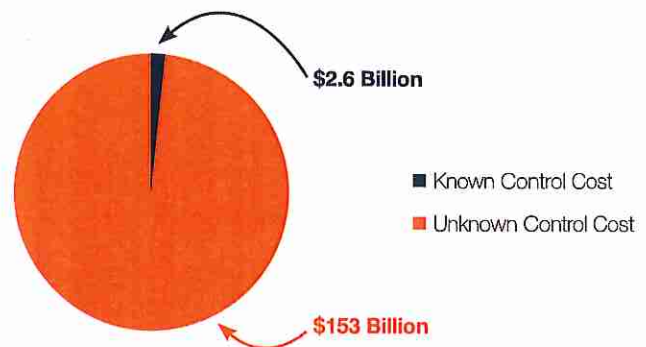


Early retirement and scrapping of power plants, industrial facilities, heavy-duty trucks and equipment and automobiles would be much more costly ways to remove each additional ton of emissions than the controls the EPA has identified. As a result, while unknown controls are responsible for a significant portion of the necessary reductions, they account for the vast majority of the total costs, as shown in the pie chart below. This reality helps explain the exorbitant costs that would come with a stricter ozone standard.

A Moving Regulatory Target

Air quality continues to improve, and NOx emissions are already down nearly 60 percent nationwide since 1980, which, after adjusting for economic growth, implies a 90 percent reduction in emission rates from the relatively uncontrolled 1990 rates for NOx-emitting sources. Meanwhile, the existing ozone standard that was tightened in 2008 hasn't even been implemented yet. With all the progress we've made and the further investments that will take place without new ozone regulations, now is not the time to move the regulatory target—not at these costs.

Figure 3: Total Ohio Compliance Costs: \$156 Billion



To: OMA Government Affairs Committee
From: Ryan Augsburger / Rob Brundrett
Re: Human Resources Public Policy Report
Date: August 20, 2014

Overview

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 fared 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. Taxes will continue to increase until the debt is paid in whole.

General Assembly News and Legislation

Unemployment Compensation and Debt Study Committee

Earlier this summer Speaker Batchelder (R-Medina) announced a new summer legislative study committee that will travel the state to hold hearings about eliminating Ohio's nearly \$1.4 billion debt to the federal unemployment loan fund.

Ohio's unemployment tax has been raised each of the last four years as Ohio continues to struggle to pay off the loan. Unless the loan is repaid, Ohio businesses will see a fifth hike next year. The committee will be chaired by Barbara Sears (R-Sylvania); the vice chair is Gary Scherer (R-Circleville). The initial meeting was held August 5 at the Statehouse. They study committee had their second hearing yesterday at Gorman Rupp in Mansfield.

The panel will submit a report of potential legislative recommendations to the General Assembly.

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 \$1.4 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

NLRB Seeks to Expand Joint-Employer Test for Liability

According to OMA Connections Partner, Roetzel, the General Counsel of the National Labor Relations Board (NLRB) seeks to expand the traditional joint employer test. If followed by the Board, which is probable, the new test will find McDonald's corporation and many of its franchisees are joint employers and co-liable for the unlawful acts of the other.

This decision extends the new joint employer standard to other industries and companies besides McDonald's and fast food chains. Manufacturers, real estate management firms, cleaning companies, any employer using temporary agencies or professional employment organizations would be subject to the more lenient joint employer test. [Read more](#) from Roetzel. 8/2/2014

NLRB Endorses Micro-units

According to OMA Connections Partner, Frantz Ward, on July 22, 2014, the National Labor Relations Board (NLRB) ruled in Macy's, Inc., 361 NLRB No. 4 (2014), that cosmetic and fragrance workers at a Macy's store were allowed to form a collective bargaining unit for their department alone.

A week later, in Neiman Marcus Group, Inc., 361 NLRB No. 11 (2014), the NLRB again approved the micro-unit concept generally, but ruled that a unit that was composed of all full-time and regular part-time female shoe associates in the second floor Designer Shoe Department and in the fifth floor Contemporary Shoe Department lacked a "community of interest." Importantly, the NLRB noted that the boundaries for the proposed unit did not resemble any administrative or operational lines drawn by the employer.

Because the NLRB has clearly endorsed micro-units, employers can take steps to make it more difficult for unions to splinter small groups of employees. For example, employers can cross-train and encourage skill diversity so that employees are more interchangeable. And, rather than having many small departments, employers can have fewer but larger departments with the same supervisors supervising more groups of employees. [Read more](#). 8/10/2014

Effect of 'Fair Pay & Safe Workplace' Order on Federal Contractors

President Obama recently signed the Fair Pay and Safe Workplaces executive order that severely increases the compliance obligations and reporting duties of federal contractors.

Under the Fair Pay and Safe Workplace order, prospective federal contractors seeking contracts of more than \$500,000 must disclose violations of several different state and federal workplace laws, like wage and hour, discrimination, health and safety, family and medical and leave, and labor over the past three years before becoming eligible for a contract.

Employers with contracts over \$1 million are also prohibited from requiring employees to arbitrate claims of discrimination or harassment unless covered by a union's collective bargaining agreement.

The law takes effect in 2016. Between now and then the Department of Labor will issue additional rules, procedures, and compliance guidelines. [Read more](#) about employer compliance obligations from OMA Connections Partner, Roetzel. 8/11/2014

Federal Contractors: Take Note of Obama Executive Order re. FLSA Violations

Yesterday President Obama issued an [Executive Order](#) which would essentially bar federal contractors from new work if they have been found to have violated any labor law in the past three years. It would apply to contracts valued at \$500,000 or more and will be implemented in stages in 2016.

Meanwhile, over the last few months, members of Congress have introduced changes to appropriations measures that use the Federal Labor Standards Act (FLSA) to change current procedures governing federal contractors.

Proposed amendments would prohibit federal funds from being used for a contract with a company that discloses, via the Federal Awardee Performance and Integrity Information System (FAPIS), any violation of the FLSA.

The National Association of Manufacturers (NAM) says that this Executive Order and the amendments previously offered on the House floor completely circumvent the current process, well-established by the Federal Acquisition Regulation (FAR), in which contracting officers and agency

suspension and debarment officials already consider a contractor's integrity and business ethics before bringing an action to bar a contractor from new work.

NAM urges manufacturers with potential exposure to communicate with their members of Congress that these actions are unnecessary and worrisome. Your NAM contact is [Amanda Wood](#). 7/31/2014

President's Recess Appointments to NLRB Unconstitutional

This week by unanimous [decision](#), the U.S. Supreme Court invalidated President Obama's three National Labor Relations Board (NLRB) recess appointments made in January 2013, based on the timing of the appointments.

In its decision on *NLRB v. Noel Canning et al.*, the court held, "the President made the recess appointments at issue during a 3-day recess. Three days is too short a time to bring a recess within the scope of the Clause, so the President lacked the authority to make those appointments."

According to the National Association of Manufacturers, during the time the three appointees were on the board, from January 2013 to August 2013, the cases decided are not valid because the board de facto lacked a quorum. As a result, the NLRB will now have to re-decide well over 300 cases that it issued last year. 6/25/2014

DOL Proposes Rule to Expand FMLA Coverage to Same-sex Marriages

OMA Connections Partner, Bricker & Eckler LLP, reports that the Department of Labor (DOL) announced a proposed rule extending the protections of the Family and Medical Leave Act (FMLA) to all eligible employees in legal same-sex marriages regardless of where they live.

DOL is proposing this rule in light of the Supreme Court's decision in *United States v. Windsor*, in which the court struck down the Defense of Marriage Act provision that interpreted "marriage" and "spouse" to be limited to opposite-sex marriage for the purposes of federal law.

Bricker summarizes some of the major features of the proposed rule [here](#). 6/20/2014

Help Wanted: Skills Gap Survey

In 2011, the National Association of Manufacturers (NAM), the Manufacturing Institute, and Deloitte released the *Skills Gap in Manufacturing* report that

found there were as many as 600,000 open jobs in manufacturing. That report earned world-wide media coverage and the 600,000 open jobs figure is still widely quoted in the press today.

The NAM, the Institute, and Deloitte are now conducting a study to update that figure and identify the true scale of manufacturing's workforce challenge between now and 2020.

If you haven't done so already, please take a few minutes and fill out the [survey](#). There is strength in numbers in American manufacturing.

We will make sure you see the results when they are published in October. 6/19/2014

Fed Report: Monthly Health Plan Costs \$82 Under ACA ... After Subsidies

The U.S. Department of Health and Human Services released a [report](#) this week on the operation of the "Health Insurance Marketplace" under the Affordable Care Act (ACA). According to the report, "on average, monthly premiums for people who selected plans with tax credits fell 76 percent after tax credits, dropping the cost of the average monthly premium from \$346 before tax credits to \$82 after tax credits across all plan types." Eight million people have purchased insurance through this marketplace across the country.

In Ohio, the average monthly premium before credits was \$372. The average tax credit amount was \$250. That is, the average reduction in premium from the credits was 67%, resulting in an average monthly premium of \$121.

The percent of individuals in plans with tax credits in Ohio? 84%. 6/18/2014

Tips for Accommodating Disabled Employees

Most employers know that the Americans with Disabilities Act (ADA) requires them to provide disabled employees with reasonable accommodations that allow the employees to perform their jobs. The ADA's regulations are complex, however, and, therefore, OMA Connections Partner, Roetzel, offers [six tips](#) for when, why, and how to accommodate a disabled employee. 6/10/2014

UAW Raises Union Dues 25%

The United Auto Workers (UAW) recently voted to increase union dues by 25%. Accordingly, an autoworker making \$28 an hour will pay an additional

\$168 per year per OMA Connections Partner, Roetzel.

Roetzel blogged, "Of course, this decision was met with resistance from rank and file UAW members. Some accused the union of overspending in its unsuccessful effort to organize Volkswagen in Tennessee, an organizing campaign that cost the union over \$5 million. Others accuse the UAW of mishandling dues money and only contributing to progressive political causes when nearly half of the membership votes conservatively. Companies can expect the UAW to seek extravagant wage increases during bargaining as a way to offset this cost to its members."

Catch up on other Roetzel [labor news](#) and trends. 6/10/2014

Deadline Looming to Amend Retirement Plans for Same-Sex Benefits

OMA Connections Partner, Roetzel, said that a recent IRS Notice provides much needed guidance on how qualified retirement plans should treat the marriages of same-sex couples following the Supreme Court's decision in *United States v. Windsor*. The *Windsor* decision invalidated the section of the 1996 Defense of Marriage Act that barred married same-sex couples from being treated as married under federal law.

Many questions were left unanswered in the wake of the *Windsor* decision, most notably those relating to the application of the decision (including retroactive application) on federal laws affecting employee benefits. Employers were left questioning how, if at all, they needed to change their plans to comply with the Supreme Court's decision. Read [more](#) from Roetzel. 6/5/2014

ODOT Studying Public Transit Needs

If any part of your workforce relies today on, or could be better served in the future by, public transit, you'll want to pay attention to a [study](#) the Ohio Department of Transportation (ODOT) is conducting right now. The project is in its community survey phase.

The project recently completed a statewide [market analysis](#) "to understand the existing conditions in Ohio related to the demand for and availability of transit service" in all of Ohio's counties. 6/4/2014

"Ohio Means Jobs" Launches New Website

State government's job posting/job seeking website, "Ohio Means Jobs," launched a [new website](#) this week. It is worth a look in case you are not using it. The site is powered by Monster.com. 4/29/2014

Human Resources, Health Care & Employment Law Legislation

Prepared by: The Ohio Manufacturers' Association
Report created on August 18, 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: 6/3/2014 - Senate Finance, (Fifth 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 Certain Sections Eff. 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

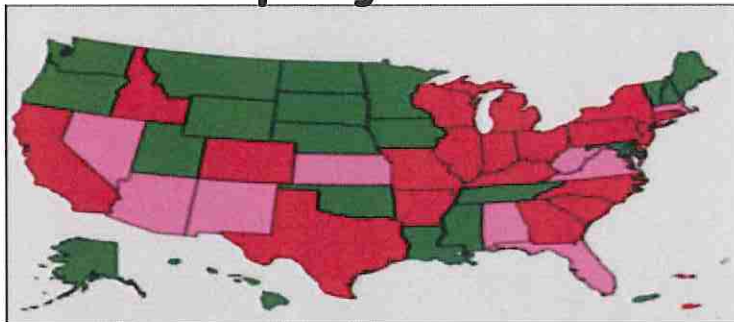
- SB92** **WAGE DISCRIMINATION** (TURNER N, TAVARES C) To enact the "Fair and Acceptable Income Required (FAIR) Act" and to revise the enforcement of the prohibitions against discrimination in the payment of wages.
Current Status: 6/18/2013 - Senate Commerce and Labor, (First Hearing)
State Bill Page: 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



**U.S. Department of Labor
Office of Unemployment Insurance
Division of Fiscal and Actuarial Services**

May 2014

2014 State Unemployment Insurance



Trust Fund Solvency Report

- Individual State Data Sheets
- State Summary Tables
 - State Trust Fund Status
 - State Eligibility for 2014 Interest Free Loans
 - FUTA Credit Reductions with Estimated Add-ons
- Definitions

View this report online at:
<http://ows.doleta.gov/unemploy/finance.asp>

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



13) Solvency Level (using AHCM)²



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

17)	Credit Reduction		2.7% Add-on	BCR Add-on	Total Credit Reduction	FUTA Tax Rate ⁵
	Due to Outstanding Loans					
2013	0.9%	0.0%	0.0%	0.0%	0.90%	1.5%
Potential 2014 ⁴	1.2%	0.0%	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				2014 Final FUTA Tax Rate
	Basic Reduction	Potential 2.7 Add-on	Estimated Potential BCR Add-on	Total Credit Reduction	
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
RE: Safety and Workers' Comp Public Policy Report
DATE: August 20, 2014

Overview

The General Assembly worked steadily from mid-January minus a two week spring break for the quick primary campaign season, through most of June. Their work centered on the governor's mid-biennium review bill that was broken up in to several different bills. One bill (House Bill 493) incorporated all the workers' compensation changes.

Other than the MBR no other major legislation is expected on the workers' compensation front.

Legislation and Rules

Another Billion Back

Last week Governor John R. Kasich and Ohio Bureau of Workers' Compensation (BWC) Administrator/CEO Steve Buehrer announced a \$1 billion rebate to Ohio's private and public sector workers' compensation customers, as well as a major new investment in worker safety research and training. "Another Billion Back" comes on the heels of last year's \$1 billion rebate for workers' comp customers. Both rebates were made possible by strong investment returns in the workers' compensation fund.

If approved by the BWC Board of Directors, eligible employers will receive a rebate equal to 60 percent of premiums paid during the July 1, 2012 through June 30, 2013 policy year. The proposal will be presented to the board at its August meeting, and if approved in its September meeting, BWC could begin issuing checks as early as October.

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 passed the legislature prior to summer recess and was supported by the OMA.

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.

The Bureau put on a week-long stakeholder meeting to discuss possible changes to medical management. The group contained stakeholders across the spectrum of business, labor, and medical. The Bureau's goal is to bring a pilot program next year focused on achieving better medical management in order to provide the injured worker the best available care to get them back to work.

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

San Allen Settlement

This week, Ohio Bureau of Workers' Compensation (BWC) Administrator/CEO Steve Buehrer announced that the bureau has reached an agreement in principle to settle the San Allen case, a class action lawsuit filed in 2007 over BWC pricing policies that were in place between 2001 and 2008. The case involved premium subsidies from one set of employers (those not in group rating) to another set of employers (those in groups) that

occurred because of the operation of the BWC's actuarial credibility tables during that time period.

According to OMA Connections Partner Roetzel & Andress: "As part of the agreement, a \$420 million fund will be created to pay for claims to employers participating in the lawsuit, the attorney fees, court costs and the costs of administering the fund...The next step, once the court gives preliminary approval of the settlement, is for class members to receive instructions for submitting claims. Any unclaimed funds will be returned to the Bureau of Workers' Compensation State Insurance Fund to pay claims of injured workers, according to the release."

Originally, \$860 million was awarded by the Eight District Court of Common Pleas.

OMA will keep members up-to-date as details are learned about who can submit claims, how claims are to be submitted, and when this can/will happen

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

Another Billion Back

This week Governor John R. Kasich and Ohio Bureau of Workers' Compensation (BWC) Administrator/CEO Steve Buehrer [announced](#) a \$1 billion rebate to Ohio's private and public sector workers' compensation customers, as well as a major new investment in worker safety research and training. "[Another Billion Back](#)" comes on the heels of last year's \$1 billion rebate for workers' comp customers. Both rebates were made possible by strong investment returns in the workers' compensation fund.

If approved by the BWC Board of Directors, eligible employers will receive a rebate equal to 60 percent of premiums paid during the July 1, 2012 through June 30, 2013 policy year. The proposal will be presented to the board at its August meeting, and if approved in its September meeting, BWC could begin issuing checks as early as October.

Here's a [media statement](#) issued by OMA commending the governor and Administrator Buehrer on the many improvements the bureau is making.

Administrator Buehrer is a scheduled guest presenter at the OMA's Safety & Workers' Compensation policy committee meeting on October 15. Register for call-in or in-person attendance at [My OMA](#). 8/13/2014

How Do Your Injury Rates and Costs Stack Up?

The Bureau of Workers' Compensation (BWC) is embarking on a safety campaign themed *Better Business Starts with Safety, Safety Starts at BWC* to encourage employers to take advantage of BWC's safety services before experiencing a workplace injury or illness.

BWC's new [microsite](#) allows employers to compare injury rates and costs within and across industry sectors. It also links employers directly to BWC safety consultants, who can survey their workplace and advise them on preventing occupational injuries and illnesses. 8/13/2014

What does 'Substituted' Drug Test Result Mean?

OMA Connections Partner, Working Partners®, provides this [information](#) about a 'substituted' drug-test result.

[Working Partners](#)® helps employers develop and maintain a drug-free workplace. 8/10/2014

Judge Selects Bricker & Eckler LLP to Administer \$420 Million in San Allen Refunds

Last week, Ohio Bureau of Workers' Compensation (BWC) Administrator/CEO Steve Buehrer announced that the bureau had reached an agreement in principle to settle the *San Allen* case, a class action lawsuit filed in 2007 over BWC pricing policies that were in place between 2001 and 2008. Employers that were not in a group rating program during the contested years will be awarded a settlement.

This week, Judge Richard McMonagle appointed Bricker and Eckler LLP to serve as Special Master for administering the claims of the BWC settlement. Its work will be distribution of funds to claimants.

Bricker & Eckler is long-time legal counsel to OMA. 8/01/2014

BWC Designing Health Care Management Improvements

The Bureau of Workers' Compensation (BWC) has begun a process that will lead to improvements in its health care management system. BWC aims to lower cost and improve medical quality through better coordination of care and development of a payment system that creates incentives for best clinical practices.

Greg Moody, Governor Kasich's capable director of the Office of Healthcare Transformation, delivered an opening presentation to a group of stakeholders, including the OMA, the BWC invited to help design the improvement path. His presentation, "[Inevitable Transformation: How Health Care Delivery Is Changing](#)," will be of interest to all human resource managers responsible for health care decisions and to all workers' compensation managers looking for better results in the management of claims. So will a [second presentation](#) Moody gave on trends in managed care and patient-centered medical homes. 7/29/2014

BWC Settles San Allen Case for \$420 Million

This week, Ohio Bureau of Workers' Compensation (BWC) Administrator/CEO Steve Buehrer [announced](#) that the bureau has reached an agreement in principle to settle the San Allen case, a class action lawsuit filed in 2007 over BWC pricing policies that were in place between 2001 and 2008. The case involved premium subsidies from one set of employers (those not in group rating) to another set of employers (those in groups) that occurred because of

the operation of the BWC's actuarial credibility tables during that time period.

According to OMA Connections Partner Roetzel & Andress: "As part of the agreement, a \$420 million fund will be created to pay for claims to employers participating in the lawsuit, the attorney fees, court costs and the costs of administering the fund...The next step, once the court gives preliminary approval of the settlement, is for class members to receive instructions for submitting claims. Any unclaimed funds will be returned to the Bureau of Workers' Compensation State Insurance Fund to pay claims of injured workers, according to the release."

Originally, \$860 million was awarded by the Eight District Court of Common Pleas. OMA will keep members up-to-date as details are learned about who can submit claims, how claims are to be submitted, and when this can/will happen.

Here's [more](#) from Roetzel & Andress. 7/24/2014

Details of BWC's Switch to Prospective Premium Payment

Did you miss OMA's webinar this week in which Bureau of Workers' Compensation (BWC) staff presented the availability of safety grants and details of the BWC's switch to prospective payment of premium?

You can catch the recorded webinar in the OMA's [online video library](#). Use your My OMA login. Search under Workers' Compensation Management. 7/24/2014

Pardon Me, What Did You Say?

Are you having trouble getting your employees to use their hearing protection? This [web page](#) from NIOSH might help convince them. The site has examples of what moderate and severe hearing loss sound like and contains a link to a hearing loss simulator.

This and lots more good safety insights and tips in [BWC's July 2014 Safety Update](#). 7/10/2014

New BWC Media & Marketing Web Site

Find your regional Bureau of Workers' Compensation (BWC) business development manager, request a speaker for an event or meeting, learn about the latest program offerings, and check on the BWC calendar of events by visiting its new [Media & Marketing web page](#).

This new webpage replaces the former Media Center and is accessible from the Quick Links section of the [BWC home page](#). 7/15/2014

BWC Changing Provider of Benefits Debit Cards

Many injured workers, guardians and dependents receive workers' compensation benefit payments through direct deposit, but some receive their benefits on debit cards.

Although this doesn't directly affect employers, the Bureau of Workers' Compensation (BWC) announced it is switching banks for its electronic benefit debit card program. Starting in August, Key Bank will become the new program manager. Benefit recipients will receive new cards in the mail and will receive their first payment on their new Key Bank debit cards on August 28.

The existing Chase VISA cards will remain active, although no new funds will be deposited to those cards after August 27.

Here's more [information](#). 7/15/2014

Workers' Comp Billing System Update

The Bureau of Workers' Compensation is changing the way it bills for workers' compensation coverage. The agency has asked us to share with you [its recent letter](#) about the changes. 7/7/2014

Comparison of TPA Performance of Key Claims Management Services

'Handicap reimbursement' is a Bureau of Workers' Compensation (BWC) program designed to allow employers to gain claim-cost relief where certain pre-existing medical conditions among injured workers add recovery time and cost to the claim. For example, an injured worker with arthritis or diabetes may have a slower or more costly recovery due to the non-work related condition. When handicap reimbursement relief is awarded, employers contain costs that are out of their control.

When a claim receives a 'full and final settlement', the claimant is awarded a dollar amount that is considered to be a fair final payment on the claim. In order to settle a claim, the employer, the claimant and the BWC must all agree that the claim can be settled and for what amount. When a claim is settled, any reserve amount on the claim is eliminated from the employer's claims experience, and, therefore, reduces premium costs.

See how OMA Workers' Compensation Services [stack up to competitors](#) on finding and processing these important claim cost-containment strategies. *7/10/2014*

BWC Asks Supreme Court to Hear *San Allen* Appeal

The Ohio Bureau of Workers' Compensation (BWC) announced it will ask the Supreme Court to hear its appeal in *San Allen v. Buehrer*, a class action law suit alleging the BWC overcharged non-group rated businesses by \$860 million. The BWC hopes to have the lower court's decision overturned.

Here's a [briefing](#) on the matter from OMA Connections Partner, Bricker & Eckler LLP. *7/1/2014*

Marijuana Ballot Issue Misses Deadline

An organization attempting to qualify a [ballot issue](#) to authorize the use of medical marijuana failed to collect adequate voter signatures by this week's deadline. The measure will not be on the November ballot. The group says it will retry in November of 2015. *7/2/2014*

Catch Up on BWC Changes and Money Saving Programs

The Ohio Bureau of Workers' Compensation (BWC) begins a landmark transition to a system whereby employers will pay for their coverage prior to the coverage period as opposed to after the period. There are multiple changes for employers to be aware of.

In a one-hour OMA webinar, BWC staff will describe the changes and choices employers can expect.

Additionally, this is a good time to catch up on the available grant programs and other money saving and risk management programs available through BWC.

Join us on [Tuesday, July 22](#), from 10:00 - 11:00 a.m. More information can be found [here](#). *6/25/2014*

Look for Your BWC Letter About Billing Changes

Employers have received, or shortly will be receiving, this [letter](#) from the Bureau of Workers' Compensation (BWC), the first direct communication from the agency about its 2015 transition to billing in advance of the policy period as opposed to in arrears.

The letter explains some of the near-terms impacts, such as the November 2014 enrollment deadline for

Group Experience Rating plans for the 2015/16 policy year.

OMA and BWC are offering a [webinar](#) on Tuesday, July 22 in which we'll cover the transition plan and employer impacts. *6/19/2014*

BWC Proposes Health Care Evolution

Management of the Bureau of Workers' Compensation (BWC) recently made a [presentation](#) to the agency's Medical Services Committee on improving quality and care coordination within the BWC's health care delivery system.

The BWC has been working with stakeholders, including manufacturers, on developing a strategy to improve medical (and return-to-work) outcomes and drive down costs of the system. The agency has undertaken an impressive effort to analyze performance of its medical program. The opportunity for improvement is significant, and the BWC management is clearly committed to getting it done.

Future initiatives under consideration: strengthening the role of the provider-of-record; improving how BWC manages its provider network; considering the use of treatment guidelines; continuing to carefully monitor opioid usage; and, educating providers.

The BWC believes: "The system should focus on improving quality and outcomes, potentially by coordinating care where a claimant's general health impacts desired treatment for his/her claim." Unfortunately, co-morbidity is a big issue in Ohio. Ohioans spend more per person on health care than residents in all but 17 states, and 36 states have a healthier workforce than Ohio. *6/12/2014*

BWC Unveils New Web Page for Prospective Billing Transition

This week the Ohio Bureau of Workers' Compensation (BWC) unveiled a new [web page](#) to help answer employers' questions about the switch to prospective billing. The BWC is in the process of transitioning to a prospective billing system and away from its current retrospective payment model.

The site provides a [fact sheet](#) and an [email link](#) through which employers can ask questions.

If you have questions about the change, contact the OMA's [Scott Weisend](#). *6/5/2014*

Workers' Comp Subrogation Bill Introduced

OMA workers' compensation counsel, Sue Wetzel of Bricker & Eckler, says that House Bill 539 has the potential to reduce claims costs for Ohio employers as they navigate through cases ripe for subrogation.

There are two elements to HB 539: 1) to defer charging workers' compensation claims to an employer's experience when a third party may be liable for the claim, and 2) to create a subrogation suspense account to which any deferral will be charged. In other words, the Bureau of Workers' Compensation would create a fund to insulate employers from the cost of claims from a workplace accident caused by a third party. [Read more.](#) 6/5/2014

Senate Passes BWC "MBR" with OMA Supported Provisions

This week the Senate passed [House Bill 493](#), the Bureau of Workers' Compensation (BWC) mid-biennium review (MBR) bill. The OMA issued this [letter](#) to [Sen. Kevin Bacon](#) (R-Minerva Park), Chairman, Commerce and Labor Committee, stating support for two provisions in the bill.

One, provisions that address the confusing and problematic jurisdictional issues that occur when Ohio employers have employees who temporarily work out of the state. Two, the final piece of enabling legislation for the BWC to complete its transition to a prospective premium payment system.

The bill moves back to the House for concurrence next week. 5/29/2014

Workers' Compensation Legislation
Prepared by: The Ohio Manufacturers' Association
Report created on August 18, 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: 6/16/2014 - **SIGNED BY GOVERNOR**; Eff. 9/17/2014 Other Provisions Eff. 7/1/2015

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: 6/3/2014 - House Insurance, (First Hearing)

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: 6/3/2014 - Senate Insurance and Financial Institutions, (Third Hearing)

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_SB_290



August 13, 2014

KASICH PROPOSES “ANOTHER BILLION BACK” FOR WORKERS’ COMP CUSTOMERS
Strong Investment Returns & Good Management Fuel Another \$1 Billion Rebate and Major
New Investments in Workplace Safety

COLUMBUS – Governor John R. Kasich today joined Ohio Bureau of Workers’ Compensation (BWC) Administrator/CEO Steve Buehrer to announce a \$1 billion rebate to Ohio’s private and public sector workers’ compensation customers, as well as a major new investment in worker safety research and training. Dubbed “*Another Billion Back*,” the rebate comes on the heels of last year’s \$1 billion rebate for workers’ comp customers. Both rebates were made possible by strong investment returns in the workers’ compensation fund.

Kasich made the announcement at Portfolio Creative, a Columbus company that recruits and staffs talent in all areas of design, marketing, communications and advertising. They are one of approximately 184,000 private and 3,800 public employers likely to receive a rebate.

“Sound fiscal management and a well-executed investment strategy continue to put BWC in a position where it can return money to its customers—Ohio’s employers—but also to workers in the form of initiatives that help them stay safe on the job,” said Kasich. Ohio continues its effort to transform the workers’ comp system to be a better partner with employers and workers to help them succeed and stay safe, and the ability to make these types of significant rebates is part of that effort.”

BWC’s preliminary annualized return of investments was 8.9 percent over the last three fiscal years, including 13.3 percent in 2014. The State Insurance Fund net assets stand at \$7.7 billion and its funding ratio far exceeds target guidelines set by the BWC Board of Directors. If approved by the BWC Board of Directors, eligible private and public employers would receive a rebate equal to 60 percent of premiums paid during the July 1, 2012 through June 30, 2013 policy year (calendar year 2012 for public employers). The proposal will be presented to the board at its August meeting, and if approved in its September meeting, BWC could begin issuing checks as early as October*.

Another Billion Back seeks to build on last year’s \$15 million investment in safety intervention grants with several initiatives that will ultimately enhance the safety, health and wellness of Ohio’s workforce. Additionally, special safety training is proposed to reduce injuries among firefighters, whom frequently have very high workers’ comp rates due to the dangerous and risky nature of their work. Additional information on the proposal can be found [here](#).

“BWC’s Division of Safety and Hygiene is a national leader in promoting safe and healthy workplaces,” said Buehrer “Our safety services provide a superior return-on-investment. We want to encourage more and more employers to put safety education resources to work to keep their workers safe and reduce their workers’ comp costs. Our new safety initiatives will make these efforts more effective and accessible for employers.”

Buehrer added that BWC is also embarking on a safety campaign themed *Better Business Starts with Safety, Safety Starts at BWC* to reach Ohio employers and encourage them to take advantage of BWC's safety services before experiencing a workplace injury or illness. A [microsite](#) allows employers to compare injury rates and costs within and across industry sectors. It also links employers directly to BWC safety consultants, who can survey their workplace and advise them on preventing occupational injuries and illnesses in their workplaces. The campaign is a result of the safety commitment made as part of last year's *Billion Back* initiative, which also tripled safety grant funding to \$15 million for each of fiscal years 2014 and 2015.

Another Billion Back is an example of BWC's work over the last four years to be a better partner in improving Ohio's business environment and helping encourage the state's economic revival. Sound financial and operational management has also allowed BWC to:

- Reduce average base rates for Ohio's private employers, bringing combined four-year collections down \$409 million.
- Reduce average rates for public employers by an estimated \$70 million, placing them at their lowest levels in at least 30 years.
- Commit \$1.2 billion in transition credits to Ohio employers as part of the conversion to prospective billing.
- Expand safety funding, which resulted in allowed claims dropping below 100,000 for the first time.

**Eligible employers must be in good standing and have paid their January 1 to June 30 premiums.*

#

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Another Billion Back For employers and worker safety

Building on the momentum of last year's Billion Back plan, Another Billion Back, proposes to inject an additional \$1 billion into Ohio's economy while making an unprecedented commitment to safe workplaces and a healthy, productive workforce.

The proposal:

- Provides a one-time rebate of \$1 billion for private employers and public-taxing districts.
- Increases BWC's commitment to safety by up to \$35 million over the next two years.
- Creates several new safety initiatives that leverage BWC's occupational health and safety expertise to create innovative solutions for improving the safety, health and wellness of Ohio's workforce.

\$1 billion rebate

During its August meeting, the BWC Board of Directors will discuss the proposal to extend a \$1 billion rebate for private employers and public-taxing districts paying into Ohio's workers' compensation system.

BWC's investments continue to perform well above expectations as a result of prudent management and a careful, conservative investment strategy. BWC's preliminary annualized return of investments was 8.9 percent over the last three fiscal years, including 13.3 percent in 2014. The State Insurance Fund net assets stand at \$7.7 billion and a funding ratio above the target guidelines set by the BWC Board of Directors.

If approved by the board, each rebate would equal 60% of the employers' annual premium and checks will be distributed beginning in October. Private employers and public-taxing districts that pay premium into the State Insurance Fund and have active, up-to-date policies will be eligible for the rebate. Each employer's rebate will reflect 60% of what they were billed during the last policy period (July 1, 2012 to June 30, 2013 for private employers; January 1, 2012 to December 31, 2012 for public taxing districts).

To be eligible, private employers must have been in an active, reinstated, combined or debtor in possession status as of September 5; public taxing districts must also have been in an active or reinstated status as of September 5.

Employers with an outstanding BWC balance will have their rebate first applied to that balance.

Employers who report through a Professional Employer Organization should receive their rebate from their PEO, which is required to pass a portion of the rebate on to their members.

Safety Initiatives

We know the best workers' comp claim is the one that never happens and businesses that benefitted from the safety intervention grant program reduced the frequency of claims in the area of the intervention by 66%. Investments in safety create safer workplaces, prevent costly accidents and ultimately result in lower premiums for employers; this year's rebate plan includes several safety elements:

- **Advanced research to practice in workplace safety and health** for higher-education institutions and research organizations to promote innovation in areas of workplace safety and health such as overexertion; slips, trips, and falls; and musculoskeletal disorders. BWC expects to fund 10-15 projects a year at an annual cost of approximately \$2 million.

- **Expansion of the Safety Council Program to incorporate health and wellness.** BWC currently sponsors and provides funding for more than 80 safety councils with 9,000 participating employers. With this proposal, BWC will require more training and seminars directed at improving the health and wellness of Ohio's workforce.

Several studies demonstrate the need for employers to focus on overall wellness. Obese employees file two times the amount of workers' comp claims and are 25% more likely to have an accident (Northeast Business Group on Health); and, a study published in the Journal of Occupational and Environmental Medicine found that other co-morbidities like heart disease, diabetes, depression and asthma also increase injury risk.

- **Firefighter safety training.** Ohio Emergency Medical Services and the State Fire Marshal provide \$500,000 to fund Fire Fighter I Training, a 120-hour class, to improve their safety, preparedness and response time during emergencies. BWC will commit another \$1 million.
- **Safety Intervention Grant Program:** The popular Safety Grants Program provides matching funds up to \$40,000 for employers to purchase equipment that will substantially reduce or eliminate injuries and illnesses. The program was expanded last year and has gained significant popularity and a record \$15 million in grants was awarded to 535 employers over the last year. The most previously granted through the program in one year was \$4 million. BWC already approved another \$15 million for the fiscal year that began July 1, and will propose additional commitments of \$15 million for each of the next two years (fiscal years 2016 and 2017).
- **Development of safety curricula and funding for skilled labor training programs.** BWC will collaborate with business, labor and higher education to create, implement and fund safety programming as part of required training in high-risk specialties such as carpentry, welding and plumbing. Under the program, BWC will incent two-year universities and trade schools to include the developed safety programming as part of the education provided to those looking to attain skilled labor positions. BWC's financial commitment to this program will be \$1 million.

For immediate release: July 23, 2014

BWC reaches agreement in principle to settle San Allen lawsuit

Columbus - Today Ohio Bureau of Workers' Compensation (BWC) Administrator/CEO Steve Buehrer announced that the bureau has reached an agreement in principle to settle the San Allen case, a class action lawsuit filed in 2007 against the State of Ohio over BWC pricing policies that were in place between 2001 and 2008.

Buehrer issued the following statement:

"Ohio has made major changes to its workers' compensation system over the past several years. The policies that were at issue in this litigation in 2007 are not the same ones in place today, and we're pleased that we have reached a settlement so we can move forward. Improvements have been made to how premiums and discounts are calculated, as well as to billing practices, and premiums are continuing to go down as a result. Sound management of the trust fund made it possible to return \$1 billion in rebates to customers last year, and major investments in workplace safety are helping employers do a better job of preventing injuries by keeping their workers safe. All of these improvements are paying off for workers and businesses, and we're going to keep building on them."

If the Court gives its preliminary approval to the settlement agreement, class members will be notified with instructions for submitting claims. A third-party claims administrator will then begin processing claims in the next few months.

Details of Agreement in Principle

- \$420 million fund will be created to pay for claims to employers participating in the lawsuit, the class's attorney fees, court costs and the costs of administering the fund;
- Claims will be filed with a third-party administrator appointed to manage the claims process;
- Any unclaimed funds will be returned to BWC's State Insurance Fund to pay claims to injured workers.

A copy of the settlement is [attached](#).

Background on the San Allen lawsuit

- Dec. 18, 2007: Case filed in Cuyahoga County Court of Common Pleas captioned San Allen, Inc., et al. v. Ryan, Adm.
- March 20, 2013: Decision handed down by Judge Richard McMonagle awarding plaintiffs \$859,440,258.79
- April 15, 2013: BWC filed appeal in the 8th District Court of Appeals
- July 19, 2013: BWC filed its brief in the 8th District Court of Appeals, and the Ohio Chamber of Commerce, NFIB and the AFL/CIO filed a joint Amicus brief supporting BWC's appeal
- May 15, 2014: The 8th District Court of Appeals upheld most of the initial trial court decision but remanded the case to the trial court to reduce its prior award to account for benefits received by class members who were also in group rating. The March 2013 judgment is subsequently reduced to \$650,978,738.82
- June 27, 2014: BWC filed its Notice of Appeal to the Supreme Court of Ohio and asked it to take jurisdiction of the case
- July 23, 2014: Agreement in principle to settle lawsuit announced

TO: OMA Government Affairs Committee
FROM: Ryan Augsburger / Rob Brundrett
RE: Tax Public Policy Report
DATE: August 20, 2014

Overview

The House Ways and Means Committee was very active in the months prior to campaign season. The severance tax and the Governor's MBR proposals were at the forefront of their work. While the proposal to raise the CAT by 15% was set aside, it is technically still pending in the legislature. It could be resurrected in the next budget as a method to help pay down the state personal income tax.

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. At this point no recommendations are expected.

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 scheduled one hearing prior to the break. Meetings are continuing this summer. There is still a strong organized opposition from municipals. More hearings will take place in lame duck. It remains to seen what if anything ends up passing the Senate.

House Bill 135

Representative Dorothy Pelanda (R-Marysville) introduced a bill to rehab vacant industrial buildings. This is modeled on a bill from Indiana. The bill originally included a CAT credit which the OMA was able to successfully remove from the bill. It is currently pending in Senate committee and has not had a hearing since November.

Senate Bill 149/House Bill 219

Representative Jim Butler (R-Oakwood) and Senator Bill Beagle (R-Tipp City) have introduced companion bills that would authorize nonrefundable tax credits against the CAT for businesses that contribute to economic development projects undertaken by local governments and nonprofit businesses. The credit is equal to 60% of a business' contribution to a project primarily benefiting a rural area, and 50% of a contribution to a project benefiting an urban area. There is concern with these bills that they will erode the CAT base creating more pressure to increase the CAT rate on businesses. The OMA sent letters to both sponsors and has worked with them and the committee chairmen to remove the CAT credits from the bills.

Senate Bill 210

Senator Chris Widener (R-Springfield) quickly moved to introduce legislation following the Medicaid expansion controlling board vote that would take the expected savings from expansion and provide a permanent income tax rate reduction of 4% for all tax brackets beginning in 2014. That would put the highest bracket at 5.176%. The bill had 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 and is pending the House.

House Bill 230

Representative Cheryl Grossman (R-Grove City) 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 puts pressure on the CAT rate. The OMA has expressed its concerns with Rep. Grossman and offered language that could create a transparent grant program. The bill received two hearings 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 passed the legislature prior to the summer recess.

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 had one hearing in the Senate Finance Committee prior to recess.

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 removed the CAT exclusion for C corps but included 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%. The bill was passed by the House and moved to 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.

The General Assembly concluded action on the governor's major mid-biennial review bill, House Bill 483. Through the bill, Ohio taxpayers will receive more tax cuts for fiscal year 2014 than previously planned, and pass-through business entities will see another big benefit.

The tax reductions are projected to lower state revenue through state fiscal year 2015 by just over \$400 million. The biggest cut, estimated at about \$290 million, will be a one-time increase from 50% to 75% in a small business tax deduction created in the governor's biennial budget bill, House Bill 59, earlier in the session. This 25% increase in the deduction for pass-through entities is contingent on the state ending the current fiscal year (2014, which ends on the last day of June) with an appropriate balance, something Office of Budget and Management Director Tim Keen thinks will happen.

The bill also accelerates the previously enacted personal income tax reduction from 8.5% to 10% for tax year 2014.

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.

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 forgone 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 August 18, 2014

- HB5 MUNICIPAL CORPORATIONS INCOME TAXES** (GROSSMAN C, HENNE M) To revise the laws governing income taxes imposed by municipal corporations.
Current Status: 6/3/2014 - Senate Finance, (Second Hearing)
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**; Eff. 6/25/2014. Section 2 Eff. 3/26/2014
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 Eff. 1/1/2015
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: 5/28/2014 - Referred to Committee Senate Ways and Means

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: 6/5/2014 - **SIGNED BY GOVERNOR**; Eff. 6/5/2014

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: 5/27/2014 - Senate Finance, (First Hearing)

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

HB345 LOST REVENUE-TAX INCENTIVES (BARBORAK N) To require the Director of Development Services to estimate the revenue that would be foregone by the state as a result of each tax incentive proposed to the Tax Credit Authority and publish that estimate on the web site of the Development Services Agency.

Current Status: 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: 5/27/2014 - Senate Ways and Means, (First Hearing)

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_375

HB405 INCOME TAX CREDIT-CERTAIN DEGREES (BUDISH A, HOTTINGER J) To grant an income tax credit to individuals who earn degrees in science, technology, engineering, or math-based fields of study.

Current Status: 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: 5/27/2014 - House Ways and Means, (First Hearing)

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: 5/27/2014 - House Ways and Means, (Second 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: 6/16/2014 - **SIGNED BY GOVERNOR**; Eff. 6/16/2014 Other Sections Eff. on Other Dates
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: 6/16/2014 - **SIGNED BY GOVERNOR**; Eff. 9/17/2014
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: 5/27/2014 - House Ways and Means, (First Hearing)
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
- HB571** **EMERGENCY PROPERTY TAX-POLITICAL SUBDIVISIONS** (ROGERS J) To authorize subdivisions to levy a fixed-sum emergency property tax for police, fire, or emergency medical services purposes.
Current Status: 5/27/2014 - Introduced
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_571
- HB579** **PROPERTY TAX VALUATION DISPUTE HEARING** (GROSSMAN C) To prohibit any party to a property tax valuation dispute, other than the original complainant, from appearing at a county board of revision hearing or subsequent appeal unless the party calls as a witness a representative of the county auditor or another qualified person who has appraised the property at issue.
Current Status: 6/3/2014 - Referred to Committee House Ways and Means

State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_579

- 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** (SCHAFER 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
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



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.