



OMA Government Affairs Committee

November 13, 2019

AGENDA

Welcome & Introductions

Ryan Augsburger, OMA staff
(For Scott Corbitt of Anheuser-Busch, Committee Chair)

National Issue Minute

OMA Counsel's Report

Chris Slagle, Partner, Bricker & Eckler LLP,
OMA General Counsel

Staff Reports

Ryan Augsburger, OMA Staff

Rob Brundrett, OMA Staff

John Seryak, PE, Runnerstone LLC, OMA Energy Engineer

Kim Bojko, Partner, Carpenter Lipps & Leland
OMA Energy Counsel

Committee Members

Discussion Agenda

- Ohio Energy Policy – Anti-Market Policies
- Agenda-Tainment – TruthAboutDarkWaters.com
- 2020 Legislative Outlook
- 2020 Political Outlook
- PTSD Coverage under Workers' Comp
- OMA Workforce Opportunities

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Remembering Kurt Tunnell, Longtime OMA Counselor



In the early hours of Saturday, Aug. 31, former OMA General Counsel and good friend Kurt A. Tunnell was struck and killed by an impaired driver in rural Hilliard. Prior to his retirement in January 2018, Kurt had worked with the OMA for nearly a quarter century.

During his lengthy career, Kurt held several leadership roles, including managing partner with OMA's general counsel **Bricker & Eckler LLP**, one of the state's most prominent law firms. He also served as the chief legal counsel for Gov. George Voinovich, then returned to establish a leadership development program that would later be named in his honor. Read more in **Kurt's obituary**.

Over the past several days, statements honoring Kurt and his legacy have poured in from across Ohio, including condolences from Gov. Mike DeWine, who worked with him in the Voinovich administration. Gov. DeWine said: "Kurt served his community, his state, and his fellow man, and we will miss him greatly."

OMA President Eric Burkland said, "We are heartbroken by his untimely passing, but we are forever grateful for Kurt's friendship and the opportunity to learn from him and work with him to better Ohio."

A memorial foundation has been established to continue Kurt's legacy of servant leadership. Contributions may be made to either of the following: The Namikango farm in Malawi, Africa in care of the **Malawi Talent fund**; or The Kurt Tunnell Servant Leadership Memorial Foundation in c/o of the Tunnell Leadership Development Program at **Bricker & Eckler LLP**. 9/4/2019

Public Policy “Hot Topics” November 13, 2019

Overview

Activity has been moderate since the Government Affairs Committee met on August 22 at the Anheuser-Busch Columbus Brewery. Recent top issues included the referendum effort on the controversial House Bill 6; workforce development; and expansion of workers' comp benefits.

Legislative Branch Composition & Control

- Senate (Republicans control 24 – 9)
- House of Representatives (Republicans control 61 – 38)

In October state representative Ryan Smith, a former Speaker of the House resigned from the House following his selection as President of Rio Grande University. In November, Representative Scott Ryan, also a former House leader resigned his seat and has been tabbed to head Ohio Third Frontier. Lawmakers are expected to complete session by the week of December 9.

Legislative Priorities

A capital bill is expected early in 2020 to appropriate bond funds for public works construction projects.

State Budget & Tax Policy

State budget bills were completed earlier in the year. A tax inequity was rectified in early November with the restoration of the business income deduction for lawyers and lobbyists. See tax section.

Also included in the House passed version of the budget were two tax amendments beneficial to manufacturers. One facilitates state support for capital reinvestment of existing companies. The other expands a favorable sales tax exemption for makers of food and beverage. These constitute some big wins for manufacturers. See tax section for more information and join the implementation work group. Numerous other more targeted issues that impact some group of manufacturers were debated within budget bill.

Electricity Bailouts / Market Distortion

After being denied new subsidy payments for many years, proponents of nuclear power plant bailouts succeeded this summer at winning approval of HB 6. The bill transfers money from customers to power plant owners and in so doing, distorts markets. The OMA has been a leading opponent to the various prior subsidy attempts and has been heavily engaged in the legislative advocacy effort. This quarter the OMA energy group has been engaged in monitoring implementation.

A referendum proposal failed to collect requisite number of signatures. As though not bad enough for customers, additional utility giveaway legislation is pending in the House. See energy report.

Ballot Reform

Last November Ohioans defeated a criminal sentencing constitutional amendment. The issue once again ignited the debate about how well-financed out of state interests are able to use Ohio's constitution as a petri dish for policy experimentation. The initial interest in a fix to the ballot process has dissipated however some legislators are advancing proposals. See counsel's report.

Workforce Development

A top priority for Ohio manufacturers, the OMA is in its third year supporting an industry sector partnership model on a regional basis. Please contact the OMA staff to get your team engaged in regional efforts to develop a modern manufacturing workforce. The OMA's third annual summit was held October 29 and will build on the workforce successes over the past several years. Make sure your company is plugged in.

See Human Resources report.

Environment

Governor DeWine has directed Ohio EPA and the Department of Health to develop an "action plan" for PFAS in Ohio by December 1, 2019, with the focus of testing public and private water systems. The Governor's Order specifically notes that water supplies "near known sources of PFAS, such as firefighting training sites and manufacturing facilities" are to be analyzed. The OMA Environment Committee has formed a work group for concerned companies who want to participate in the implementation of the Governor's PFAS order.

The administration also remains focused on water quality across Ohio. The H2Ohio program introduced by the Governor was provided initial start up funding the state budget bill and will be administered by three state agencies, EPA, AG, and ODNR.

The budget also included an amendment that takes judicial standing away from bodies of water. This is in direct response to the Lake Erie Bill of Rights where Lake Erie was giving standing to sue parties who infringed on the Lake.

See environment report for all of these issues.

Unemployment Compensation

After the failure of the General Assembly to address comprehensive unemployment compensation reform in the state budget it appears that manufacturers will see their unemployment taxes reduced in 2021. The temporary increase passed three years ago is expected to sunset without any action by the end of the year.

As small group of members continue to talk about reform, however the only legislation introduced would expand benefits greatly at the expense of the system.

Tort Reform

The OMA is supporting legislation to shorten the statute of limitations for business contracts. The OMA is also working to protect the advantageous statute of repose. Limitations on third party financing of class action litigation is also a priority.

More recently legislation to revise Ohio's whistleblower protections could morph into a false claims with a qi tam right for citizen initiated lawsuits of the State. We are watching this with concern. See counsel's report.

A motion picture will be released in late November that will demonize a large manufacturer. The film is pure fiction and is likely part of a coming assault on Ohio civil justice system.

Workers' Comp Claims Expansion to Mental Injury

The Ohio House amended the BWC budget bill to include to include coverage of PTSD for emergency first-responders, illegal alien provisions, settlement changes, and new severe penalties for employers who even mistakenly misclassify their employees. The PTSD extension sets a costly precedent for extending mental coverage into a system that has required a physical injury to receive treatment. The OMA has long opposed the extension of PTSD since it is covered by healthcare plans. Cooler heads prevailed and the Senate stripped the bill of all policy however legislative leaders remain interested in expanding benefits in response to the first responder constituency. Warning!

Transportation Budget

The Transportation Budget (House Bill 62) was completed in bipartisan fashion in early April. The bill contained an increase in motor fuel tax, bifurcating the tax on gasoline and diesel for the first time.

While the OMA supported a reasonable gas tax adjustment to provide for needed road and bridge construction, the OMA did not support the taxing of diesel (now \$0.47 / gallon) at a higher rate than gasoline (\$0.385 / gallon). The OMA articulated concerns on disproportionate diesel fuel increases since diesel costs will be passed on to trucking customers (manufacturers) in the form of variable fuel costs.

Right to Work

No action anticipated.

Workers' Comp & Industrial Commission

The BWC continues to give state fund employers massive rebates. Over the summer the Bureau announced another \$1.5 billion back for employers.

Leadership

The OMA Turns 109 Years Old November 8, 2019



This Sunday, the OMA will mark 109 years of protecting and growing Ohio's manufacturing sector.

It all started at 2 p.m. on Nov. 10, 1910, at the Chittenden Hotel in Columbus. That's when 17 prominent Ohio entrepreneurs — responding to a **letter of invitation** from Colonel J.G. Battelle — gathered to form an association of manufacturers. These visionaries adopted a constitution based on a mission “to promote the general welfare of productive industries in the State of Ohio” — “to keep prominently before the public the importance of such industries for the general prosperity of the State.” We want to recognize all OMA members and supporters for driving our mission through the years to the benefit of Ohio's industrial power. *11/7/2019*

State Rep. Ryan Resigns November 8, 2019

State Rep. **Scott Ryan** (R-Granville Township) announced this week that he will resign from the Ohio House to become executive director of **Ohio Third Frontier**, a state initiative housed inside the Development Services Agency that works to boost tech startups. Rep. Ryan's resignation is effective Tuesday, Nov. 12. The House Republican Caucus will appoint a successor. *11/7/2019*

All Committee Hearings to be Broadcast in 2020 November 8, 2019

Starting in January 2020, all committee hearings of the Ohio General Assembly will be able to be

seen remotely on a TV, smartphone or computer.

The Ohio Channel already broadcasts all House hearings, as well as hearings held by five of the Senate's standing committees. The Senate will add the remaining nine committees to its broadcast lineup. *11/4/2019*

Important U.S.-China Trade Developments November 8, 2019

OMA Connections Partner Dinsmore reports on the latest developments stemming from the U.S.-China trade dispute, including an announcement from the U.S. Trade Representative's office on the exclusion process for Chinese imports subject to List 4A Section 301 tariffs. **Read more analysis here.** *11/4/2019*

USMCA Day of Action is Nov. 13 November 8, 2019

More than 100,000 Ohio manufacturing jobs depend on exports to Canada and Mexico. So there's much at stake in the effort to ratify the U.S.-Mexico-Canada Agreement (**USMCA**), which would modernize and improve the 25-year-old North American Free Trade Agreement. The USMCA was signed almost a year ago, but the U.S. House of Representatives has yet to hold a formal vote to ratify it.

The National Association of Manufacturers has declared Nov. 13 the USMCA Day of Action, noting there are two million U.S. manufacturing jobs at risk if the agreement is not ratified. With just a handful of days remaining in the 2019 session, **let your federal representative know** you support a vote on the USMCA yet this year. *11/7/2019*

Website Refutes Hollywood, Trial Lawyers' Attack on Ohio Manufacturers November 1, 2019

OMA members should be aware that a soon-to-be-released movie called “Dark Waters” is set to misrepresent manufacturing in the Ohio River Valley. The OMA is not about to let Hollywood and trial lawyers rewrite our industry's story. Our “Truth About Dark Waters” campaign sets the

record straight with fact sheets, videos and a blog. Check it out at TruthAboutDarkWaters.com. 10/31/2019

The Complete Picture: Manufacturing's Contribution to the U.S. Economy **November 1, 2019**

This week, several national news outlets — including **Bloomberg** — made much ado about a new federal report showing U.S. manufacturing fell to “11% of gross domestic product in the second quarter,” the smallest share in data going back to 1947. (Note: In **Ohio**, manufacturing comprises nearly 17% of the state’s GDP.)

Unfortunately, this is a woefully incomplete picture. Excluded from this GDP report are ancillary manufacturing activities such as R&D, corporate management, logistics operations, and advertising and branding. As a result, news media all too often fail to mention key facts such as the following:

- For every one worker in manufacturing, there are another four employees hired elsewhere. (Source: **NAM**)
- For every \$1 spent in manufacturing, another \$1.82 is added to the economy — the highest multiplier effect of any sector. (Source: **NAM**)
- The inflation-corrected “real GDP” for the manufacturing sector shows solid growth from Q4 of 2016 through Q1 2019. (Source: **Federal Reserve Bank of St. Louis**)

Finally, it should be noted that compared to other industries, manufacturing is efficient in adding value — certainly much more today than in 1947. The **MAPI Foundation** reports it takes 5.8 full-time equivalent manufacturing jobs to achieve \$1 million in value added, compared to 7.7 for both transportation and services, and 16.9 for retail trade. 10/31/2019

At a Glance: How Americans Spend Their Money **November 1, 2019**

The U.S. Commerce Department reports that the nation’s economic activity grew at an annualized rate of 1.9% in the third quarter — exceeding estimates. The better-than-expected data was the result of continued consumer spending, which accounts for 68% of U.S. GDP. HowMuch.net has published **this insightful infographic** examining how Americans are spending their money, based on recent federal data. 10/31/2019

Gov. DeWine Renews Ohio’s Commitment to Automated Vehicle Technology **November 1, 2019**

Gov. Mike DeWine recently signed an **executive order** renewing DriveOhio, the state initiative promoting self-driving cars and other forms of “smart” mobility. Ohio officials are working to maintain the state’s role as a national leader in the testing and deployment of automated and connected vehicle technology. The state recently received a \$7.5 million federal grant, along with \$10.3 million in matching funds from other sources, to study the use of automated vehicles on the state’s rural roads. DriveOhio was created in 2018 by then-Gov. John Kasich. 10/31/2019

RSM Index Suggests Manufacturing Activity May Continue to Slow **November 1, 2019**

According to new analysis by OMA Connections Partner RSM, the firm’s U.S. Manufacturing Outlook Index suggests a continued slowdown in U.S. manufacturing activity. RSM notes that “the trade war between the United States and China is exacerbating an industry slowdown, creating headwinds on multiple fronts,” while “automakers and logistics providers face a number of challenges.” See RSM’s insight **here**. 10/31/2019

Ohio Senate Calls for Ratification of USMCA **October 25, 2019**

On Wednesday of this week, the Ohio Senate **voted 22-9** to approve **Senate Resolution 376**, offered by Senate President **Larry Obhof** (R-Medina) to urge

Congress to ratify the U.S.-Mexico-Canada Agreement (USMCA), which would modernize the 25-year-old North American Free Trade Agreement. Earlier in the day, Ryan Augsburger, public policy services managing director for the OMA, **testified** before the Senate Transportation, Commerce and Workforce Committee in support of SR 376.

Politico **reported** this week that some leaders on Capitol Hill “are growing more concerned that USMCA will not get to the finish line” as Congress has only 20 days remaining in the 2019 session.

As noted in a recent **editorial** by OMA President Eric Burkland, approximately 103,000 Ohio manufacturing jobs rely on exports to Canada and Mexico, as one in three Ohio manufacturers export to one or both countries. *10/23/2019*



The OMA's Ryan Augsburger testified in support of SR 376, which calls for the ratification of the USMCA trade agreement. (Photo: The Ohio Channel)

NAM Economist: Strong U.S. Dollar Continues to Impact Earnings, Exports **October 25, 2019**

Chad Moutray, chief economist for the National Association of Manufacturers, **reports** the U.S. dollar has risen 8.4% since January 2018 against other major currencies. He notes that a **strong dollar** continues to be a challenge for manufacturers' earnings and export growth, but also pointed out the U.S. dollar has fallen 1.6% so far in October. *10/22/2019*

Analysis of Auto Industry, Effects of Tariffs **October 25, 2019**

From electrification to autonomous driving and changing consumer tastes, U.S. automakers are in an era of profound change. In its latest edition of **The Real Economy**, OMA Connections Partner RSM has published its analysis of the challenges facing the auto industry. In the same issue, RSM also provides its take on the impact of tariffs as they impact middle market businesses. *10/21/2019*

Nov. 7 Webinar on Manufacturers' Cybersecurity **October 25, 2019**



More than ever, manufacturers are using digital technology, leaving them vulnerable to cyberattacks. According to OMA Connections Partner GBQ Partners, manufacturing is the **second-most targeted sector** when it comes to cyberattacks, as many companies do not have adequate security programs in place.

The OMA and GBQ Partners are offering a one-hour webinar at 10 a.m. (EST) on Nov. 7 to examine cybersecurity threats, as well as solutions for the manufacturing sector. The event is free for OMA members; \$39 for non-members. **Find out more or register here.** *10/22/2019*

Eight Steps to a Successful Succession Plan **October 25, 2019**

If you own a manufacturing business, what are your plans for the company once you're out of the picture? Statistics show that nearly half of family businesses have no succession plan. **Review this list** of eight steps to ensure a successful transition for your business, compiled by OMA Connections Partner Gilmore Jasion Mahler. *10/23/2019*

Manufacturers to Congress: Ratify USMCA Now **October 18, 2019**



The OMA is one of 350 associations and businesses representing manufacturers who this week **called on Congress** to ratify the United States–Mexico–Canada Agreement (USMCA). Leaders from the three nations approved the

agreement last year to modernize the 25-year-old North American Free Trade Agreement.

Mexico's government has already ratified the USMCA. It now awaits approval from Congress. The coalition notes that the USMCA would spur economic growth and provide much-needed certainty for manufacturers. See the National Association of Manufacturers' **coverage** of this advocacy effort. *10/16/2019*

Kiplinger's 2020 Economic Outlook for Ohio October 18, 2019

Business and finance publisher Kiplinger has published its **50-state economic outlook** for 2020. Kiplinger predicts Ohio's job growth will slow to 0.4%, down from 0.6% this year.

The publication says: "Ohio's three major metros of Cleveland, Columbus, and Cincinnati are growing above the state average," with Cincinnati's job growth expanding the fastest at 2.2%. Meanwhile, "a number of smaller cities are showing signs of growth after being flat," including Toledo, Springfield, and Lima.

But Kiplinger adds that Ohio is still at risk from the trade conflict with China, as well as tariffs on imported steel. "Two-thirds of manufacturers in northeast Ohio said they were being harmed by the penalties on metals imports." *10/16/2019*

Jason Stephens Will Represent House's 93rd District October 11, 2019

This week, **Jason Stephens** — auditor for Lawrence County — was sworn in as the replacement for State Rep. Ryan Smith (R-Bidwell) in the Ohio House's 93rd District. Stephens (R-Kitts Hill) has served as auditor since 2011 and was previously a county commissioner. He also works as a licensed insurance agent and has his own agency. Former Rep. Smith **announced his resignation** late last month to lead Rio Grande Community College and the private Rio Grande University. *10/10/2019*

Cindy Abrams Selected for House's 29th District October 11, 2019

This week, Harrison City Councilwoman **Cindy Abrams** (R-Harrison) was sworn in as the

replacement for outgoing State Rep. Louis Blessing in the 29th District of the Ohio House. Prior to her service on the city council, Abrams was a Cincinnati police officer. Earlier this month, Blessing (R-Colerain Township) **was selected** to fill the vacant 8th Senate District. *10/9/2019*

NAM Economist: Four Federal Actions Would Give U.S. Manufacturers More Certainty October 11, 2019

In a **recent editorial**, Chad Moutray, chief economist at the National Association of Manufacturers, says federal policymakers can provide U.S. manufacturers more certainty by taking just a few key actions. He says Congress must first ratify the United States–Mexico–Canada Agreement. Second, the administration should work to reach an "enforceable, rules-based, bilateral trade agreement" with China. Other steps include passing a long-term reauthorization of the Export-Import Bank and addressing the skills gap in manufacturing by inspiring more people to join the industry. *10/9/2019*

Which Goods are Most Traded Between U.S. and China? October 11, 2019

Trade talks between the U.S. and China continue to dominate the financial news. Once China's top export market, the U.S. has since fallen to third. For the year, U.S. imports from China are down 12.5% amid new tariffs — with higher tariff rates set to take effect if no resolution is reached soon. **This infographic** by HowMuch.net shows which goods are most frequently traded between the two countries. *10/10/2019*

For Real: Get Your REAL ID Before the Rush October 11, 2019

For those who use the airlines — whether once a week or once a year — you will need a REAL ID by next October in order to board your domestic flight. A REAL ID is essentially an enhanced driver's license (recognizable by a star at the top) required by federal law to address security concerns raised by the 9/11 Commission.

To get a REAL ID, you'll need to present a birth certificate or green card, a Social Security card, and two documents that show your address. OMA members may wish to avoid the last-minute rush by getting their REAL ID sooner rather than later. Find out more at the **Ohio BMV's site**. 10/7/2019



It's Manufacturing Day (and Month) in Ohio
October 4, 2019



It's here — Manufacturing Day 2019. **Throughout Ohio**, manufacturers, community colleges, and others are opening their doors to give students a firsthand look at the many rewarding, well-paying career options in the manufacturing sector.

Not all of Ohio's MFG Day events will take place today. Several will be held later this month. So if your company wants to host an event to inspire the next generation of manufacturers, **there's still time**. (By the way, be sure to **send us images** from your MFG Day event to share on OMA's social media.)

Meanwhile, Ohio Gov. Mike DeWine and Lt. Gov. Jon Husted have recognized October as Manufacturing Month. In a **proclamation** presented to the OMA, the state's top two leaders point out that Ohio is the third largest manufacturing state — and that manufacturing provides more than 700,000 Ohio jobs, while employing more than 20% of rural Ohioans. 10/4/2019

Burkland: Ohio Can Help Lead the Next Generation of Auto Manufacturing
October 4, 2019

In a **guest column** published this week by *The Business Journal* in Youngstown, OMA President Eric Burkland discusses the biggest change in automotive technology in more than a century — the electrification of cars and trucks — and the opportunity it presents Ohio to power the next generation of automotive manufacturing.

Burkland writes: "With its proposal of a battery cell factory, General Motors is offering Ohio — particularly the Mahoning Valley — the chance to be at the forefront of this revolution." He concludes that Ohio "cannot afford to miss such opportunities." 10/2/2019

Ex-Im Temporarily Extended Through Nov. 21
October 4, 2019



Late last week, President Trump signed a seven-week continuing resolution into law to keep the federal government running through Nov. 21. Of note for manufacturers, the extension includes a short-term reauthorization of the U.S. Export-Import Bank (Ex-Im). The National Association of Manufacturers' **Linda Dempsey said** while this move was a necessary step, Ex-Im users need more certainty to plan for the future. As the nation's official export credit agency, Ex-Im has served **159 exporters in Ohio** since 2015, with a combined \$1 billion in exports. 10/1/2019

DuPont Begins Expansion in Circleville
October 4, 2019



This week, DuPont broke ground on a new, \$220 million expansion of its Circleville facility. Already one of the largest employers in Pickaway County — employing 500 full-time workers — the company is expected to add around 50 new jobs. The expansion will allow DuPont to increase its ability to manufacture Kapton® — a durable and versatile plastic film used in numerous applications, from cell phones to space travel.

Steve Irwin, plant manager and an OMA board member, led this week's groundbreaking, which was attended by Ohio Senate President Larry Obhof (R-Medina) and District 17 Sen. Bob Peterson (R-Washington Court House). 10/1/2019

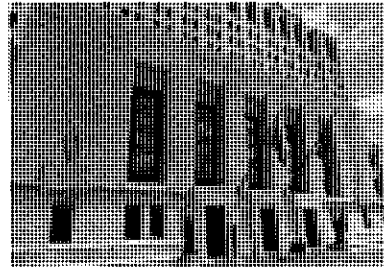
Rep. Blessing Picked for Vacant Senate Seat October 4, 2019

This week it was announced that **Rep. Louis Blessing III** (R-Colerain Township) has been selected this week to fill the Ohio Senate's vacant 8th District seat, representing a large section of Hamilton County. The seat was formerly held by Lou Terhar, who resigned for health reasons. 10/2/2019

Ohio's Unemployment Tax Below U.S. Average; Has Lost Ground to Other States October 4, 2019

A **recent comparison** by the Small Business & Entrepreneurship Council shows **Ohio's Unemployment Insurance (UI) fees** are 21st lowest among the 50 states. The rankings were determined by applying each state's maximum UI tax rate to its wage base, then taking that figure as a share of the state's average pay. Ohio fell six spots from its **2018 position** due mostly to other states lowering their UI fees. 9/30/2019

Supreme Court's 7-0 Decision is Win for Ohio Legal Climate September 27, 2019



In a victory for the state's legal climate, as well as common sense, the Supreme Court of Ohio has reversed a lower court's award of \$360,000 — which had been reduced from more than \$1.3 million awarded by a jury — in a suit against a grocery store chain. The case involved a customer who was injured by another driving a motorized shopping cart in 2012. The Sept. 19 decision is a blow to trial lawyers pushing similar injury lawsuits against Ohio businesses.

In a **rare 7-0 decision**, the court said Giant Eagle was not liable because there was insufficient evidence that the store's actions caused the incident. Justice Melody J. Stewart, a Democrat, wrote on behalf of court: "It is not enough for the plaintiff to assert or speculate that the defendant's actions or failure to act might have caused the injury." 9/23/2019

Former Speaker Ryan Smith to Resign from Ohio House September 27, 2019

State Rep. **Ryan Smith** (R-Bidwell) — a former speaker of the Ohio House — has announced his resignation. He will step down on Thursday, Oct. 3, to lead Rio Grande Community College and the private Rio Grande University.

Rep. Smith, who is term-limited next year, was elected speaker in June 2018 after the resignation of former Speaker Cliff Rosenberger. He lost a **hard-fought campaign** for the speaker post to Rep. **Larry Householder** (R-Glenford) earlier this year. 9/26/2019

NAM Survey Shows Another Drop in Manufacturers' Optimism September 27, 2019

The National Association of Manufacturers (NAM) this week **released the results** of its Manufacturers' Outlook Survey for Q3 2019. For the second consecutive quarter, the survey showed a drop in manufacturers' optimism amid

uncertainties, a softening global economy, and worsening workforce shortage. While 68% of manufacturers had a positive outlook for their business in the third quarter, that was down from 79.8% in the second quarter and 89.5% in the first quarter. 9/25/2019

Universal Postal Union Changes Deliver Win for Manufacturers September 27, 2019

The National Association of Manufacturers (NAM) **reports** that the Trump administration successfully negotiated changes to the Universal Postal Union (UPU) to protect manufacturers from counterfeiters and other bad actors who have been exploiting the international system by shipping packages to the U.S. at highly subsidized rates.

The NAM notes that some countries in the UPU, such as China, pay lower rates because they were classified as “developing countries” when the terms of the UPU were originally agreed to. NAM President and CEO **Jay Timmons** **says** the changes announced this week will “level the playing field.” 9/25/2019

Social Media Use by Generation, Platform September 27, 2019

If your company is utilizing social media, **check out this infographic** at VisualCapitalist.com. It explores recent trends in social media use by generation, while providing insight into which social media platforms are seeing the most growth. 9/24/2019

OMA Board Elects Four New Directors September 20, 2019



On Tuesday, Sept. 17, the OMA's board of directors held its quarterly meeting at OMA

headquarters. Key actions included the board's election of the following new directors:

Emily B. Elizer, Director of Government Affairs, **PPG**;
Stephen C. Jetter, VP – Engineering, **Fort Recovery Industries, Inc.**;
Jeff Oravitz, Board Director, **Hunt Valve**; and
Brent Rosebrook, VP of Finance & Administration, **Pro-Tec Coating Co., LLC**.
Directors heard from guest speakers, including Ohio Bureau of Workers' Compensation (BWC) CEO/Administrator Stephanie McCloud, who briefed the board on the BWC's **Better You, Better Ohio!**™ — a free health-and-wellness program for workers of small and mid-sized businesses in higher-risk industries, including manufacturing. She also discussed the BWC's recent **20% reduction** in the average premium rates paid by private employers.

This week's board meeting, which was heavily focused on workforce development and energy policy, was the first under the leadership of new OMA Chairman Jane Neal, senior vice president of **AMG Vanadium**. During the meeting, OMA General Counsel Chris Slagle of Bricker & Eckler was **presented** a memorial donation from the board to the Tunnell Leadership Development Program — established by former OMA General Counsel **Kurt Tunnell**, who passed away last month. 9/17/2019

Ohio BWC CEO/Administrator Stephanie McCloud was among the guest speakers at this week's meeting of the OMA's board of directors.

Analysis: Tariffs Could Cost Ohio \$3.2 Billion September 20, 2019



According to the U.S. Chamber, half of America's manufacturing jobs are dependent on exports. So when it comes to trade-related taxes, Ohio has much at stake. A **new infographic** by HowMuch.net shows that tariffs

could negatively impact Ohio to the tune of \$3.2 billion.

In some good news, **federal data** this week show U.S. factory output increased by 0.5% in August — more than forecast — signaling that U.S. manufacturing may be starting to stabilize. The increase included a 1.6% jump in the output of machinery, and a 0.9% expansion in fabricated metals. *9/18/2019*

New Movie Attacks Manufacturer, Ignores Science **September 20, 2019**

The producers of an upcoming feature film that casts aspersions on a manufacturer in the Ohio River Valley region has just released the movie's trailer. The film ignores sound science and truth in order to foster a trial-lawyer agenda.

For years, the OMA has worked to improve Ohio's legal climate from junk lawsuits that allege injury without proving causation. The OMA **will be communicating** to set the record straight and rebut the myths of this Hollywood fantasy. In doing so, we will also be defending our region's job-creators and employees who make great products. Stay tuned. *9/19/2019*

Guidance for Automakers and Their Suppliers **September 20, 2019**

OMA Connections Partner RSM **has published this article** to highlight methods and strategies that OEMs and their suppliers can adopt to help them ride out times of turbulence. *9/17/2019*

Ohio's Business Stock is Rising **September 20, 2019**

JobsOhio **is celebrating** the state's solid rankings in recent competitiveness studies. Throughout the past year, the Buckeye State has made the top 10 lists of several annual comparisons of state business climates.

Most notable were Ohio's rankings in the annual comparisons published by **CNBC** and **Chief Executive**, both of which showed significant improvement since the end of the Great Recession. Meanwhile, **Area Development Magazine** credited our state for having the most-improved economic development policies,

and the ninth-best business climate overall. *9/18/2019*

Source	Ranking	Most Recent Year Rank	2011 Rank
 SITE	Best State Business Climate	4 (2018)	9
 USA News	Best States for Opportunity	7 (2019)	N/A
 Chief Executive	Best States for Business	9 (2019)	41
 Area Development	Top States for Doing Business	9 (2019)	N/A
 CNBC	America's Top States for Business	10 (2019)	23

NFL Offering \$3M for Football Helmet Design Contest **September 20, 2019**

The National Football League — with its roots in Ohio — wants ideas for the next generation of football helmets. The winner of the **18-month contest** will receive \$2 million for development capital, as well as an additional \$1 million prize. For those interested, a symposium will be held Nov. 13-15 in Youngstown to kick off the contest. **Register** before Oct. 2. *9/16/2019*

AG Yost Moves to Consolidate Class Action Proceedings **September 20, 2019**

Ahead of next month's huge opioid trial in Cleveland, Ohio Attorney General Dave Yost **recently asked** the court with jurisdiction over the multi-state litigation to consolidate the more than 2,000 local-government lawsuits under state attorneys general. After a federal judge denied the motion, AG Yost assailed the decision and announced his support for legislation to ensure that attorneys general control the means and fate of any settlement or judgement money — not lawyers for cities and counties.

AG Yost explained that the continuation of the settlement negotiations would effectively deprive 86 of Ohio's 88 counties of having a voice in the proceedings, possibly preventing relief to some of the hardest-hit counties. *9/19/2019*

Former OMA Board Member Mary Anne Gale Passes **September 20, 2019**

We were sad to learn that former OMA board member Mary Anne Gale, 71, passed away at her home in Michigan late last month. Mary

Anne had a remarkable 35-year career with The Procter & Gamble Company (P&G). Working her way through the ranks, she became the company's first female plant manager. In 1994, she moved into a corporate role at P&G's headquarters in Cincinnati — and in 1999 was named the first female vice president in P&G's manufacturing organization. Read **Mary Anne's obituary**. 9/16/2019

School Report Cards Released September 13, 2019



This week the Ohio Department of Education released the 2019 school report cards. You can search for your schools' report cards [here](#).

Schools are graded from A to F. More than half of each school's overall grade depends on how students perform on state tests each spring. Six factors are nearly evenly weighted: achievement, progress, and "gap closing" on state tests, plus graduation rate, improvement in K-3 reading, and a "prepared for success" measurement based on high school accomplishments. 9/12/2019

U.S. Chamber Index: Small Biz Optimism at Record High; Manufacturing Slips September 13, 2019

Published this week, the **U.S. Chamber of Commerce Small Business Index** reached an all-time high of 70.7 this quarter, up two points from 68.7 last quarter. The survey showed that two-thirds of U.S. small businesses felt good about business health — but manufacturing optimism fell to 63%, down from 69% in Q2. The index found that 32% of manufacturers said they planned to increase staffing in Q3, compared to 39% last quarter. 9/11/2019

Ohio Gets Solid Marks in Small Business Study September 13, 2019



Ohio's small business environment has improved over the past year, according to the **2019 Small Business Friendliness Survey**. The annual report card by San Francisco-based Thumbtack considered several factors, including licensing requirements, taxes, and labor and hiring regulations. **Ohio** received an overall grade of B+, an improvement from its 2018 grade of B. The Buckeye State scored an A+ for its regulations affecting employment, labor, and hiring. However, it received a D in the "ease of hiring" category, reflecting owners' frustration with Ohio's ongoing workforce shortage. 9/9/2019

Without Action, Ex-Im Charter Expires in 17 Days September 13, 2019

This week, a **letter signed by more than 200 companies and organizations** — including the OMA — was sent to federal lawmakers urging the U.S. House and Senate to pass a "robust and long-term re-authorization" of the Export-Import Bank.

Ex-Im operations are threatened by a Sept. 30 deadline by which Congress must re-authorize the bank's charter. (See the NAM's story [here](#).) As the official export credit agency of the United States, **Ex-Im has served 200 Ohio exporters** — mostly small businesses — since 2014, with a combined \$1 billion in exports. 9/12/2019

Protecting Ohio's Statute of Limitations September 13, 2019

A group of Ohio business and professional associations, including the OMA, **testified this week** through the **Ohio Alliance for Civil**

Justice before a House committee, urging the legislature to protect Ohio's statute of limitations.

At issue was **HB 249**, which would give victims of sexual misconduct that occurred during a specified period by a physician employed by a land grant university a right of action against the school. The bill was introduced as a result of the case against former Ohio State physician Richard Strauss.

The Alliance said: "Statutes of limitation play an important role in any legal system because they create certainty, discourage unnecessary delays, and protect the integrity of the judiciary by setting the outer most limit of time for a valid legal claim to be filed."

The Alliance said it "opposes reviving claims already barred by the applicable statute of limitation because it will create disorder in Ohio's business and legal climates. For Ohio's courts, the decision to revive certain claims will call into question what other types of claims could be revived in the future. This slippery slope is harmful to the legal climate by eroding at the predictability and finality of a judge's order." 9/12/2019

Analysis: \$100 Goes Further in Ohio September 13, 2019

Using data from the U.S. Bureau of Economic Analysis, the Tax Foundation has published a map that shows the **purchasing power of \$100 in each state**. Ohio's purchasing power is seventh best, with \$100 buying \$112.49 worth of goods or services when compared to the U.S. average. You can also see the real value of \$100 in your **metro area and county**. 9/12/2019

Honda Marks 40 Years in Ohio September 13, 2019

Forty years ago this week, the first American-made Honda product rolled off the line in Marysville, Ohio. Four decades later, the company has invested more than \$11 billion in the state and employs roughly 15,000 Ohioans.

The Columbus Metropolitan Club recently **hosted a forum** to recognize Honda's **four decades** in the Buckeye State. Panelists included OMA Workforce & Leadership Committee Chairman Scot McLemore, manager of talent acquisition and

deployment at Honda North America, Inc., as well as Executive Vice President Tom Shoupe, Honda of America Mfg., and Equipment Service Technician Lewis Gleason, Honda North America. 9/10/2019



*Production began at Honda's Marysville motorcycle plant Sept. 10, 1979. The CR250R motocross bike was the first model to be built.
(Photo: American Honda Motor)*

Read All About It in the OMA's Daily News Clips September 13, 2019

If you're not already subscribed to the OMA's Daily News Clips, now is the time to give this service a try. With short summaries and links to the original news provider, **this daily digest of news** — customized for manufacturers — cuts through the clutter and gives you the news that matters from Ohio and national media. Best of all, this service is free with your OMA membership — and an unlimited number of your employees can receive it. Sign up or learn more by emailing **Lisa Cummings-Dye** at the OMA, or calling (614) 629-6815. Or go to **My OMA** and click "My Publications." 9/12/2019

Remembering Kurt Tunnell, Longtime OMA Counselor September 6, 2019



In the early hours of Saturday, Aug. 31, former OMA General Counsel and good friend Kurt A.

Tunnell was struck and killed by an impaired driver in rural Hilliard. Prior to his retirement in January 2018, Kurt had worked with the OMA for nearly a quarter century.

During his lengthy career, Kurt held several leadership roles, including managing partner with OMA's general counsel **Bricker & Eckler LLP**, one of the state's most prominent law firms. He also served as the chief legal counsel for Gov. George Voinovich, then returned to establish a leadership development program that would later be named in his honor. Read more in **Kurt's obituary**.

Over the past several days, statements honoring Kurt and his legacy have poured in from across Ohio, including condolences from Gov. Mike DeWine, who worked with him in the Voinovich administration. Gov. DeWine said: "Kurt served his community, his state, and his fellow man, and we will miss him greatly."

OMA President Eric Burkland said, "We are heartbroken by his untimely passing, but we are forever grateful for Kurt's friendship and the opportunity to learn from him and work with him to better Ohio."

A memorial foundation has been established to continue Kurt's legacy of servant leadership. Contributions may be made to either of the following: The Namikango farm in Malawi, Africa in care of the **Malawi Talent fund**; or The Kurt Tunnell Servant Leadership Memorial Foundation in c/o of the Tunnell Leadership Development Program at **Bricker & Eckler LLP**. 9/4/2019

Cleveland Fed: Ohio's Economy Steady As She Goes September 6, 2019

The latest "**Beige Book**" released this week by the Federal Reserve shows that U.S. economic activity in the non-financial service sector was either steady or improving across the country through the end of August, expanding at a modest pace. Manufacturing and agriculture were the two weak spots as of late summer.

The **Federal Reserve Bank of Cleveland reported** that economic activity in Ohio and parts of neighboring states remained steady as well. This as competition for skilled labor led to higher wages in manufacturing, construction,

and professional and business services. Manufacturers in the Cleveland Fed's district saw weaker demand and elevated inventories "because uncertainty led their customers to delay capital expenditures." Some manufacturers said the slowdown "was a return to normal following more than a year of hectic activity," while the outlook for the coming months was mixed.

According to **MarketWatch**, "Fed officials are split about how to respond to fears of a sharper downturn," but most economists think interest rates will be lowered by a quarter-point at the next policy meeting in two weeks. 9/4/2019

One Ohio Senate Vacancy Filled, Another Opens September 6, 2019

Ohio Senate Republicans announced this week that Terry Johnson was selected to represent the **14th District** following the resignation of State Sen. Joe Uecker (R-Loveland). Johnson is a physician and former member of the Ohio House, serving from 2011-2018. Before joining the legislature, Johnson was the Scioto County coroner and a flight surgeon with the Army National Guard. He currently is the director of medically assisted treatment and integrated health services at Valley View Health Centers in Waverly.

Meanwhile, **State Sen. Louis Terhar** (R-Green Township) announced this week that he will retire at the end of the month after eight years in the General Assembly. The **application process** to fill the 8th Senate District seat is open until 4 p.m. Friday, Sept. 20. 9/4/2019

Lightweighting Certificate Course to be Offered in Geauga County, Oct. 21 September 6, 2019



OMA Connections Partner Case Western Reserve University is offering a unique opportunity to earn a lightweighting certificate in advanced manufacturing. The Oct. 21 course

will be held at the ASM World Headquarters in Northeast Ohio's Russell Township, Geauga County.

Among other things, applicants will learn where additive manufacturing (AM) technologies can be applied for design or economic advantage; understand lightweighting AM technologies, trends, and applications in transportation industries; demonstrate problem-solving skills in lightweighting through analysis of case studies; and learn the fundamentals of materials science and how to improve properties such as strength, stiffness, and ductility in a wide array of lightweight material options.

For more information, contact: Monica Dumitriu at (216) 368-3804 or [click here](#). 9/4/2019

Sept. 10 Webinar: Are You Ready for Manufacturing 4.0?
September 6, 2019

This Tuesday, Sept. 10, OMA Connections Partner RSM will host a **webinar** to explore manufacturing 4.0 — also known as the fourth industrial revolution. Manufacturing 4.0 is building on the current use of computers and automation, enhancing the process with smart and autonomous systems fueled by data and machine learning. RSM notes that many middle market manufacturers are wondering how to focus their investments in order to not be left behind. This webinar will focus on strategies and tools to help you leverage your existing data and plan for your digital future. 9/4/2019

Study: Ohio Business Outlook Tops U.S. Average
August 30, 2019

A **new report** by Citizens Bank finds that Ohio businesses, compared to the U.S. business community as a whole, are more likely to experience growth over the next quarter. The first-ever Citizens Business Conditions Index — which includes manufacturing data — revealed that the overall U.S. business climate remains strong, despite mounting headwinds. The bank's nationwide index sits at a healthy 61.2, while the Ohio Business Index came in at 63.1, according to Gongwer News Service. A rating above 50 indicates economic expansion and improved business conditions. 8/27/2019

ICYMI: Ohio's Manufacturers, Ag Producers Need USMCA
August 30, 2019

When Congress returns to work next month, one of Capitol Hill's priorities must be ratification of the United States-Mexico-Canada Agreement (USMCA). That's the message from OMA President Eric Burkland and Ohio Farm Bureau Federation Executive Vice President Adam Sharp in their **joint editorial** submitted to dozens of newspapers across the state. "If tariff-free trade in North America is not upheld by the new deal, Ohio's manufactured NAFTA exports could face more than **\$3 billion in extra taxes**," the op-ed cautions. 8/26/2019



A Labor Day Salute to Ohio's Beer Brewers
August 30, 2019

In a guest editorial published this week in ***Crain's Cleveland Business***, OMA President Eric Burkland salutes Ohio's beer brewing industry. He writes that "food and beverage production plays a major role in Ohio's manufacturing portfolio, providing about 62,000 jobs in the Buckeye State. And a key player within Ohio's food and beverage industry is beer."

Ohio's beer brewing industry dates back to the arrival of German immigrants in the 1800s. Today, the state produces a wide variety of beers — from hundreds of craft brews to traditional favorites such as Miller Lite, Budweiser, Coors, and Samuel Adams. 8/26/2019

Is Your Company Tracking Social Media Trends?
August 30, 2019

Many manufacturers are **utilizing social media** to promote products, recruit talent, and interact with customers. The Pew Research Center, which started tracking social media adoption in 2005, reports that 72% of the public now uses social media. Pew also found that:

- YouTube and Facebook are the most-widely used online platforms, with 69% of U.S. adults using Facebook — including 79% of those ages 18-29 and 30-49.
- College graduates are the most frequent users of LinkedIn at 51%.
- The 18-29 age group is the most likely to have an account with Instagram (67%) or Snapchat (62%).

Read more from Pew's social media report. And be sure to follow the OMA on **Facebook**, **LinkedIn**, and **Twitter**. *8/28/2019*

Manufacturers Led Ohio's Job Creation in July
August 23, 2019



Ohio added 4,500 non-agricultural jobs in July, while the unemployment rate **held steady at 4%**. According to a **state report**, 3,200 of Ohio's net new jobs last month were in the manufacturing sector, with 2,800 in durable manufacturing and another 400 in non-durable goods production. Meanwhile, the state's construction sector experienced a loss of 1,900 jobs, the most of any industry.

As of last month, roughly 707,600 Ohioans were working in manufacturing — about 6,100 more than in July 2018. *8/19/2019*

Anheuser-Busch Brewery Hosts OMA Government Affairs Committee
August 23, 2019

Chaired by Anheuser-Busch's Region Vice President Scott Corbitt, the OMA's Government Affairs Committee on Thursday, Aug. 22, held its

quarterly meeting at the beer maker's Columbus brewery. The event provided OMA member companies with updates on numerous issues, including key provisions in Ohio's state budget, such as **tax code improvements** and **funding for workforce development**.

OMA General Counsel Chris Slagle, partner at Bricker & Eckler LLP, briefed members on potential statewide ballot initiatives, as well as tort reform legislation pending in the General Assembly. OMA Energy Counsel Kim Bojko, partner at Carpenter Lipps & Leland, along with OMA Energy Engineer John Seryak of RunnerStone, provided post-enactment **analysis of House Bill 6**, the nuclear bailout legislation.

The meeting featured guest speaker Supreme Court of Ohio Justice Judi French, as well as a tour of the brewery. The **next meeting** of OMA's Government Affairs Committee is set for Nov. 13. *8/22/2019*



More than 50 members took part in Thursday's OMA Government Affairs Committee meeting, hosted by Anheuser-Busch and sponsored by Nationwide.

Who's Who in the World's \$86T Economy?
August 23, 2019

A new **infographic** by HowMuch.net visualizes the key players on the world's economic stage. Last year, despite the expansion of tariffs and retaliatory measures, global GDP grew 6.9% to \$85.8 trillion. Nearly half this growth came from the world's two largest economies: the U.S. at \$20.5 trillion (up 5.4% from 2017), and China at \$13.6 trillion (up 10%). Combined, the two nations comprise about 40% of the global GDP. However, in the second quarter of this year, China posted its weakest GDP growth since 1992, while its industrial output ground to its slowest pace since 2002. *8/19/2019*



OSU & The Shoe Get Their Due August 23, 2019



The return of college football is almost here. With pigskins on the mind, *Sports Illustrated* has **ranked** Ohio Stadium as one of the five greatest stadiums in college football history. Currently the third-largest college stadium in the sport, “The Shoe” offers one of America’s best game day environments, the magazine says. This ranking comes just a week after *SI* named Ohio State the **No. 2 college football program** of all time, one spot above Michigan. O-H! I-O! 8/22/2019

Miscellaneous Legislation of Interest to Manufacturers
Prepared by: The Ohio Manufacturers' Association
Report created on November 12, 2019

- HB30** **EUTHANIZED ANIMAL REMAINS-FOOD (LANESE L)** To prohibit pet food from containing remains from any dog or cat or from any other animal that was euthanized by the use of an injected drug.
Current Status: 2/12/2019 - Referred to Committee House Agriculture and Rural Development
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-30>
- HB46** **STATE GOVT EXPENDITURE DATABASE (GREENSPAN D)** To require the Treasurer of State to establish the Ohio State Government Expenditure Database.
Current Status: 11/13/2019 - Senate General Government and Agency Review , (Fourth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-46>
- HB48** **LOCAL GOVT ROAD IMPROVEMENT FUND (GREENSPAN D)** To provide for a new Local Government Road Improvement Fund for local governments to fund road improvements.
Current Status: 2/12/2019 - Referred to Committee House Finance
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-48>
- HB62** **TRANSPORTATION BUDGET (OELSLAGER S)** To increase the rate of and modify the distribution of revenue from motor fuel excise taxes, to make appropriations for programs related to transportation and public safety for the biennium beginning July 1, 2019, and ending June 30, 2021, and to provide authorization and conditions for the operation of those programs.
Current Status: 4/3/2019 - **SIGNED BY GOVERNOR**; eff. 90 days, Taxes eff. 7/1/19
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-62>
- HB72** **CAPITAL IMPROVEMENTS FUND (ROGERS J, CERA J)** To create the Supplemental State Capital Improvements Pilot Program funded by a temporary transfer from the Budget Stabilization Fund and to make an appropriation.
Current Status: 2/20/2019 - Referred to Committee House Finance
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-72>
- HB76** **BALLOT LANGUAGE UNIFORMITY (MERRIN D)** To enact the "Ballot Uniformity and Transparency Act" to modify the form of election notices and ballot language for property tax levies.
Current Status: 11/13/2019 - Senate General Government and Agency Review , (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-76>
- HB115** **REGULATOR RESTRICTION REDUCTION (RIEDEL C, ROEMER B)** To require certain agencies to reduce the number of regulator restrictions and to amend the versions of

sections 106.021 and 106.03 of the Revised Code that are scheduled to take effect August 18, 2019, to continue the provision of this act on and after that effective date.

Current Status: 4/10/2019 - House State and Local Government, (Second Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-115>

HB116 **TRANSPORTATION RESEARCH (BRINKMAN T)** To make an appropriation related to transportation planning and research.

Current Status: 3/12/2019 - Referred to Committee House Finance

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-116>

HB160 **ALCOHOLIC ICE CREAM (INGRAM C)** To revise the law governing alcoholic ice cream.

Current Status: 11/6/2019 - Senate Agriculture and Natural Resources, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-160>

HB168 **AFFIRMATIVE DEFENSE-HAZARDOUS SUBSTANCES (ARNDT S)** To establish an affirmative defense to a release or threatened release of hazardous substances from a facility for certain bona fide prospective purchasers.

Current Status: 11/13/2019 - Senate Agriculture and Natural Resources, (Third Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-168>

HB174 **CONCEALED WEAPONS REFORM (HOOD R, BRINKMAN T)** To modify the Weapons Law by renaming a concealed handgun license as a concealed weapons license, allowing a concealed weapons licensee to carry concealed all deadly weapons not otherwise prohibited by law, repealing a notice requirement applicable to licensees stopped for a law enforcement purpose, authorizing expungement of convictions of a violation of that requirement, allowing a person age 21 or older and not prohibited by federal law from firearm possession to carry a concealed deadly weapon without needing a license subject to the same carrying laws as a licensee, and correcting the definition of dangerous ordinance mistakenly resulting from Am. Sub. H.B. 228 of the 132nd General Assembly.

Current Status: 3/27/2019 - Introduced

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-174>

HB178 **CONCEALED WEAPONS REFORM (HOOD R)** To modify the Weapons Law by renaming a concealed handgun license as a concealed weapons license, allowing a concealed weapons licensee to carry concealed all deadly weapons not otherwise prohibited by law, repealing a notice requirement applicable to licensees stopped for a law enforcement purpose, authorizing expungement of convictions of a violation of that requirement, and allowing a person age 21 or older and not prohibited by federal law from firearm possession to carry a concealed deadly weapon without needing a license subject to the same carrying laws as a licensee.

Current Status: 6/30/2019 - Re-Referred to Committee

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-178>

- HB181** **PROMOTE OHIO-GROWN ALCOHOL INGREDIENTS** (HAMBLEY S) To authorize the Department of Agriculture to promote the use of Ohio-produced agricultural goods grown for inclusion in beer, cider, or spirituous liquor through promotional programs.
Current Status: 4/4/2019 - Referred to Committee House Agriculture and Rural Development
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-181>
- HB185** **JOBSONIO-PUBLIC RECORDS-MEETINGS** (INGRAM C) To establish that records kept by JobsOhio are public records subject to inspection and copying under Ohio Public Records Law and to require all meetings of the JobsOhio Board of Directors to be open to the public, except when in an executive session.
Current Status: 5/15/2019 - House Economic and Workforce Development, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-185>
- HB202** **ELECTRIC VEHICLE INFRASTRUCTURE** (SMITH K, WEINSTEIN C) To establish the Electric Vehicle Infrastructure Study Committee.
Current Status: 10/1/2019 - House Transportation and Public Safety, (Fourth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-202>
- HB216** **CHAIN ESTABLISHMENT REGULATION** (SKINDELL M, KELLY B) To regulate employment practices of formula retail and food services establishment employers and contractors and to require the purchaser of a formula retail or food services establishment to retain certain employees.
Current Status: 5/22/2019 - House Commerce and Labor, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-216>
- HB220** **GOVERNMENT BLOCKCHAIN USE** (CARFAGNA R) To allow a governmental entity to utilize distributed ledger technology, including blockchain technology.
Current Status: 6/12/2019 - **REPORTED OUT AS AMENDED**, House Commerce and Labor, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-220>
- HB237** **SHIPPED LIQUOR** (MANNING D, UPCHURCH T) To allow spirituous liquor and mixed beverages to be shipped to consumers via an S liquor permit holder.
Current Status: 5/14/2019 - Referred to Committee House Commerce and Labor
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-237>
- HB238** **WHISTLEBLOWER PROTECTIONS** (CERA J, SCHERER G) To revise Ohio's whistleblower protection laws.
Current Status: 11/12/2019 - House Civil Justice, (Fourth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-238>

- HB242** **CONTAINER USE RESTRICTIONS** (LANG G, JONES D) To authorize the use of an auxiliary container for any purpose, to prohibit the imposition of a tax or fee on those containers, and to apply existing anti-littering law to those containers.
Current Status: 6/26/2019 - **REPORTED OUT**, House State and Local Government, (Fourth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-242>
- HB251** **CONTRACT ACTION-PERIOD OF LIMITATION** (LANG G, HILLYER B) To shorten the period of limitations for actions upon a contract.
Current Status: 11/12/2019 - House Civil Justice, (Sixth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-251>
- HB319** **LOCAL CONTROL-FIREARMS** (WEST T, MILLER A) To restore local authority to generally regulate firearms-related conduct.
Current Status: 9/24/2019 - Referred to Committee House State and Local Government
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-319>
- HB320** **PENDING BACKGROUND CHECK-FIREARMS** (WEST T) To prohibit a federally licensed firearms dealer from transferring a firearm while a background check is pending unless 30 days have elapsed.
Current Status: 9/24/2019 - Referred to Committee House State and Local Government
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-320>
- HB324** **DAMAGES-ADJUST FOR INFLATION** (MILLER A) To raise the limitations on damages for noneconomic loss and punitive damages in certain tort actions based on adjustments for inflation from the year 2005 to 2019.
Current Status: 9/24/2019 - Referred to Committee House Civil Justice
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-324>
- HB346** **VAPE PRODUCT SALES** (PATTON T) To prohibit the sale of flavored electronic smoking devices and flavored vapor products and to establish a committee to study the health risks associated with such products.
Current Status: 10/2/2019 - Referred to Committee House Health
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-346>
- HB347** **VAPE PRODUCT RETAILERS** (PATTON T) To place restrictions on retailers of vapor products.
Current Status: 10/2/2019 - Referred to Committee House Health
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-347>
- HJR1** **INITIATIVE PETITION SIGNATURE REQUIREMENTS** (KOEHLER K) Proposing to amend Sections 1a and 1g of Article II of the Constitution of the State of Ohio to modify

certain signature requirements for a proposed constitutional amendment by initiative petition.

Current Status: 6/30/2019 - Referred to Committee House Civil Justice

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HJR-1>

- SB1** **REDUCE REGULATORY RESTRICTIONS** (MCCOLLEY R, ROEGNER K) To require certain agencies to reduce the number of regulatory restrictions and to continue the provision of this act on and after August 18, 2019.
Current Status: 6/12/2019 - House State and Local Government, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-1>
- SB3** **DRUG SENTENCING REFORM** (EKLUND J, O'BRIEN S) To modify the controlled substance possession and trafficking prohibitions and penalties and the drug and alcohol abuse civil commitment mechanism.
Current Status: 11/13/2019 - Senate Judiciary, (Eighth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-3>
- SB33** **CRITICAL INFRASTRUCTURE FACILITIES OFFENSES** (HOAGLAND F) To modify certain criminal offenses with respect to critical infrastructure facilities and to impose fines and civil liability for damage to a critical infrastructure facility.
Current Status: 10/23/2019 - **BILL AMENDED**, House Public Utilities, (Fifth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-33>
- SB46** **PUNITIVE OR EXEMPLARY DAMAGES LIMITATION EXEMPTIONS** (EKLUND J) To expand the exemption from punitive or exemplary damages limitations in tort law that is related to certain felony convictions.
Current Status: 3/19/2019 - Senate Government Oversight and Reform, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-46>
- SB52** **CIVILIAN CYBER SECURITY RESERVE FORCES** (GAVARONE T) To create the civilian cyber security reserve forces, to make the Secretary of State a member of the Homeland Security Advisory Council, to require the Secretary of State to appoint a chief information security officer, to require the boards of elections to audit election results, and to make an appropriation.
Current Status: 10/25/2019 - **SIGNED BY GOVERNOR**; eff. 90 days
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-52>
- SB57** **HEMP REGULATION** (HILL B, HUFFMAN S) To establish conditions and requirements governing the regulation of hemp and hemp products, and to declare an emergency.
Current Status: 7/30/2019 - **SIGNED BY GOVERNOR**; eff. immediately
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-57>

- SB119 DAYLIGHT SAVINGS TIME** (ROEGNER K, PETERSON B) To exempt Ohio from daylight savings time.
Current Status: 11/13/2019 - Senate General Government and Agency Review , (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-119>
- SB124 MARITIME ASSISTANCE** (WILLIAMS S) To create the Ohio Maritime Assistance Program and to make an appropriation.
Current Status: 5/21/2019 - Senate Finance, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-124>
- SB140 EXEMPT KNIVES-CONCEALED WEAPONS** (UECKER J) To exempt knives not used as weapons from the prohibition against carrying concealed weapons and to eliminate the prohibition against manufacturing, possessing for sale, selling, or furnishing certain weapons other than firearms or dangerous ordnance.
Current Status: 10/17/2019 - House Criminal Justice, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-140>
- SB182 RAISE MINIMUM AGE-FIREARM PURCHASES** (THOMAS C, LEHNER P) To raise the minimum age to purchase a firearm to age 21 and to increase the penalty for improperly furnishing firearms to an underage person.
Current Status: 9/17/2019 - Senate Government Oversight and Reform, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-182>
- SB183 FIREARM TRANSFERS** (THOMAS C, LEHNER P) To require a firearm transfer to be made through a dealer, through a law enforcement agency, or pursuant to a specified exception, and to require a background check when a firearm is transferred.
Current Status: 9/17/2019 - Senate Government Oversight and Reform, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-183>
- SB186 VOTER REGISTRATION** (MANNING N, SYKES V) To create a voter verification and registration system, to modify the requirements for the administration of the statewide voter registration database, and to allow electors to register as affiliated with a political party.
Current Status: 9/18/2019 - Referred to Committee Senate Government Oversight and Reform
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-186>
- SB204 AIRPORT DEVELOPMENT DISTRICT** (SCHURING K, SYKES V) To authorize the creation of an airport development district for the purpose of funding public infrastructure improvements and attracting airlines and additional flights to a qualifying airport.
Current Status: 11/5/2019 - Senate Finance, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-204>

SCR2 **SIDE GUARDS-COMMERCIAL TRUCKS** (YUKO K, O'BRIEN S) To urge Congress to enact legislation requiring commercial trucks to use side guards and establishing side guard technical specifications.

Current Status: 3/6/2019 - Referred to Committee Senate Transportation, Commerce and Workforce

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SCR-2>

SJR2 **CONVENTION OF STATES** (HUFFMAN M) Application to the Congress of the United States for a Convention of the States under Article V of the Constitution of the United States that is limited to proposing amendments that impose fiscal restraints on the federal government, limit the power and jurisdiction of the federal government, and limit the terms of office for its officials and Members of Congress.

Current Status: 10/9/2019 - Referred to Committee Senate General Government and Agency Review

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SJR-2>



**BEFORE THE TRANSPORTATION, COMMERCE, AND WORKFORCE COMMITTEE
OF THE OHIO SENATE
SENATOR ROB MCCOLLEY, CHAIRMAN**

**TESTIMONY
OF
RYAN AUGSBURGER
VICE PRESIDENT
THE OHIO MANUFACTURERS' ASSOCIATION**

OCTOBER 23, 2019

Mr. Chairman and members of the Senate Transportation, Commerce, and Workforce Committee, my name is Ryan Augsburger and I am Vice President at the Ohio Manufacturers' Association (OMA). Thank you for the opportunity to provide proponent testimony on Senate Resolution 376 (SR376).

The OMA was created in 1910 to advocate for Ohio's manufacturers; today, it has nearly 1,400 members. Its mission is to protect and grow Ohio manufacturing.

Manufacturing is the largest of the state's 20 primary industry sectors. Manufacturing contributed more than \$112.2 billion in GDP according to the most recent data. This amounts to nearly 17% of the state's economy. According to the most recent federal data, more than 705,000 Ohioans work in manufacturing.

The OMA urges your support and fast consideration of SR376. The resolution urges Congress to ratify the U.S.-Mexico-Canada Agreement (USMCA). This agreement was signed by the chief executives of the United States, Mexico and Canada last year and has already been ratified by Mexico's Senate over the past summer.

The OMA believes passage of the USMCA is critical to the continued success of manufacturing in our state. In 2017, Ohio manufacturers sold \$27 billion of manufactured goods to Canada and Mexico, and more than 3,800 Ohio manufacturers export to Canada and Mexico.

Passing the agreement will:

- Strengthen and modernize America's innovation engine by including best-in-class intellectual property rules while setting new standards for today's economy.
- Expand U.S. manufacturing access to Canada and Mexico by ensuring that manufacturers can sell their products duty-free into those countries, while eliminating red tape at the border.
- Level the playing field between the United States, Mexico and Canada by raising standards, improving transparency, and prohibiting anti-U.S. discrimination and anti-competitive activity, while providing binding enforcement for all obligations under the agreement.

The jobs of nearly 103,000 Ohio manufacturing workers depend on exports to Canada and Mexico. American manufacturers cannot afford to lose access to important markets in Canada and Mexico, which together purchase more U.S.-made goods than our next 10 trading partners combined. Without the USMCA, Ohio's manufactured goods exports to Canada and Mexico could face as much as \$3.1 billion in extra taxes (compared to zero tariffs today).

The OMA and manufacturers across Ohio stand ready to discuss why passing the USMCA is so important to our state and the well-paying jobs that the industry provides.

We would like to thank President Obhof for his leadership on this resolution so important to Ohio's economy and its many families dependent on manufacturing. We urge this committee to quickly approve SR376.

Thank you. I will be more than happy to try and answer any questions from committee members.



MIKE DEWINE
GOVERNOR
STATE OF OHIO

Executive Order 2019-26D

Re-establishing DriveOhio as the Statewide Center for Smart Mobility

WHEREAS, Ohio has always been a leader in transportation innovation because the safe and easy movement of people and goods from place to place is a cornerstone of our economic success; and

WHEREAS, DriveOhio's mission is to advance connected and self-driving vehicle technology on the ground and in the air to increase safety, enhance mobility, expand access, improve reliability, and attract, prepare and retain Ohio's talent; and

WHEREAS, Ohio's geography, location within a single-day's drive of 60 percent of the North American population, four seasons of weather conditions, and mix of urban and rural areas provide a diverse landscape and strategic environment for researchers and manufacturers to test and develop advanced transportation technologies; and

WHEREAS, Ohio law encourages the testing and deployment of new technologies to facilitate and maximize the efficient use of Ohio's transportation assets; and

WHEREAS, Ohio is investing in smart mobility projects: including smart highways covering hundreds of miles of roadway like the U.S. 33 Smart Mobility Corridor, the I-90 Lake Effect Corridor and the I-670 SmartLane, and connected-city pilots, to test and refine advanced mobility technologies; and

WHEREAS, DriveOhio, in conjunction with the City of Columbus, the Columbus Partnership, The Ohio State University, and May Mobility, launched the first autonomous vehicle shuttle in December of 2018 along the Scioto Mile, completely free and open to the public; and

WHEREAS, additional autonomous vehicles, both in the Linden neighborhood of Columbus and the downtown area of Youngstown are expected in the coming years; and

WHEREAS, municipalities throughout Ohio have signed on to partner with DriveOhio to pursue autonomous and connected vehicle projects through collaboration with industry, education, and community partners; and

WHEREAS, Ohio is home to the Transportation Research Center Inc.(TRC), the largest independent automotive proving grounds in North America, which in July of 2019 cut the ribbon on the most expansive autonomous and connected vehicle testing center in the country; and

WHEREAS, Ohio's TRC houses the only research and testing lab for the National Highway Traffic Safety Administration (NHTSA), which assists with defining crash test standards, crash avoidance and crashworthiness testing and research, automobile defects testing and analysis, and cyber security issues; and

WHEREAS, the Unmanned Aerial System Center, located in Springfield Ohio, working with the Air Force Research Lab, successfully tested SkyVision, a radar system that has now been authorized to allow for true beyond visual line of sight testing for autonomous flying drones; and

WHEREAS, Ohio has invested more than \$14 billion in transportation infrastructure upgrades over the last seven years, making our highway system among the top-rated in the country; and

WHEREAS, the recently passed biennial Transportation Budget will invest \$8.5 billion over the next two years, including \$158 million per year in safety projects; and

WHEREAS, the state was recently awarded the automated driving system grant from the US Department of Transportation, totaling \$10.7 million, to test the effectiveness of autonomous technologies in rural areas; and

WHEREAS, in 2018 there were more than 294,000 crashes on Ohio's roads; and

WHEREAS, NHTSA's national research estimates that 94 percent of serious crashes are due to driver errors and up to 80 percent of those crashes involving unimpaired drivers could be avoided or mitigated with advanced transportation technologies;

NOW THEREFORE, I, Mike DeWine, Governor of the State of Ohio, by virtue of the authority vested in me by the Constitution and laws of this State do hereby order and direct that:

1. DriveOhio is hereby reauthorized as a statewide center for advancing smart mobility solutions under five pillars: Safety, Mobility, Access, Reliability, and Talent (SMART) in order to:

- a. Be a leader in the nation on bringing connected and autonomous vehicle testing and deployments on the ground and in the air under all five of the SMART pillars, with an emphasis on safety;
- b. Bring together those who are responsible for building infrastructure in Ohio with those who are developing the advanced mobility technologies needed to allow our transportation system to reach its full potential by reducing serious and fatal crashes and improving traffic flow;
- c. Act as a statewide single point of entry for companies and innovators looking to test or build smart mobility technologies in Ohio to enable them

to easily work and coordinate with various government entities on the next generation of advanced transportation technologies;

- d. Develop near-, medium-, and long-term objectives, goals, and policies for the State of Ohio to leverage its infrastructure and incorporate technology that will improve safety, planning, and capacity for the benefit of the traveling public, business, and the State;
- e. Develop and establish statewide standards which promote the adaptable and consistent development of intelligent transportation technology throughout the State;
- f. Test and deploy smart technologies with industry and local government partners to determine their utility in solving real world problems in traffic safety and congestion;
- g. Create a clearinghouse of technology solutions after performing real world testing to allow other communities to learn from the deployments of other areas and deploy similar solutions;
- h. Make strategic recommendations concerning the type and use of technology for deployment and identify and recommend innovative financing opportunities for technologies; and
- i. Coordinate with the Governor's Office of Workforce Transformation and the Departments of Higher Education, Job and Family Services, and the Developmental Service Agency to prepare Ohio's workforce for the transition of transportation-related jobs that will be needed in the future.

2. DriveOhio will focus on improving the safety of our roadways through the use of implementing technology that assists in the safe transportation of people and goods. DriveOhio will prepare a safety report each year detailing the safety projects that DriveOhio has been developing and will provide periodic updates on the safety programs that it is involved in as necessary.

3. DriveOhio will include the operations of the Ohio Unmanned Aerial Systems Center (UAS Center) and FlyOhio research initiatives. DriveOhio and FlyOhio will work together in promoting technology solutions that work across multiple platforms and modes for Ohio.

4. An Executive Director of DriveOhio shall be appointed by and serve at the pleasure of the Director of the Ohio Department of Transportation. The Executive Director of DriveOhio shall report directly to the Director of the Ohio Department of Transportation. The Executive Director shall oversee and direct the implementation of DriveOhio activities and the administration of DriveOhio. The DriveOhio Executive Director shall have the authority and discretion to establish the organizational structure of DriveOhio, appoint necessary staff, appoint members to the working groups, and to request and receive advice, information, and recommendations from the DriveOhio Advisory Board.

5. The Directors of the Ohio Departments of Transportation, Insurance, Education, Higher Education, Public Safety, Administrative Services, the Developmental Services Agency, and the Governor's Office of Workforce Transformation, shall work with the Executive

Directors of InnovateOhio, JobsOhio, the Ohio Turnpike Infrastructure Commission, the Adjutant General, and the Chair of the Public Utilities Commission of Ohio, to:

- a. Identify an employee within the agency that will serve as the dedicated liaison between DriveOhio and each agency and will be able to answer questions and provide immediate guidance on all issues facing DriveOhio;
- b. Meet periodically at the call of the Executive Director to discuss how each of the agencies can work together to support the goals and objectives of DriveOhio;
- c. Provide guidance on regulatory issues in order to present a unified State response to questions regarding the testing and deployment of advanced transportation technologies; and
- d. Maintain the following working groups with a representation from industry, regulatory, and research entities and direct them to provide information and recommendations on the following:
 - i. Data, Analytics, and Security;
 - ii. Infrastructure;
 - iii. Education and Workforce Development;
 - iv. Unmanned Aerial Systems;
 - v. Telecommunications and Right-of-Way;
 - vi. First Mile/Last Mile;
 - vii. Vehicle Deployment;
 - viii. Budget and Partnerships;
 - ix. Communications and Public Education;
 - x. Policy and Regulations; and
 - xi. Economic Development.

6. The DriveOhio Advisory Board (“Board”) is hereby established to advise the Executive Director of DriveOhio. The Board’s duties shall consist of the following:

- a. Review and report to the Executive Director of DriveOhio on technological advancements in the field of smart mobility, data analytics, data security, workforce development, funding and research opportunities, and regulatory developments;
- b. Provide recommendations on the strategic, rapid procurement and deployment of smart mobility technologies throughout the State;
- c. Provide overall guidance and strategic direction to the activities of DriveOhio; and
- d. Perform other such related work as DriveOhio shall request.

7. The Board shall be chaired by a designee of the Director of the Ohio Department of Transportation. Members other than the chair shall be appointed by the Governor. No member of the Board, including the chair, shall also serve as the DriveOhio Executive Director. Members should represent business and industries including telecommunications, applications, insurance, data, cyber security, automotive, research and testing, local

governments including smart mobility programs, municipal planning organizations, councils of government, other government entities responsible for infrastructure, and at least one member that represents a public facing industry.

8. The chair shall call meetings as the chair deems necessary. The chair shall preside over all meetings of the Board. The Director of the Ohio Department of Transportation shall also designate one of the members appointed by the Governor to be the vice-chair, should the chair be unable to perform his or her duties. The vice-chair shall then perform the duties of the chair until the chair is able to again perform his or her duties, or until the Director of the Ohio Department of Transportation designates a new chair of the Board.

9. Members of the Board and non-Board members of any working groups shall serve without compensation for their work.

10. The number of members of the Board, as well as the respective terms of each member, shall be set by the Governor provided that during any such term, any member is subject to removal at the pleasure of the Governor.

11. The Board, the committees, and other interested parties shall form the DriveOhio Alliance, which is chaired by the Executive Director. The Alliance shall provide information to parties interested in the goings on of the organization and shall be where the committees report progress on any initiatives. Outside parties are encouraged to be a part of the Alliance.

12. On July 30, 2020, and each year thereafter, the Executive Director of DriveOhio shall present a report to the Governor as to the progress of DriveOhio over the past year.

13. Any additional staff support and resources necessary for DriveOhio to fulfill its obligations as outlined in this Executive Order shall be provided through the Ohio Department of Transportation. This shall include, but is not limited to, necessary resources to accomplish business functions, office and meeting space, and information technology support.

14. As the Director of the Department of Transportation deems necessary, and pursuant to the Ohio Revised Code and the Ohio Administrative Code, contracts may be entered into on behalf of DriveOhio with government and/or private entities for services in order to facilitate the implementation and operation of DriveOhio's responsibilities.

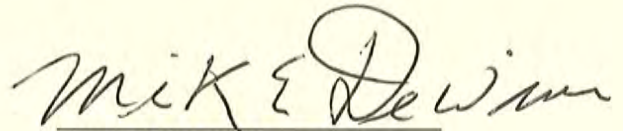
15. DriveOhio will work with its partners in State government and with JobsOhio to continually identify and disperse monies to be able to forward projects that test technology and deploy solutions to specific problems faced by Ohio and its political subdivisions. DriveOhio and JobsOhio will work together to promote Ohio as a hub of technological information in efforts to recruit new tech companies to the State. DriveOhio, through the Department of Transportation, will seek federal grants and other funding opportunities, including through public-private partnerships as appropriate to be able to develop new projects and continue to promote Ohio as being on the cutting edge of this new technology.

16. The Directors of the Departments of Transportation, Public Safety and Administrative Services, with guidance from the Executive Director of DriveOhio, shall develop plans to deploy on-board communications devices in all State of Ohio fleet vehicles within four years.

17. DriveOhio shall continue to work with local governments and stakeholders on smart mobility projects and new and innovative autonomous and connected vehicle projects.

18. Executive Order 2018-01K of Governor John Kasich signed January 18, 2018 is hereby rescinded.

I signed this Executive Order on October 29, 2019 in Columbus, Ohio and it will not expire unless it is rescinded.



Mike DeWine, Governor



ATTEST:

Frank LaRose, Secretary of State



Attorney General Dave Yost Statement on U.S. District Court Negotiating Class Ruling

9/12/2019

(COLUMBUS, Ohio) — Ohio Attorney General Dave Yost today issued the following statement regarding U.S. District Judge Daniel Polster’s ruling allowing the negotiation class in the opioid litigation before the U.S. District Court for the Northern District of Ohio:

“This process is fundamentally flawed because it binds people to buy a pig in a poke. Every community has to make a determination whether they’re in or out before they even know what the deal is. Local governments will have to make a big decision. And if they do nothing, that *is* their big decision – they’re in, whether it’s good, bad or ugly.”

MEDIA CONTACT:

David O’Neil: 614-728-6069

Columbus Metropolitan Club Forum October 16

There were 4,293 reported deaths due to opioid overdose in 2017, making Ohio the state with the second-highest rate of overdose deaths in the US. Fentanyl accounted for 3,523 of those deaths, a 25-fold increase over 2012.

To discuss where Ohio is headed in its fight against opioid addiction, we welcome **Dave Yost**, Attorney General of the State of Ohio. Yost will discuss the approaches both law enforcement and the judiciary are taking, as well as medical research, treatment options, and the flow of settlement money. **Karen Kasler**, Bureau Chief of the Statehouse News Bureau, will interview.

Watch The Recordings: <https://youtu.be/E0TWq668ZM>



DAVE YOST

OHIO ATTORNEY GENERAL

Administration
Office 614-728-5458
Fax 614-466-5087

October 17, 2019

North Carolina Attorney General Josh Stein
Dept. of Justice
P.O. Box 629
Raleigh, NC 27602-0629

Pennsylvania Attorney General Josh Shapiro
Pennsylvania Office of Attorney General, 16th Floor
Strawberry Square
Harrisburg, PA 17120

Tennessee Attorney General Herbert Slatery III
425 5th Avenue North
Nashville, TN 37243

Texas Attorney General Ken Paxton
Capitol Station
P.O. Box 12548
Austin, TX 78711-2548

Dear Colleagues,

Thank you for taking upon yourselves the burden of attempting to find a way forward toward a global settlement in the various opioid-related lawsuits. This is a difficult task, and I know you have spent a great deal of time and effort to make the commendable progress you have reportedly made to date.

I write today to express several concerns. First, the lack of consultation with other attorneys general regarding terms of a possible settlement increases the risk of a result similar to what we saw in the Purdue/Sackler negotiations, where fully half of the states are not in agreement. It is obvious that such an outcome would not produce a workable settlement in an environment that does not include a bankruptcy judge to adopt a plan by order over the objections of some creditors.

There are at least three critically important elements that should be part of these discussions, and without which it will be difficult for Ohio to join any settlement.

The first, and of paramount importance, is a mechanism to ensure that any recovery is spent on abating and remediating the addiction epidemic. A consent decree with terms that prevent diversion to general-fund uses, complete with an enforcement mechanism, is a prerequisite. Every expert who has looked at this issue believes our country will be dealing with the fallout from this class of drugs for many years into the future. Any recovery must be directed toward solving the problem, and not diverted to other uses. We will not have another opportunity.

Second, attorney fees must be addressed. Ohio law tiers contingency fees for outside counsel for the state, capped at \$50 million in aggregate. This law does not apply to local jurisdictions, many of whom have contingency fee contracts of as much as a third of any recovery.

For illustration, if a settlement were to produce \$1 billion, the State of Ohio would pay its outside counsel \$50 million -- a hefty fee, to be sure, but a fee for work actually performed and containing some reward for the risk undertaken. Counsel for the local governments -- who are pursuing fractional claims which belong to the State of Ohio and are representing the same citizens as the State -- could collect more than almost seven times as much, or \$330 million.

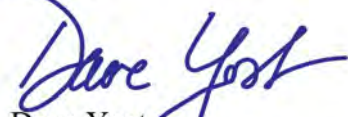
Leaving aside the duplicative nature of the local legal work, counsel for the local governments could receive a windfall of over \$275 million. Certainly, those lawyers should be paid for their work, but the lawyers representing only a portion of the people of Ohio should not reap greater rewards than the lawyers who are representing all of the people.

That extra \$275 million should go to fight the epidemic, not to line the lawyers' pockets. Any settlement must include terms to address this gross inequity.

Finally, there has been no recognition that only a few states have actually filed claims against the distributors. Ohio was not only among the first to bring these claims, it is one of only a handful of states to sue all three of the major distributors. Any agreement that treats non-litigating states the same as those who have sat on the sidelines watching while others carried the battle is unfair and inappropriate.

I am sure other states have concerns that need to be addressed. I urge you to expand your process to be more inclusive, lest your final goal prove in the end elusive.

Yours,



Dave Yost
Attorney General of Ohio

For Immediate Release

Contact: Jamie Karl
Managing Director, Communication Services
(614) 629-6821
jkarl@ohiomfg.com



Manufacturers' Statement on 'Dark Waters' Trailer *New effort aims to support Ohio River Valley job creators*

COLUMBUS, Ohio – The Ohio Manufacturers' Association has announced an initiative to push back against Hollywood's growing use of "agenda-tainment" that targets local job creators. This follows the release of the "Dark Waters" trailer, an upcoming film based on *The New York Times Magazine's* profile of a trial attorney who spent years targeting a manufacturer that employs hundreds of Ohioans and West Virginians.

"Our communities and our industries are increasingly under attack from a well-coordinated network of Hollywood stars, big-funders, activists, and trial attorneys," said OMA President Eric Burkland.

"Agenda-tainment' films, like Dark Waters, are all about scoring political points. They ignore science and truth – and fabricate increasingly absurd events. By scaring the public, these films seek to hijack the public policy process so trial lawyers can profit.

"The Ohio Manufacturers' Association will not let Hollywood activists rewrite our story. Ohio River Valley manufacturers employ hundreds of thousands of hard-working men and women who are committed to the environment in which they live. In the weeks ahead, we intend to expose Dark Waters' troubling agenda and communicate the truth about the communities and job creators that are targeted."

###

The Ohio Manufacturers' Association is Ohio's largest statewide business association comprised solely of manufacturers. Established in 1910, the OMA's mission is protect and grow Ohio's manufacturing industry, while representing small and large manufacturers in every industrial sector. Manufacturing is Ohio's largest economic sector, employs more than 700,000 Ohioans, and contributes more than \$100 billion annually to the state economy. For more on the OMA, visit www.ohiomfg.com – or to follow us on [LinkedIn](#), [Twitter](#), and [Facebook](#).

TRUTH

ABOUT DARK WATERS

Agenda-Tainment 101: Inciting Action Through One-Sided Storytelling

November 6, 2019

Agenda-tainment is designed to advance a political objective, often at the expense of the truth. It cherry-picks facts and blurs the line between [journalism and storytelling](#), playing on emotions to spread fear and drive action.

While agenda-tainment takes a wide variety of forms – including television, documentaries, books and more – films are typically considered most effective and impactful.

TRUTH

ABOUT DARK WATERS

Big Bucks, Big Lawsuits: Contingency Fee Agreements Explained

October 16, 2019

Trial lawyers – including the one at the center of *Dark Waters* – are hoping Mark Ruffalo’s movie will bring them a massive cash windfall. In a growing number of states, prominent law firms are teaming up with attorneys general to file lawsuits against manufacturers using a contingency system that [“raises serious ethical considerations” and encourages “unseemly political relationships between state officials and outside lawyers.”](#)

So what are contingency fee agreements? How do they apply to *Dark Waters*?

Here’s what you need to know about this [“multibillion-dollar industry.”](#)

TRUTH

ABOUT DARK WATERS

Seven Things You Need to Know About New 'Dark Waters' Companion Book

IT CREATES FALSE, MISLEADING AND WILDLY INACCURATE IMPRESSIONS.

In the real world, manufacturing is powered by people. People who care about their health, the environment and their communities. In the world as Bilott sees it, manufacturers are cold, evil and calculating – and willing to make themselves sick just to make a dollar.

In reality, industry science – much of which is publicly available – aligns with Independent and government studies that have consistently determined that low-level exposure to PFAS does not cause ill health effects.

TRUTH

ABOUT DARK WATERS

THE BIG SCREEN OFTEN FAILS TO SHOW THE BIGGER PICTURE.

Dark Waters is no exception. This film – backed by a well-financed network of activists, investors, and trial attorneys – ignores the truth in a bid to make money and boost political special-interest groups. In a thinly veiled ploy to sell tickets and score political points, Dark Waters and its backers misrepresent our way of life in the Ohio River Valley.

We're here to set the record straight.

<https://www.youtube.com/watch?v=9kRPICyAErE>



MEMORANDUM

TO: Ohio Manufacturers' Association
Government Affairs Committee

FROM: Bricker and Eckler LLP
Christopher N. Slagle, OMA General Counsel

DATE: November 13, 2019

RE: November 2019 OMA Government Affairs Committee Report

I. November 2019 Government Affairs Committee Counsel Report.

Please find below several political, legislative, and judicial efforts our Firm has been monitoring for the OMA.

II. Statewide Ballot Issues Overview.

There are no statewide ballot issues placed for the November 2019 general election ballot. There are currently several statewide issues attempting to qualify for the November 2020 general election.

H.B. 6 Referendum. Petitioners, Ohioans Against Corporate Bailouts (OACB), seeking to overturn H.B. 6 failed to collect the required 265,744 signatures before the bill's effective date (October 22). Counsel reported previously regarding litigation surrounding the referendum effort. Two cases are currently pending. More details are provided below.

Gun Background Checks. A group has filed its summary and is free to collect an initial 132,000 signatures for an initiated statute closing perceived loopholes in background checks for certain firearms purchases. The Attorney General certified the petitions on July 19, 2019, and the signatures are due to the Secretary of State in late December 2019. The group held a "day of action" during the 2019 General Election in an effort to boost signature gathering efforts.

National Popular Vote. A group has received approval from the Ohio Attorney General to begin collecting 442,000 signatures for an amendment to the Ohio Constitution requiring that Ohio presidential electors cast their Electoral College votes to the winner of the national popular vote for President of the United States. The petition was certified by the Attorney General on May 21, 2019, and signatures are due to the Secretary of State by July 4, 2020.

OMA Government Affairs Committee – Counsel Report

November 13, 2019

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III. Pending Legislation (2019-2020).

The General Assembly returned in September with committee hearings and full floor sessions. Both chambers have been active and continue to introduce new legislation. In the August report, a separate analysis was provided on the business income tax deduction elimination impacting attorneys and lobbyists. In S.B. 26, the business income tax deduction was reinstated for attorneys and lobbyists. Governor DeWine signed S.B. 26 into law on November 6, 2019.

Employment Law Reform. Introduced in the 132nd General Assembly as H.B. 2 by Representative Bill Seitz (R-Cincinnati), this legislation has yet to be reintroduced this session. The legislation has been a priority of the business community in the past.

S.B. 1 – Reduction of Agency Regulations. On February 12, 2019, Senator Rob McColley (R-Napoleon) and Senator Kristina Roegner (R-Hudson) introduced this bill, which requires agencies to reduce the number of regulatory restrictions. During its second hearing, many business groups provided proponent testimony explaining that the bill will support economic growth and business development in Ohio. The bill passed the Senate on May 8, 2019 and has been referred to the House State and Local Government Committee. Sponsor testimony was held in House State and Local Government Committee on June 12, 2019.

Specifically, the bill requires a state department and/or agency to amend or rescind rules identified in its inventory of regulatory restrictions as necessary to reduce the total number of regulatory restrictions by 30 percent according to a specific schedule set forth in the language. The bill also creates a website where individuals and businesses can report burdensome regulations to the Joint Committee on Agency Rule Review.

A version of S.B. 1 – a priority of Senate President Larry Obhof – was included in H.B. 166 – Ohio’s biennial operating budget passed by the Ohio General Assembly on July 17, 2019.

S.B. 11 – Discrimination. This bill, which is sponsored by Senator Nickie Antonio (D-Lakewood), will enact the Ohio Fairness Act to prohibit discrimination on the basis of sexual orientation or gender identity or expression. The bill seeks to add mediation to the list of informal methods by which the Ohio Civil Rights Commission may use to induce compliance with Ohio’s Civil Rights Law before instituting a formal hearing. The bill also will uphold existing religious exemptions under Ohio Civil Rights Law.

It was introduced on February 12, 2019 and is assigned to the Senate Judiciary Committee where it had its third hearing on May 22, 2019. This bill has received no further hearings as of the end of October. Previous versions of the bill received strong support from the business community. Many business groups are supportive of the bill because they recognize the importance of diversity

OMA Government Affairs Committee – Counsel Report

November 13, 2019

Page 3 of 12

in the workplace and believe that improvements should be made to protect against discrimination of any type.

Also, Representatives Brett Hillyer (R- Uhrichsville) and Michael Skindell (D- Lakewood) introduced a companion bill in the Ohio House on October 17, 2019. H.B. 369 was referred to the Ohio House Civil Justice Committee. This bill has not received a first hearing yet.

H.B. 238 – Ohio Whistleblower Protection Law. This bill is sponsored by Representative Jack Cera (D-Bellaire) and Gary Scherer (R-Circleville). It was introduced on May 7, 2019 and was referred to the House Civil Justice Committee where it has had two hearings. The bill expands the protections provided to private and public sector employees under Ohio’s Whistleblower Protection Law (OWPL). Among many things, it increases the statute of limitations from 180 days to one year after the date the disciplinary or retaliatory action was taken. It eliminates the requirement that a report must be made pursuant to a specific process to be protected under OWPL. It also expands protection under OWPL to an employee who refuses to participate in illegal activities that the employee reasonably believes are illegal activities.

H.B. 352- Employment Law Uniformity Act. Representative Jon Cross (R- Kenton) and Representative George Lang (R- West Chester) introduced H.B. 352 on October 1, 2019. H.B. 352 makes several changes to the process of the Ohio Civil Rights Commission. H.B. 352 also reduces the statute of limitations on civil actions for employment discrimination claims from six years to two years. This bill prohibits the dual action of filing an administrative claim with the Ohio Civil Rights Commission and filing a lawsuit. Instead, a claim for workplace discrimination must be filed with the Ohio Civil Rights Commission prior to commencing a lawsuit. H.B. 352 also eliminates personal liability for supervisors, managers or other employees of an employer unless the discriminatory act is outside the scope of employment, retaliation against the claimant or aides in a discriminatory practice. In addition, this bill codifies an affirmative defense, which provides an employer to rebut a claim if the employer can exhibit that it enacted anti-harassment, policies and complaint procedures and the employee failed to utilize the policies and procedures. H.B. 352 also provides clarification on the available avenue of filing an age discrimination lawsuit. This bill was referred to the House Civil Justice Committee and has received one hearing in October.

H.B. 378 – Unemployment Compensation. This bill is sponsored by Representative Jon Crossman (D-Parma) and Michele Lepore-Hagan (D-Youngstown). H.B. 378 was introduced on October 22, 2019 and referred to the Ohio House Insurance Committee. The bill allows employees on strike to receive unemployment compensation. H.B. 378 contains an emergency clause; therefore, the bill would take immediate effect if it was signed by Governor DeWine. The legislation has not yet been heard by the House Insurance Committee.

H.J.R. 2 – Prohibiting Certain Foreign Investment in Critical Infrastructure Located in Ohio. A joint resolution sponsored by Representatives Jamie Callender (R-Concord) and Don Manning (R-

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New Middletown), H.J.R. 2 seeks to place a constitutional amendment on the 2020 General Election ballot. Joint Resolutions require 3/5th majority votes by both chambers of the General Assembly to pass, meaning 60 votes in the House and 20 votes in the Senate. The proposal prohibits foreign businesses and individuals from having majority ownership interest in critical infrastructure located in Ohio. The resolution defines what “critical infrastructure” is subject to the resolution’s requirements and includes projects like power plants (coal, nuclear, and natural gas), water treatment plants, intrastate electric transmission lines, and intrastate natural gas pipelines. It also requires divestment of foreign investment in any critical infrastructure determined to be majority owned or controlled by foreign investment. Counsel has included a more comprehensive summary of H.J.R. 2 along with this report.

IV. Tort Reform.

We are currently monitoring various tort reform legislative efforts and await the possible re-introduction of certain civil justice legislative items from prior legislative cycles. We do not know whether or if at all civil justice efforts will be curtailed or enhanced given the new leadership in the General Assembly, Governor’s Office, and other statewide executive offices.

Third Party Litigation Funding. As of this date no legislation has been introduced addressing this issue.

Statute of Limitations on Contracts. Introduced last session as H.B. 694 by Representative George Lang (R-West Chester), this legislation was designed to shorten Ohio’s statute of limitations for actions brought related to contracts and bring Ohio in line with other states to maintain Ohio’s competitiveness with other similarly situated states. The legislation received two hearings in the House Civil Justice Committee. The bill was reintroduced on May 21, 2019 as H.B. 251 and was referred to the Civil Justice Committee where it has received three hearings.

The introduced language changed the statute of limitations from eight years to three years for causes of action related to agreements in writing and changed the statute of limitations from six years to three years for causes of action related to agreements not in writing.

After the third hearing of H.B.251, the bill was amended. Sub. H.B. 251 changes the statute of limitations from eight years to six years for causes of action related to agreements in writing and changed the statute of limitations from six years to four years for causes of action related to agreements not in writing. Additionally, the bill now requires a debt collector, who uses Ohio statute of limitations must also use Ohio rules regarding interest rates. This language was a compromise with debt collection community. The statute of limitations is still less than the current eight years. However, conversations and interested party meetings continue around lowering the statute of limitations closer to the three years in the original bill language.

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S.B. 46 – Punitive or Exemplary Damages Limitations Exceptions. Senator John Eklund (R-Chardon) introduced this legislation on February 12, 2019. The bill was referred to the Senate Government Oversight and Reform Committee where it has had two hearings.

The legislation exempts from punitive or exemplary damages limitations in tort law related to felonies or strict liability offenses that have as an element of the offense one or more mental states of purposely and knowingly as described in section R.C. 2901.22.

Statute of Limitations / Certain Criminal Offenses. Recent investigations into former Ohio State University team physician Dr. Richard Strauss have led to certain Ohio elected officials – including Governor Mike DeWine and Attorney General Dave Yost – to call for an end to certain statutes of limitations when criminal issues are present, including rape. Strauss is accused of sexual conduct against more than 177 Ohio State student athletes between 1979 – 1997. Attorney General Yost, along with former Attorneys General Betty Montgomery, Nancy Rodgers, Jim Petro, Richard Cordray and Lee Fisher sent a letter on June 3, 2019 to legislative leaders in the Ohio General Assembly calling for an elimination to Ohio’s 20 year statute of limitations on rape. We will monitor closely the impact of the possible changes here and that to which the expansion of civil recovery may follow.

On June 18, 2019, Representative Brent Hillyer (R-Uhrichsville) introduced H.B. 249. H.B. 249 will grant a victim of sexual misconduct committed during a specified period by a physician employed by a land grant university a right of action against the university. This bill has received five hearings in the House Civil Justice Committee. We will continue to monitor the status of this bill as it moves through the legislative process.

V. Litigation and Amicus Activity Update

A. Monitored Cases.

1. Lake Erie Bill of Rights Litigation – *Drewes Farm*.

On February 26, 2019, with only nine percent of the electorate voting in a special election in Toledo, the Lake Erie Bill of Rights (“LEBOR”) passed.

The day after the special election, Drewes Farm filed an action in federal district court in Toledo challenging the LEBOR as unconstitutional. *See Drewes Farm Partnership v. City of Toledo*, (N.D. Ohio, W.D.), Case No. 3:19-cv-00434-JZ. The case is assigned to Judge Zouhary. Drewes Farm sought a preliminary injunction and a declaratory judgment. The parties agreed to stay enforcement of the LEBOR and the Court put the case on a fast track. The State of Ohio was permitted to intervene as a plaintiff. Toledoans for Safe Water, Inc. was not permitted to intervene as a defendant. Toledoans for Safe Water, Inc. filed an interlocutory appeal, which was later voluntarily dismissed. The district court issued an expedited scheduling order.

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On June 6, 2019, Drewes Farms and the State filed motions for judgment on the pleadings. Briefing on these motions is to be completed by August 19, 2019. Toledoans for Safe Water, Inc. (which was not permitted to intervene as a party) was granted leave to file an amicus curiae brief opposing the motions for judgment on the pleadings. Briefing on the motions for judgment on the pleadings was completed on September 6, 2019. A record hearing has been scheduled for January 28, 2020 before Judge Zouhary. Prior to the hearing, the court will forward questions to the parties which will serve as the agenda for the hearing.

2. *State of Ohio v. Du Pont de Nemours and Co., Washington County Common Pleas Court, No. 18OT000032 (February 8, 2018).*

On February 8, 2018, Ohio Attorney General Mike DeWine filed a lawsuit against DuPont and the Chemours Company in the Washington County Common Pleas Court alleging that the company released perfluorooctanoic acid (PFOA) from its 1,200 acre facility on the Ohio River for decades, all while knowing the harm the toxic chemical posed to people and the environment.

The complaint cites a 2017 University of Cincinnati study that found residents of the Mid-Ohio River Valley had elevated levels of PFOA. The state further alleges that at least 150,000 pounds of the chemical used to manufacture Teflon products was put into the Ohio River in the 1980s and an additional 350,000 pounds was discharged into the river in the 1990s. The complaint alleges that DuPont negligently caused environment contamination and created a public nuisance through its release of PFOA in the air, soil, and water.

The state is asking for (1) a declaration of DuPont's duty to compensate the state for expenses related to the contamination from the chemical; (2) damages for injury to the state's natural resources; (3) an award of present and future costs to clean up the contamination; and (4) restitution damages for profits DuPont obtained through the conduct alleged in the complaint.

On April 12, 2018, Defendants each filed a motion to dismiss. DuPont argues that the court lacks jurisdiction because the US EPA consent orders preempt such claims and that the state lacks standing. Defendant Chemours Company's motion to dismiss argues that the state failed to state a claim upon which relief can be granted against Chemours. On May 14, 2018, the state filed its memoranda in opposition to Defendants' motions to dismiss. The motions to dismiss have been fully-briefed and argument was held on July 20, 2018, but the Court has not yet decided any of them.

On October 12, 2018, the Little Hocking Water Association ("Little Hocking") filed a motion to intervene as a plaintiff. The State opposed the motion. This motion has been fully-briefed and the parties are awaiting the Court's decision.

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In January 2019, this case was assigned to Judge Timothy Hogan, a retired judge from Hamilton County, Ohio. In late February, Plaintiff requested a status conference with the Court in late March to address the pending motion to dismiss, the pending motion to intervene, and to discuss a scheduling order.

On June 4, 2019, the court denied the Defendants' motions to dismiss and also denied Little Hocking's motion to intervene. Little Hocking filed a motion for reconsideration, which awaits the court's decision.

On July 5, 2019, Little Hocking also appealed from the June 4 decision denying its motion to intervene. This appeal is pending in the Fourth District Court of Appeals, designated as Case No. 19CA000015. On July 25, the court of appeals ordered appellant to file a memorandum addressing the issue of jurisdiction. If the court of appeals lacks jurisdiction (for lack of a final order or because the appeal was not timely filed), the appeal will be dismissed. Briefing on this issue has not been completed.

On July 29, 2019, Plaintiff filed an amended complaint to add claims for actual and constructive fraudulent transfer under the Uniform Fraudulent Transfer Act, R.C. 1336.01, *et seq.* On August 28, 2019, Defendant filed a motion to separate and stay Plaintiff's claims for actual and constructive fraudulent transfer. The State opposed this motion. To date, the Court has not ruled on it.

3. *State of Ohio v. Purdue Pharma L.P., et al.*, Ross County Common Pleas Court, No. 17CI000261.

On May 31, 2017, Ohio Attorney General Mike DeWine filed an action in Ross County Common Pleas Court against several manufacturers of opioids, including Purdue Pharma (which sold OxyContin) and Endo Health Solutions (which sold Percocet). The lawsuit alleges that the defendant drug companies violated the Ohio Consumer Sales Practices Act and created a public nuisance by disseminating false and misleading statements about the benefits and risks of opioids. The suit alleges that the defendant drug companies' conduct increased the prescription of opioids and fueled Ohio's opioid crisis. Among other remedies, the State seeks an injunction to stop continued misrepresentations and damages for the money the State spent on opioids.

The drug company defendants moved to dismiss the complaint and sought a stay of discovery. The motions to dismiss are fully briefed. On March 28, 2018, the trial court denied defendants' motion to stay discovery pending the results of the multi-district litigation, but granted their motion to stay discovery pending the trial court's ruling on the motions to dismiss. On April 30, 2018, the trial court held oral argument on defendants' motions to dismiss (and other pending motions).

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On August 22, 2018, the trial court denied all motions to dismiss. It also vacated the stay on discovery, allowing discovery to proceed. Defendants have filed answers. The Court held a status conference on April 5, 2019. In early May, the defendants filed a motion to compel discovery from the State. The State opposed this motion and it is fully briefed.

The case had been scheduled for a multi-week trial, beginning on August 10, 2019, but no trial commenced on that date. Since May 2019, there have been numerous filings to compel the State, its agencies, and the governor's office to provide discovery. As of November 8, 2019, the court had not decided these discovery disputes. Several subpoenas *duces tecum* have been served on third parties.

On September 12, 2019, the state moved for leave to file an Amended Complaint, which was granted. On September 16, 2019, Purdue Pharma filed a notice of suggestion of bankruptcy and automatic stay of proceedings. The State moved to server the claims against Purdue Pharma. The case is proceeding against the remaining defendants.

4. *State of Ohio v. McKesson Corporation, et al.*, Madison County Common Pleas Court, No. CVH20180055.

On February 26, 2018, Ohio Attorney General Mike DeWine filed an action in Madison County Common Pleas Court against the following distributors of opioids: McKesson Corporation, Cardinal Health, Inc., AmerisourceBergen Drug Corporation, and Miami-Luken, Inc. The lawsuit alleges, among other things, that these distributors acted irresponsibly in oversupplying the market in and around Ohio with opioids and failed to report suspicious orders to the U.S. Drug Enforcement Agency and the Ohio Board of Pharmacy. The suit alleges that these companies should have known that the volume of opioids supplied far exceeded what could responsibly be used in Ohio, thereby fueling Ohio's opioid epidemic.

The State seeks a number of remedies, including punitive damages and compensatory damages for increased costs Ohio incurred for criminal justice, healthcare, social services, and education related to the opioid epidemic.

On May 30, 2018, Amerisource Bergen Drug Corp., Cardinal Health, Inc. and McKesson Corp. filed a joint Civ.R. 12(B)(6) motion to dismiss the complaint. On June 1, 2018, Miami-Luken, Inc. filed a Civ.R. 12(B)(6) motion to dismiss the complaint. The motions to dismiss are fully-briefed and awaiting a decision.

In January and February 2019, two defendants filed motions to compel the State to provide discovery responses. These defendants assert that the State's objections to the discovery responses are baseless. The State opposed the motions to compel. The court denied the motions to compel.

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On May 20, 2019, the court denied the defendants’ motions to dismiss. Answers were filed on July 3, 2019. Also on July 3, 2019, the State filed a motion seeking an order to prohibit speaking objections during depositions. On July 15, 2019, the court granted this motion. Defendants have filed several pro hac vice motions to admit out-of-state counsel to participate in this case.

On July 25, 2019, the Court entered a stipulated protective order.

Several non-party defendants that have been served with subpoenas (such as the Office of Budget and Department of Public Safety) have moved to quash and for protective orders.

Trial is scheduled to commence on October 19, 2020.

B. Amicus Cases.

1. *New Riegel Local School Board of Education v. The Buehrer Group Architecture & Engineering, Inc.*, Ohio Sup. Ct. No. 2018-0189 and 2018-0213.

This case involves construction defects to a school building. The issue is whether the ten-year statute of repose for improvements to real property (R.C. 2305.131) applies.

The trial court held that the statute of repose for improvements to real property applies to any type of civil action, including contract claims, and dismissed the complaint, finding that it was filed after the repose period had expired.

The Third District Court of Appeals reversed on the basis of a 1986 Ohio Supreme Court decision construing a former statute of repose. In that decision, *Kocisko v. Charles Shutrump & Sons Co.*, 21 Ohio St.3d 98, the Ohio Supreme Court held that the statute of repose applied only to tort claims and not to contract claims. Because the claim at issue is characterized as a contract claim, the Third District followed *Kocisko* and did not apply the current statute of repose.

The OMA joined with the Ohio Insurance Institute and other organizations on an amicus brief in support of the Appellant. Amici asserted that the architects, designers, builders and other construction industry professionals depend on uniform interpretation of the currently-governing statute of repose and that it plainly applies to both tort and contract claims. They urged the Court to reverse the Third District’s decision and dismiss the lawsuit because it is barred by the statute of repose applicable to claims involving real property.

Oral argument was held on March 5, 2019. On July 17, 2019, in a 6-1 decision authored by Justice French, the Court reversed the court of appeals decision, holding that the “construction statute of repose,” R.C. 2305.131, “applies to actions sounding in contract as well as to actions

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sounding in tort.” The case was remanded to the court of appeals. Justice Stewart dissented, finding (in part) that the current statute and the statute addressed in the Court’s previous *Kocisko* decision are so similar as to be construed as in *Kocisko*– not applicable to contract claims.

A motion for reconsideration was filed on July 29, 2019 and denied on September 17, 2019.

VI. Referendum on H.B. 6.

H.B. 6, sponsored by Representatives Jamie Callender and Shane Wilkin, created the nuclear generation fund and the renewable generation fund, which directs approximately \$150 million per year to Ohio’s two nuclear power plants (the Davis-Besse and Perry power plants) and \$20 million per year to solar generation projects respectively. The legislation also effectively ended Ohio’s renewable portfolio standards and energy efficiency programming and codified PUCO decisions granting rate recovery to the Ohio electric distribution utilities that own shares in the Ohio Valley Electric Corporation. As mentioned above, Petitioners failed to collect the required number of signatures, meaning that H.B. 6 is in effect. Prior to the deadline for signatures, FirstEnergy Solutions filed a lawsuit seeking to block the referendum campaign, arguing that the charges contained in H.B. 6 are in fact taxes and therefore not subject to referendum. FirstEnergy Solutions also motioned for expedited consideration of the lawsuit, citing the negative impact the uncertainty the lawsuit is placing on the company’s two nuclear power plants and forecasting for fuel purchases. A previous motion for expedited briefing was rejected. That case, and FirstEnergy Solutions’ latest motion for expedited consideration, are still pending. Petitioners and the Ohio Secretary of State informed the court they do not oppose expedited briefing.

Additionally, during the signature gathering period, Petitioners filed a lawsuit in federal court. Petitioner’s claimed that the state’s laws regarding the filing of a summary and the delay caused by the Attorney General’s rejection of their initial summary violated both Ohio’s and the United States Constitutions. OACB also filed a motion requesting additional time to gather signatures. Judge Edmund Sargus rejected that request, however did not provide a definitive ruling on the litigation, which is still pending. In addition, Judge Sargus certified four questions to the Ohio Supreme Court:

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1. Whether the right to referendum set forth in Article II, Section 1 of the Ohio Constitution guarantees those circulating petitions in support of a referendum a full ninety days solely for the purpose of circulating petitions?
2. If so, whether Ohio Rev. Code Section 3519.01 violates the Ohio Constitution by shortening the ninety days to accommodate the fair-and-truthful review?
3. If the Ohio Constitution guarantees a petitioner ninety days to circulate petitions, whether the number of days attributable to a petitioner's own errors in submitting a referendum petition under Ohio Rev. Code Section 3519.01 is "credited" to the petitioner, or deducted from the ninety days?
4. Whether a petitioner who does not claim to be "aggrieved" by the fair-and-truthful determination and thus fails to appeal the denial of a certification under Ohio Rev. Code Section 3519.01(C) is entitled to credit toward the ninety days for the time spent fixing deficiencies in a fair-and-truthful statement?

Under the Ohio Supreme Court's rules, parties to the lawsuit have 20 days to file briefs to the court regarding those questions. The Ohio Supreme Court then decides whether to answer one or more of the questions. The court can also choose not to answer the questions. If the court agrees to hear the questions, both sides file formal briefs and oral arguments are held.

Finally, several groups opposed to H.B. 6 during PUCO proceedings regarding establishing recovery mechanisms for OVEC under H.B. 6 argued that the law in fact bars cost recovery for OVEC. The bill's language permits cost recovery for a power agreement approved by the Federal Energy Regulatory Commission (FERC) and FERC has never approved any OVEC power agreement. Legislative leaders who supported H.B. 6 vowed to fix the purported "drafting error" if that argument proves persuasive to the PUCO.

VII. Update to the Tax Counsel's Report.

Tax Counsel Justin Cook provided an update from the September Tax Counsel's Report.

S.B. 26, signed into law by Governor DeWine on November 6th, restored the business income deduction for attorneys and lobbyists. Earlier this year, H.B. 166 had amended the definition of "Business Income" in R.C. 5747.01(B) to incorporate the concept of "Eligible Business Income" which, going forward, would have been the type of income subject to the \$250,000 deduction and 3% flat tax rate. H.B. 166 defined Eligible Business Income to exclude income from "a trade or business that performs" legal services provided by an active Ohio licensed attorney or in-house corporate counsel, or from businesses that perform lobbying activities.

Nissan North America, Inc. v. McClain, BTA No. 2016-1076 (October 9, 2019). Nissan North America was a very favorable decision for taxpayers. This case involved a claim for retroactive consolidated elected status for purposes of Ohio commercial activity tax ("CAT"). During periods under audit, Taxpayer engaged in many transactions with its related companies.

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Because Taxpayer did not have a consolidated status election in place, Tax Commissioner assessed CAT on a very large amount of Nissan's intercompany transactions. Taxpayer subsequently filed a request with Tax Commissioner for retroactive consolidated status. Tax Commissioner denied Taxpayer's request for retroactive relief, and Taxpayer appealed. In its analysis, the BTA noted that administrative regulations indicate Tax Commissioner may grant retroactive relief, but the regulations do not provide any specific requirements or guidelines for doing so. See Ohio Adm. Code 5703-29-02. Ultimately, the BTA agreed with Taxpayer and found Tax Commissioner's denial of retroactive relief was appealable. Applying an abuse of discretion standard, the BTA reversed Tax Commissioner's decision, finding his denial of retroactive relief unreasonable.

City of Athens et al. v. Testa, 2019-Ohio-277, 119 N.E.3d 469 (2019). The case involves the legality of H.B. 49, which established a system for centralized collection of municipal net profit taxes. While an Ohio Court of Appeals upheld the law, this case is on appeal to the Ohio Supreme Court.



Bricker & Eckler LLP
100 South Third Street
Columbus, OH 43215
Office: 614.227.2300
www.bricker.com

URGENT MEMORANDUM

TO: Ohio Manufacturers' Association

FROM: Bricker & Eckler LLP

DATE: October 28, 2019

RE: Summary of House Joint Resolution 2 (prohibiting certain foreign investment in critical infrastructure located in Ohio)

I. Overview.

Introduced on October 26, 2019, House Joint Resolution 2 (HJR 2) is sponsored by Representatives Jamie Callender (R-Concord) and Don Manning (R-New Middletown).¹ HJR 2, titled the “Ohio Critical Infrastructure Protection Amendment,” seeks to place a constitutional amendment before voters in the November 2020 General Election. Such a joint resolution requires a 3/5th majority vote in both the Ohio House and Ohio Senate to be placed on the ballot for Ohio voters.

Generally, HJR 2 seeks to prohibit foreign businesses and individuals from having a majority ownership interest in critical infrastructure located in Ohio. Impacted types of infrastructure include power plants, intrastate electric transmission lines, intrastate natural gas pipelines, and water treatment plants. Below is a more comprehensive overview of HJR 2 and a description of the legislative process for joint resolutions.

II. Overview of House Joint Resolution 2.

A. The Prohibition on Foreign Ownership in Critical Infrastructure

Subsection (B) of HJR2 prohibits an “alien entity” from having an ownership interest in critical infrastructure. Critical to understanding this prohibition are the following definitions in the joint resolution:

- “Alien entity” is defined as a corporation or business entity created or organized under the laws of any state (including Ohio), or any foreign nation or that has its principal place of business in a foreign nation that either of the following apply:
 - 1) nonresident aliens and alien investors (in aggregate) hold or acquire at least

¹ Additional co-sponsors include Reps. Stein, Ghanbari, Lang, and Cross.

51% of the shares of stock or other interests in the corporation or entity; or 2) a nonresident alien or investor holds or acquires any shares of stock or other interests that grants access to any of the following: nonpublic technical information; membership or observer rights on the corporation's or entity's board of directors; or any other involvement in substantive decision-making.

- “Alien investor” means a corporation, business trust, estate, trust, partnership, or any other entity or association, created or organized under the laws of a foreign or with its principal place of business in a foreign nation that holds or acquires shares of stock or other interest in a another corporation or entity.
- “Critical infrastructure” means any facility located in Ohio that affects the life, safety, health, welfare, and economic well-being of the citizens of Ohio and that is any of the following:
 1. An electric generating facility (hydroelectric, coal, natural gas or nuclear) with a generating capacity of 50MW or more;
 2. An intrastate electric transmission line and any associated facility with a design capacity of 100KV or more;
 3. A water treatment facility;
 4. An intrastate natural gas pipeline that is a “major utility facility” as defined by Ohio Revised Code Section 4906.01;² or
 5. An intrastate oil transmission pipeline.

B. Reporting of Ownership Interests to the Ohio Secretary of State

Under the joint resolution, every corporation or entity with an ownership interest in critical infrastructure must submit, along with a five dollar (\$5.00) filing fee, the following information to the Ohio Secretary of State:

- Name of the corporation or entity along with address of its principal place of business and the address of its principal Ohio office.
- The name, address, telephone number, and country of citizenship of each nonresident alien, if any, and also the name and address, including country, of the principal place of

² ORC 4906.01 (B)(1)(c) includes in the definition of “major utility facility” a “gas pipeline that is greater than five hundred feet in length, and its associated facilities, is more than nine inches in outside diameter and is designed for transporting gas at a maximum allowable operating pressure in excess of one hundred twenty-five pounds per square inch.” In addition, subsection (B)(2)(a) excludes from that definition “Gas transmission lines over which an agency of the United States [e.g., FERC] has exclusive jurisdiction.”

business of each alien investor that owns, in aggregate at least 51% of the shares of stock or other interests in the corporation or entity.

- The name, address, telephone number, and country of citizenship of each nonresident alien, if any, and also the name and address, including country, of the principal place of business of each alien investor that through owning shares of stock or other interests in the corporation or entity that grants the nonresident alien or alien investor access to any of the following: nonpublic technical information; membership or observer rights on the corporation's or entity's board of directors; or any other involvement in substantive decision-making.
- The chairman of the governing board, chief executive, and partners of the corporation or entity.
- The corporation's or entity's agent in Ohio.
- The place of incorporation (if a corporation).
- The critical infrastructure in which the corporation or entity has an ownership interest.

C. Ohio Secretary of State Notifications.

Using the submitted information, the Ohio Secretary of State must determine if the corporation or entity is an alien entity. If determined to be an alien entity, the Ohio Secretary of State sends written notification of the determination and direction to divest all ownership interest in the critical infrastructure not later than one year from the date of the notice. The notice also specifies that the corporation or entity can challenge the determination as a mistake of fact.

D. Divesting of Foreign Investment.

Upon receiving notice from the Ohio Secretary of State a corporation or entity determined to be an alien entity shall divest ownership interest not later than one year after the notice is sent. The corporation or entity must notify the Ohio Secretary of State in writing once it achieves divestment and the date divestment took effect.

E. Appellate Rights.

A corporation or entity does not have to divest ownership in critical infrastructure if during a "mistake of fact" hearing it is determined that the corporation or entity is not an alien entity. HJR 2 requires the Ohio Secretary of State to establish hearing rules and procedures for a mistake of fact hearing.

III. Joint Resolution Procedures.

Article XVI, Section 1 of the Ohio Constitution grants the General Assembly authority to propose constitutional amendments through a joint resolution. Below is a description of the process for such a constitutional amendment to be approved.

A. The Legislative Process.

A member who chooses to introduce a joint resolution first files the joint resolution with the House or Senate Clerk. The clerk assigns a number to the joint resolution, in this instance HJR 2.

HJR 2 will receive its first reading when read by its title in the House Rules and Reference Committee and will then be assigned to a standing committee. Likely committees are either the House Energy and Natural Resources Committee or House Public Utilities Committee, but the joint resolution can be assigned to any committee.

Following committee assignment, the sponsoring Representative will provide testimony explaining the joint resolution. After the first hearing, the committee's chair decides whether HJR 2 will receive additional hearings. Traditionally, hearings are also held for proponent and opponent testimony prior to a committee vote. The committee chair can schedule HJR 2 for a vote any time after the first hearing. If a majority of committee members vote to pass HJR 2, then it is reported out of committee.

Following committee action, the House Rules and Reference Committee may choose to schedule HJR 2 for a vote on the House floor. Ohio Constitution, Article XVI, Section 1 requires that House joint resolutions pass by a 3/5th majority vote, meaning it requires 60 of 99 votes to pass.

If passed, HJR 2 moves to the Senate for an identical process as stated above. The Ohio Constitution requires a 3/5th majority in the Senate also, meaning 20 of 33 votes.

If both houses approve the HJR 2 with a 3/5th majority, the joint resolution is submitted to the electors as a proposed constitutional amendment.

B. Electoral/Ballot Process.

After a joint resolution passes both houses, the joint resolution is filed with the Ohio Secretary of State at least 90 days before the relevant election. The proposed amendment can be placed on the ballot at either a special or a general election. Additionally, a constitutional amendment can be placed on a ballot for a special election on the day of a primary election. Traditionally, the election date for the proposed amendment is prescribed in the joint resolution

language. The election date does not have to be the next election date after the passage of the joint resolution.

Per the language of HJR 2, the proposed constitutional amendment would be placed on the ballot in the General Election in November 2020.

After the joint resolution is sent to the Ohio Secretary of State, the Ohio ballot board receives the joint resolution to draft the actual question that will be posed to voters on the ballot.

The Ohio ballot board also must compose an explanation for each proposed constitutional amendment. The Ohio ballot board's language and explanation of the proposed constitutional amendments must be certified no later than 75 days before the election date.

Finally, if a majority of voters approves the constitutional amendment, then it shall become a part of the constitution. The amendment takes effect immediately following adoption by the voters.

Below are some key dates related to joint resolutions and the 2020 election calendar:

- December 18, 2019: Constitutional Amendments Proposed by Joint Resolution Must be Filed with the Ohio Secretary of State (90 Days before the Primary Election).
- January 7, 2020: Form of Official Ballot for the Primary Election Must be Certified.
- February 18: Last Day to Register for the Primary Election
- February 19: Early Voting Period Begins for the Primary Election
- March 17: Primary Election Day
- August 5: Constitutional Amendments Proposed by Joint Resolution Must be Filed with the Ohio Secretary of State (90 Days before the General Election)
- September 15: Form of Official Ballot for the General Election must be Certified
- October 5: Last Day to Register for the General Election
- October 6: Early Voting Period Begins for the General Election
- November 3: General Election Day

IV. Conclusion/Follow Up Information.

HJR 2 is a state legislative proposal that could profoundly affect your business in Ohio. This memorandum only explains the resolution and process, and does not analyze underlying federal and state constitutional and other legal issues which this resolution may implicate. The members of Bricker & Eckler energy and government relations team are available to answer your questions, as we will be actively monitoring this proposal.

To: OMA Government Affairs Committee
From: Ryan Augsburger / Rob Brundrett
Re: Energy Policy Report
Date: November 13, 2019

Overview

Final legislative action on House Bill 6, far-reaching electricity regulation legislation, occurred in mid-July. A referendum effort failed to materialize and the bill became effective in late October. Everything surrounding HB 6 was supercharged. The bill in its final form will distort electricity markets denying customers of the long-term benefits of competition. New costs, some known and some unknown, will hit customers of all sizes. The legislative skirmish lasted just over three months.

The OMA has been an opponent to the policy changes that require customers to subsidize power plants that are not needed. The OMA is advocating to protect manufacturing interests in the implementation of the bill. Other market distortion bills are pending in the legislature and energy policy will continue to be a top issue area for the entire 2019-2020 legislative session.

Nuke Bailout – House Bill 6 Becomes Law

After being panned by dozens of important stakeholders, legislation to subsidize the uneconomical nuclear power plants stalled out last session. FirstEnergy Corp.'s (FE) unregulated subsidiary, FirstEnergy Solutions (FES), owns Ohio's two nuclear power plants among a portfolio of generation that has been considered uneconomic. Hence, they sought government bailout in various forms over the past five years. Those efforts were repelled.

Then following the 2018 General Election and ensuing legislative leadership election, House Bill 6 was introduced in late April. The bill was extensively revised in order to win support of electric utilities. Mostly this was accomplished with the addition of a bailout subsidy for two old, uneconomic coal power plants (including one power plant in Indiana). These plants are owned by the Ohio Valley Electrical Corporation (OVEC) whose shareholders are utilities and other energy companies. The bill also largely orders a stop to Ohio's utility-administered energy efficiency programs and renewable energy standards.

Throughout the many versions of the bill, OMA staff and retained experts have produced extensive analysis for the membership and engaged the membership. In the end, the bill was narrowly approved by both the House and the Senate. Votes for the divisive bill were not along partisan lines. In the aftermath, several media outlets reported or editorialized on the political activity surrounding the bill. It is believed that proponents spent more money to support HB 6 than any other piece of legislation in modern history.

Many OMA members actively engaged to advocate against the bill and the OMA voice was among the most impactful during the legislative debate. The OMA issued *key vote* alerts.

Proponents of the bill made claims that simply were not true, however lulled many policymakers and other stakeholders into thinking the bill was good policy. HB 6 is only a win if you are FirstEnergy, FirstEnergy Solutions, OVEC, or their shareholders. Everyone else loses.

HB 6 Referendum

An effort is underway to repeal HB 6 via state referendum failed due in large part to massive campaign block signature collection by scaring voters with bogus claims of interference by the Chinese government. The campaign was sleazy, but effective. The many tens of millions of dollars that were invested will be handsomely returned to the owners of the nuclear power plants who stand to pocket \$2 billion in profit from captive Ohio ratepayers under HB 6.

FES Bankruptcy

Simultaneous to the legislative theater, FES filed for bankruptcy protection in March 2018. Shortly thereafter the bankrupt company notified regulators of its intent to shutter the power plants in a few years.

A settlement between FE, FES, and the stakeholders is still pending approval. The plant owners together with concerned local government leaders have used the plant closure announcements to lever political support for state and federal bailouts. The beneficiaries of any possible bailout would seem to include speculative investors (hedge funds), former parent FE, and local governments hoping to prevent local job loss and tax revenue.

Government attorneys and judges have expressed concern to FE and FES of their continued liability for decommissioning costs at some point in the future.

HB 6 Implementation – What Next?

The provisions of HB 6 became effective in late-October. The bill delegated immense new authority and price-setting to the PUCO and other state agencies. The OMA Energy Group has been participating in those proceedings to protect manufacturing interests. Members are invited to support this effort.

At the August 29 OMA Energy Committee meeting the committee heard a presentation on how the soon-to-be-subsidized generation will be walled off from the PJM capacity market and a state construct will likely be required to facilitate the purchase of the subsidized electrons...this move is believed to hike customer costs.

Post HB 6 Legislative Activity

In the months since HB 6 was completed both the Ohio House and Ohio Senate appear poised to do more. Unfortunately, customer protection does not seem to be in store. Instead we are monitoring new proposals that will protect utilities and erode Ohio's deregulation law.

House Bill 247

Months after lawmakers gave utilities and other interests the opportunity to force captive ratepayers to pay for new generation, HB 247 would go further in allowing distribution utilities to offer services beyond distribution. It seems unnecessary and anti-market. One utility is aggressively lobbying for this bill and has asked their large manufacturing customers to pen a letter of support. Don't be fooled. The OMA has been communicating extensively about this threat. The OMA opposes HB 247. See attached resource material.

House Bill 246

Is a placeholder bill to modernize the laws governing the PUCO and OCC. There has been a lot of speculation on what the bill may contain. Too early to know for certain.

House Bill 104

Introduced by Representative Dick Stein (R-Norwalk), HB 104 is intended to spur research and development of molten salt nuclear reactors in Ohio via state tax dollars. The bill also advances Ohio as a hub for radioactive wastes. The OMA has written the primary sponsor to convey concerns (see attached). Many other Republican legislators have co-sponsored this unwise legislation.

House Joint Resolution 2

Representatives Don Manning of Youngstown and Jamie Callender of Lake County recently provided proponent testimony on HJR 2 to place on the ballot an amendment to the Ohio Constitution to ban foreign interests from owning critical energy infrastructure. The move dovetails with the pro-HB 6 China-bashing campaign. Some believe the resolution is political retribution to referendum proponents.

In today's global economy, a state provision against foreign ownership seems unwise. Precedents abound for other commercial activity. For example, foreign interests invest heavily in manufacturing businesses in Ohio.

Senate "Comprehensive" Energy Reform

In mid-October Senate Energy & Public Utilities Chairman Steve Wilson (R-Maineville) signaled the Senate would focus on grid reliability as a central component in the Senate's comprehensive energy

reform package. This is a curious, albeit familiar refrain from a policymaker since the grid is more reliable than ever today.

Trump Administration Favors Nuke and Coal Bailouts

For nearly two years, some nuclear and coal interests have had success in lobbying the federal government to order nuclear and coal (as specified) power plant bailouts on a national basis. The Trump Administration backed away from plans to require customers to subsidize unprofitable power plants under the guise of national security or resiliency. The government involvement bears continued scrutiny. DOE Secretary Perry is stepping down at the end of the year, but his successor is expected to continue the stance perhaps more forcefully. Also of note Ohio-based coal company Murray Energy filed for bankruptcy protection in November.

PJM on Resiliency and Power Auctions Delayed

Throughout the recent legislative subsidy debates at the General Assembly, grid operator PJM Interconnect had been clear to dispel the myths of poor fuel diversity and electric supply shortages affecting "reliability." However, more recently, PJM issued a report justifying some possible basis for grid "resiliency." The OMA has an analysis on current PJM activity but further proceedings at PJM will be needed for clarity. Remarkably, PJM has postponed indefinitely the planned energy auction to assess how the market can fairly operate in the face of widening market manipulation via state subsidies.

Utility Seeks to Shift Risk from Shareholders to Customers

The regulated monopoly electric distribution utility (EDU) AEP Ohio has a controversial application pending at the PUCO to allow the utility to develop in-state renewable energy generation. If the application is approved, customers will be required to pay an additional rider on their power bill to subsidize the renewable energy projects.

The case is not about renewable energy which is flourishing in Ohio as a result of increasingly favorable market attributes. To the contrary, the case is about whether a utility should be allowed to violate a prohibition of an EDU controlling generation rather than being the agnostic distributor for power. Ohio deregulated the generation of electricity decoupling it from distribution twenty years ago. As such, the proposal is anti-competitive.

There is nothing preventing AEP Ohio's parent company (AEP) or an unregulated affiliate from developing the same renewable project while taking on ordinary business risk instead of offloading the company's (shareholders') risk to the captive customers. In fact, AEP recently announced they would invest over a billion dollars to develop renewable generation following rejection of similar proposals in other states. The OMA Energy Group has been a leading opponent of the proposal at the PUCO.

House Bill 6 now contains language to change the law to authorize this sort of activity. The costs to customers can be significant. This is yet another erosion to the marketplace. See HB 6 analyses.

Protecting Competitive Electric Markets

In 1999, with the passage of Senate Bill 3, Ohio began a transition to deregulated generation. That transition has delivered customer choice, cost-savings and innovation. One of the main tenets of deregulation was forcing then-integrated utility companies to sell or spin-off their generation. "Stranded costs" and other above-market surcharge constructs enabled the utilities to have their generation paid for by Ohioans for a second time. HB 6 represents yet another above-market payment to utilities and power plant owners by customers who realize no benefit.

The OMA has been a proponent of markets, supporting the original deregulation legislation and opposing utility profit subsidy schemes that distort the market and result in new above-market charges on manufacturers' electric bills. Several noteworthy studies have demonstrated how the market delivers lower prices, choice and innovation without compromising reliability. NOPEC in August issued an updated

study that pegs customer savings at \$24 billion over eight years. With the passage of HB 6, competitive markets are under attack in Ohio.

OVEC Bailout

Last session, the OMA opposed legislation to provide over one hundred million dollars per year to the owners of aging coal plants (one in Ohio and one in Indiana) operated by the Ohio Valley Electric Corporation (OVEC). The OMA had also opposed subsidies for OVEC in rate cases at the PUCO. In a decision by the Supreme Court in late 2018, the Court effectively allowed utilities to collect the rider to subsidize OVEC under terms of a specific Electric Security Plan (ESP). An OVEC bailout for the out years beyond the terms specified in the Court decision is now included in HB 6.

Excessive Earnings

With all eyes on HB 6, lobbyists for FirstEnergy also won House approval of a provision that allows the Akron-based electric distribution utility to earn more profit. The OMA opposed the provision and urged lawmakers to remove it in both the House and Senate. The consequence: all FirstEnergy service customers will not get relief from overpayment. No further action. This was completed mid-summer.

On-Site Generation Taxed in Ohio

The Ohio Department of Taxation is sending out tax bills to third parties operating on-site generation, be it wind, solar or onsite gas generation. The Department contends that a customer who generates power should pay generation tax the same as a utility. The Department's basis for collecting the tax is tenuous. The OMA supports a legislative correction for all forms of onsite generation.

Energy Standards Legislation

After six years of back and forth policy battles, HB 6 dismantled the standards for efficiency and renewable energy. Siting requirements for large scale wind generation projects were not part of the debate. HB 6 will now give monopoly distribution utilities an unfair advantage in building new renewable energy at captive customers expense. Energy efficiency programs are being wound down in short order, so manufacturers who are using rebates will want to claim them soon.

Energy

FirstEnergy Seeks to be Made ‘Recession Proof’

November 8, 2019

During an investor call this week, FirstEnergy CEO Chuck Jones announced the distribution utility would file a decoupling application with the PUCO as permitted by the recently enacted House Bill 6. Ohio’s other electric utilities could follow suit later this month.

Decoupling allows a utility to fully recover investments and operating costs at 2018 levels even if sales decline due to customer efficiency improvements. Gongwer News **reported** that the FirstEnergy CEO touted the decoupling rider for making the monopoly “recession proof.” According to an **OMA analysis of HB 6**, the nuclear bailout bill includes provisions that will impose new costs on customers, among them the new decoupling rider. Currently, FirstEnergy recovers part of its distribution costs through its energy efficiency rider, which is going away under HB 6. As a result, FirstEnergy claims it cannot recover its entire distribution costs, and that the decoupling mechanism is necessary to recover costs formerly captured by the terminated energy efficiency charge. Captive customers will be required to pay the utility to make it whole from the loss of energy efficiency profits. Many larger industrial customers have already opted-out of the energy efficiency rider, so the decoupling rider will constitute a new cost to those customers.

Make no mistake, this is another utility profit scheme that comes at customers’ expense. This topic will be discussed at the Nov. 21 **OMA Energy Committee meeting**. Support ongoing energy advocacy by joining the **OMA Energy Group**. *11/7/2019*

Power Siting Board Throws Wrench in Plans for New Solar Project

November 8, 2019

In mid-October, the Ohio Power Siting Board deviated from its standard practice by denying final approval of a larger, 80-megawatt solar project planned for southern Ohio. The board, which must approve any new commercial power generation facility — traditionally OKs new

generation facilities that have been advanced to this stage.

The move **has alarmed** renewable energy developers and clean energy advocates. Moreover, it raises questions about how Ohio’s siting process will work going forward. Billions of dollars are being invested by businesses to develop new gas and renewable power generation in Ohio. *11/7/2019*

Ohio House Takes Aim at ‘Foreign Ownership’

November 1, 2019

As fallout from the failed referendum effort to overturn Ohio’s nuclear subsidy law (HB 6), customers and developers of new power plants seem to be the target of political retribution. This week, the sponsors of a proposed constitutional amendment presented testimony in support of House Joint Resolution 2. The measure would place an amendment to Ohio’s constitution on the statewide ballot, enabling Ohioans to cast a vote to bar foreign interests from controlling “critical energy infrastructure” in Ohio.

In their testimony, the resolution’s sponsors — State Reps. **Don Manning** (R-New Middletown) and **Jamie Callender** (R-Concord Township) invoked language reminiscent of McCarthyism and the Red Scare. The proposal is extremely troubling on a policy level. If approved, it could have dire consequences for power customers and Ohio’s economy. It also establishes a precedent of prohibiting foreign investment of business in Ohio.

Read this **overview of the resolution** prepared by OMA general counsel at Bricker & Eckler. *10/31/2019*

Bill Promotes Unviable Nuclear Technology

November 1, 2019

The Ohio House Energy and Natural Resources Committee this week held a third hearing on **House Bill 104**. The legislation is intended to spur the development of molten salt reactor (thorium) power generation by creating a public-private partnership and a for-profit lobbying company to advance policy aimed at attracting research and development of the presently unviable technology. Under HB 104, the state-

supported entities would be given eminent domain authority to seize private property to site new nuclear waste disposal sites in Ohio.

Last week, a series of proponents appeared to testify in favor of the bill. The OMA has not yet provided testimony. However, the OMA's Ryan Augsburger wrote the bill's primary sponsor Rep. **Dick Stein** (R-Norwalk) this week to **express concerns**. The bill will be discussed at the Nov. 21 **OMA Energy Committee meeting**. 10/31/2019

House Bill 6 Goes Into Effect October 25, 2019



Earlier this week, the controversial House Bill 6 became effective — 90 days after Gov. Mike DeWine signed the bill into law.

Some opponents of the bill proposed a referendum to overturn the law, but that effort appears to have bottomed out. The referendum committee Ohioans Against Corporate Bailouts **failed to obtain** the needed number of signatures to place the matter on the November 2020 ballot. In a Hail Mary effort, the committee asked a federal court for more time to gather signatures, but the request was denied. Now the work of implementing HB 6 is underway. The OMA is participating in the proceedings conducted by state agencies responsible for implementing the law. HB 6 will **drive new costs for manufacturers** to benefit select generators and utilities. The new clean air costs will not hit customer bills until 2021; however, all customers will begin seeing new charges the first of the year to bail out the two coal power plants owned by OVEC. 10/24/2019

OMA Says No to Another Utility Giveaway October 25, 2019

This week, the OMA was part of a chorus of opponents to **House Bill 247** — legislation that would further erode Ohio's electric generation deregulation law. **View the OMA testimony**. The bill is supported by Ohio's four electric distribution monopoly utilities, which would gain entry into generation, services, and products that are presently off limits to distribution utilities. Moreover, the bill would allow utilities to charge captive customers more money to build out unnecessary infrastructure — all while generally removing many customer protections, especially with regards to corporate separation.

HB 247 comes on the heels of the enactment of the anti-market HB 6, supported by a majority of Republican leaders. A vote on HB 247 is likely later this year. The bill will be discussed at the Nov. 13 OMA **Government Affairs Committee meeting**, as well as the Nov. 21 **Energy Committee meeting**. 10/24/2019

Renewable Energy Deals Get Interesting for Customers October 25, 2019

Many AEP Ohio customers have been approached by the utility to consider a long-term solar arrangement in support of two solar projects it would like to develop. While this specific transaction is more complicated than traditional structures due to its regulated nature, it has likely initiated sustainability and renewable energy conversations within many companies. **See the analysis** on Ohio's primary renewable energy deal models. 10/23/2019

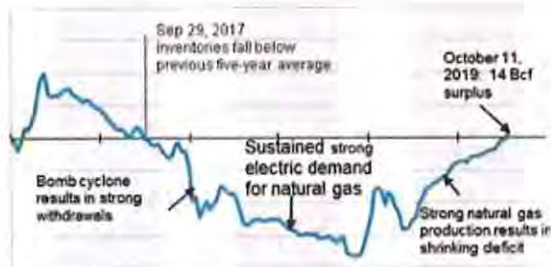
U.S. Natural Gas Inventories Exceed Five- Year Average October 25, 2019

America's energy boom continues. In mid-October, working natural gas inventories in the lower 48 states exceeded their five-year average for the **first time in more than two years**, according to the U.S Energy Information Administration (EIA).

On a related note, a study **unveiled this week** found that natural gas end-users — including manufacturers — “have realized \$1.1 trillion in savings since 2008 due to increased

natural gas production in the Shale Crescent USA region (Ohio, Pennsylvania, and West Virginia)."

Meanwhile, the EIA **reports** that the U.S. now exports crude oil to more destinations than it imports from. *10/22/2019*



Graph U.S. Energy Information Administration

HB 6 Referendum Faces Monday Deadline; Here are Reasons to Sign the (Correct) Petition **October 18, 2019**

Three months ago, Gov. Mike DeWine signed House Bill 6 — the nuclear bailout legislation — thereby forcing electric utility customers to pay more in the form of new riders on monthly power bills. When the law is implemented, the proceeds from the new charges will go mostly to the owners of two nuclear power plants.

Last spring and summer, the OMA worked to oppose the anti-free market HB 6. The campaign committee attempting to allow Ohio voters to make the final determination regarding HB 6's fate must submit nearly 266,000 valid signatures this Monday, Oct. 21. If the Ohioans Against Corporate Bailouts fails to collect the required number of signatures, there will be no referendum on next November's ballot. Signatures are still being collected.

Read this **powerful guest column** by Ohio State University professor Ned Hill, who **describes** how FirstEnergy and FirstEnergy Solutions have engaged in subterfuge to confuse voters and deter them from exercising their right to sign a petition. *10/17/2019*

HB 6 Implementation = Big Government, Big Regulation **October 18, 2019**

A whole lot of activity is underway in the opaque world of state agencies working to implement House Bill 6. In providing massive, unjustified handouts to select utilities, the legislation delegates sweeping new powers to government agencies, mostly at the PUCO and at the Ohio Air Quality Development Authority (OAQDA).

A series of **government decisions** will determine how much you pay for the bailout and other HB 6 charges. Parties must formally intervene with counsel to monitor the proceedings and be heard. Fortunately, the **OMA Energy Group** is intervening to protect the interests of Ohio's manufacturing economy. Be sure your company is supporting this effort. **Contact OMA staff** to learn how. *10/17/2019*

Nuclear Bailout Recipients Dealt Legal Setback **October 18, 2019**

In early September, lawyers for FirstEnergy Solutions challenged the referendum campaign being waged to repeal House Bill 6. They argued that the proposed referendum should not be allowed to proceed because new customer charges are a "tax" and according to the Ohio Constitution, any legislation that adjusts "tax" charges is not subject to repeal by referendum. The same lawyers who made that novel argument asked the Supreme Court of Ohio to expedite the case.

This week, the Supreme Court **denied the request** to expedite. So, some good news for a change on this terrible bill. *10/17/2019*

Thinking About a PPA? Watch This Webinar **October 18, 2019**

Many manufacturers are currently being invited to enter into contracts — known as power purchase agreements (PPAs) — to secure renewable energy. The OMA advises members to beware of energy proposals that don't make good business sense or may run afoul of Dodd-Frank and other financial regulations.

To provide guidance to members on PPAs, we recruited subject-matter expertise to help manufacturers understand the pros and cons of new energy products and services. At your convenience, listen to **this free, recorded OMA webinar** called "Renewable Energy Trends &

Power Purchase Agreements.” The expert insight will be helpful as you negotiate potential PPAs.

We will also discuss this matter at our upcoming **OMA Energy Committee meeting** on Nov. 21. *10/17/2019*



Utilities Lobby to Undo Deregulation Law, Add Costs for Customers October 11, 2019

This week at the Statehouse, representatives from Ohio’s electric distribution utilities appeared before a House panel in support of **House Bill 247**. Sponsored by State Rep. **Dick Stein** (R-Norwalk), HB 247 seeks to further erode Ohio’s deregulation law, exposing customers to new costs from riders that would pay for electric car charging stations and other enterprises that would compete with unsubsidized businesses.

During his questioning, State Rep. **Bill Seitz** (R-Cincinnati) noted that under House Bill 6 — the nuclear bailout law approved this summer — utilities were successful at including language allowing them to overcome provisions in existing law that prohibit utilities from selling generation.

Under Ohio’s sweeping deregulation law of 1999, regulated monopoly distribution utilities are restricted to only delivering electricity — a move that allows numerous electricity generators to compete. Deregulation has delivered customers more than \$24 billion in generation savings, according to a **recent study**. But under HB 247, monopoly distribution utilities would get an unfair advantage. **Read this analysis** by OMA energy engineer RunnerStone LLC. Join the discussion by participating in the OMA Energy Committee’s **Nov. 21 meeting**. *10/10/2019*

Hearings Expected on Utility Regulation ‘Modernization’

October 11, 2019

Earlier this year, **House Bill 246** was introduced as a placeholder; that is, without any substantive language — only an intent to modernize the Public Utilities Commission of Ohio and the Office of Consumers’ Counsel.

This week, State Rep. **Jamie Callender** (R-Concord Township) said in an interview with **Gongwer News Service** that he anticipates hearings this fall, but that specifics are still up in the air. The OMA agrees there is a need to update utility laws to better protect customers from being overcharged. Recently approved state legislation has instead protected utilities at customer expense. *10/9/2019*

Won’t Get Fooled Again: HB 6 Does Not Benefit Energy-Intensive Manufacturers October 4, 2019



The ultimate fate of House Bill 6 — Ohio’s nuclear bailout law — will not be known until a referendum campaign is played out. That could happen as soon as late October if the campaign fails to gather enough valid signatures. Or the question may languish until November 2020 if the referendum is successfully placed on the general election ballot. (The referendum group has until Oct. 21 to collect more than 265,000 valid signatures.)

The OMA is working to ensure that the needs of manufacturers are considered throughout the HB 6 implementation process, which is already well underway. Even though the law’s provisions have not yet gone into effect, some parties erroneously believe HB 6 will deliver benefits to energy-intensive customers. If you are in this camp, you owe it to yourself — and your company — to review why **HB 6 does not**

benefit manufacturers. Read the myths surrounding HB 6. 10/2/2019

Nuclear Bailout Opponents Hit the Airwaves October 4, 2019

This week, opponents of House Bill 6 began hitting the airwaves with **an advertisement** — taking aim at the billion dollar bailout of the owners of nuclear power plants and utilities. Ohioans Against Corporate Bailouts continues to collect signatures in hopes of placing a proposed referendum before Ohio voters next November. Signatures are due to be submitted by late October. 10/2/2019

How a Single Streetlight Spotlights Ohio's Pricey Problem with Utility Riders October 4, 2019

In case you missed it, Cleveland.com this week **published an article** about a single streetlight in Cleveland that has illuminated "an abusive system of surcharges" resulting in "billions of dollars in subsidies for the state's utilities." The electricity bill for this streetlight — owned by a neighborhood association — has soared from around \$8 in July 2008 to nearly \$70 in July 2019, with only 38 cents of the total being for electricity.

Because the Ohio Legislature in 2008 authorized the use of "electric security plans" — which permit the addition of riders that go beyond the basic costs of distribution services and investment — Ohio ratepayers have paid \$15 billion in subsidies to electric utilities since 1999, according one expert. Of course, this problem only gets worse under House Bill 6, the nuclear bailout plan passed and signed in July. 10/1/2019

This Week Showed Why Customer Load Management is Critical to Electric Grid Reliability October 4, 2019

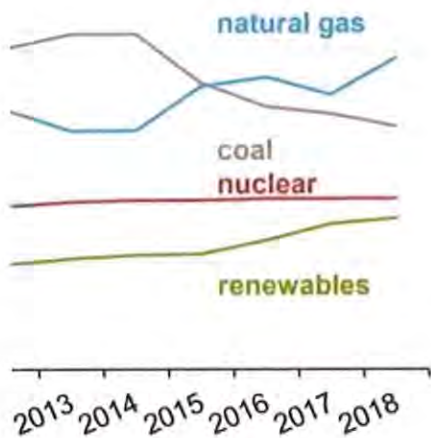
PJM this week issued an **emergency demand response call** to certain areas of the region's electric grid, including AEP territory, as unseasonably warm temperatures combined with offline power plants to create electric capacity concerns. While Wednesday's electrical load was not a peak event, many power plants were offline to conduct seasonal maintenance. The PJM service area experienced its highest

October load since 2007 and issued emergency demand response alerts to AEP, Baltimore Gas and Electric, Dominion, and Pepco zones. DP&L, Duke, and FirstEnergy customers were not in the emergency area. Demand response calls went to curtailment service providers and customers on utility interruptible tariffs. Customer demand response was credited with keeping the power system up and running.

Demand response programs create voluntary revenue streams for manufacturers and other customers, while preventing the need to build costly power plants, which may only be needed for a few hours every few years — thereby keeping electricity prices lower for all customers. This week's event highlights the importance of flexible power resources to maintain grid reliability. Contact OMA's energy engineer **John Seryak** if you have questions regarding demand response, or concerns you experienced with Wednesday's event. 10/3/2019

Shale Natural Gas Production Expected to Keep Growing October 4, 2019

Steve Nalley, a top official with the U.S. Energy Information Administration (EIA), recently briefed the National Conference of State Legislatures on the country's natural gas outlook. The EIA projects the U.S. will export more energy than it imports in 2020 due in part to continued drilling for shale natural gas, particularly in the east. The growth in natural gas production — and the lower prices that result — will continue to provide competitive incentives for **increased electrical power generation**. Natural gas used for electric generation overtook coal in 2016. See Nalley's **PowerPoint presentation**. 10/1/2019



Federal data show the nation's electricity generation fuel mix has changed significantly in recent years. (Graph: EIA)

Ohioans Paying Higher Electric Bills — Even As Generation Costs Fall September 27, 2019

This week, the Energy News Network and the Ohio Center for Investigative Journalism launched a series of reports on how Ohio utilities continue to reap windfalls from the public. This despite the promise of free-market competition made by policymakers more than a decade ago. The reporters chronicle increased distribution and transmission costs paid by customers to monopoly distribution utility companies — concluding that “utility-friendly lawmakers and regulators have shielded Ohio utility power plant affiliates from competition at customers’ expense.” **Read the story.**

The OMA has supported legislation to curtail the abuses, while the OMA Energy Group routinely engages in cases at the Public Utilities Commission of Ohio (PUCO) to protect the manufacturing sector. If you’re not already engaged, now is the time. **Contact OMA staff** to learn how. 9/25/2019

Ohio is a Leader in Energy Efficiency Jobs September 27, 2019

Ohio is among the nation's top states for careers in energy efficiency, according to a new report called “Energy Efficiency Jobs in America.” Published by E4TheFuture and the non-partisan business group Environmental Entrepreneurs (E2), **the study** ranks Ohio as ninth best, with 81,676 full-time energy efficiency jobs — excluding jobs in retail, vehicle efficiency-related

work, and jobs tied to efficient manufacturing processes.

It’s estimated that more than 10,200 energy-efficiency businesses operate in Ohio, with a majority involved in manufacturing or construction. The **report summary** notes that nationwide, energy efficiency is the energy sector’s fastest-growing jobs producer, accounting for roughly half of the industry’s new jobs (151,700) last year. Meanwhile, the number of U.S. manufacturing jobs in energy efficiency stood at more than 321,000 — a 10% jump from 2017. 9/23/2019



Fake Petitions, More Ads: The Latest Tactics in Attempt to Stop HB 6 Referendum September 27, 2019

Signatures continue to be collected to place a referendum on Ohio’s ballot to overturn House Bill 6 — the recently enacted law that forces Ohio customers to subsidize nuclear and other power plants. As we **reported** earlier this month, pro-HB 6 defenders are utilizing “blockers” to deter voters from signing the referendum petition.

This week, the pro-HB 6 defenders began circulating their own non-binding petition forms to further confuse voters. Also, they have begun airing yet another TV and radio advertisement that inaccurately portrays the Chinese government as the opponent to HB 6 — similar to the **first ad**.

The Energy News Network this week **published a story** on who is behind the Chinese conspiracy ads and the attempt to stop Ohio’s HB 6 referendum. 9/26/2019

Manufacturers Can Act to Overturn House Bill 6

September 20, 2019

At their quarterly board meeting this week, OMA leaders reacted to the misleading commercials being aired by a group seeking to block a referendum that could overturn House Bill 6 — the anti-market, nuclear power subsidy law. OMA members are reminded that if they support the referendum campaign to repeal HB 6, they can **contribute** to the Ohioans Against Corporate Bailouts campaign and host a signature gathering at their facilities.

Manufacturers can **ask OMA staff** how to arrange for signatures to be collected at your plant or office to foster the referendum and protect Ohio's competitive power markets. *9/18/2019*

Stay Informed with the OMA's Energy Guide

September 20, 2019

Nuclear power bailouts. Utility riders. Changes in the wholesale electricity and natural gas markets. There's a lot happening in Ohio's energy world — and all of it affects manufacturers. Stay informed by reading the **latest post** in the OMA's Energy Guide. *9/17/2019*

HB 6 Referendum Gets Physical

September 13, 2019

As if the citizen-initiated repeal of Ohio's nuclear power bailout (**House Bill 6**) wasn't supercharged enough — thanks to millions of dollars spent on **misleading advertising** — the group defending the law went a step further this week. The beneficiaries of the HB 6 subsidies have hired field agents to "educate" voters who are being asked to sign petitions. Referendum supporters must gather 265,774 signatures from registered Ohio voters by Oct. 21 to place the question of HB 6 repeal on the November 2020 ballot.

This week, an **altercation ensued** in which a petition circulator **appears to have been assaulted** by a pro-HB 6 agent. Soon after, anti-HB 6 *Ohio Citizen Action* issued a cease and desist letter to pro-HB 6 *Ohioans for Energy Security*, with the former saying they would not be intimidated by "threats."

Numerous OMA members have contacted staff inquiring how to support the referendum effort. Manufacturers can take action by **contributing to the campaign**. Also, manufacturers who are willing to allow signatures to be collected at the workplace may **contact staff** to invite a circulator. *9/12/2019*

Ohio's Oil & Gas Production Soars in Q2

September 6, 2019

The Ohio Department of Natural Resources (ODNR) is reporting that oil production from Ohio's horizontal shale wells jumped 29.54% during the second quarter of 2019, compared to a year ago. Natural gas production was up 10.81%. The wells produced 5,813,755 barrels of oil and 614,218,362 Mcf (614 billion cubic feet) of natural gas, according to the **ODNR report**.

At last check, the **U.S. Energy Information Administration** has Ohio ranked as the nation's fifth-largest producer of natural gas and the 12th largest producer of crude oil. *9/3/2019*

Nuclear Bailout Supporters Seek to Block Referendum

September 6, 2019

Owners of nuclear power plants who are eager to get customers to subsidize their business filed suit with the Supreme Court of Ohio on Wednesday in an attempt to block a proposed referendum to repeal **House Bill 6**. The owners assert that a referendum should not be allowed to proceed because HB 6 is a "tax" — and legislation creating taxes are not subject to referendum under the Ohio Constitution. Gene Pierce, spokesman for the pro-repeal Ohioans Against Corporate Bailouts, responded by saying that "this frivolous lawsuit is another desperate attempt by FES (FirstEnergy Solutions) to protect their ill-gotten, billion-dollar bailout. In addition to having no legal basis, their own proponents in the legislature repeatedly stated that HB 6 was not a tax increase in their efforts to secure enough votes for passage of the bill."

Meanwhile, bailout proponents continue to run misleading TV and radio **commercials** aimed at dissuading Ohioans from signing the referendum petition. The ads have attracted national attention, such as **this analysis** from a

Bloomberg columnist. This week, referendum opponents also dropped **direct mail**. 9/5/2019

'Sleazy' and 'Weak' Ad Aims to Block HB 6 Referendum
August 30, 2019



A new TV and radio ad is running statewide in hopes of heading off a **referendum** that would ask Ohio voters if they want to overturn House Bill 6 — the nuclear power bailout. In the ad, an ominous voice states that the Chinese government is mounting a secret takeover of Ohio's energy grid and "coming for our energy jobs." This week, several Ohio newspapers analyzed the ad. Here is what they said:

* A **fact check** by the *Cincinnati Enquirer* says the ad's connection between China and the referendum to overturn HB 6 "is weak."

* *The Columbus Dispatch* said the group behind the commercial offered "**no evidence that such a plot exists.**"

* An editorial by *The Plain Dealer* says it's "the **sleaziest scare ad** in recent memory in Ohio."

These analyses are further proof that HB 6 has ushered into Ohio some strange times with new, **costly policy** that threatens Ohio's deregulated electricity markets. 8/28/2019

Rockwell Automation Hosts OMA Energy Committee
August 30, 2019



On Thursday, Aug. 29, the OMA Energy Committee held its third meeting of 2019 — this time at Rockwell Automation in Mayfield Heights. Chaired by Brad Belden, president of The Belden Brick Co., the meeting featured a full **agenda** with updates and insight from OMA staff, as well as OMA energy counsel Kim Bojko, partner at Carpenter Lipps & Leland, and OMA energy engineer John Seryak of RunnerStone. Much of the meeting centered on House Bill 6 — the nuclear bailout law that was passed and signed in July — and its **impact on manufacturers**. Other discussion included recent energy-related decisions by the Supreme Court of Ohio and the Public Utilities Commission of Ohio. Guest speakers from the U.S. Department of Energy explored best practices in energy management, while OSU economist Ned Hill and Cleveland State University's Andrew Thomas presented their research on the economic benefits of Ohio's deregulated electricity market.

The **next meeting** of OMA's Energy Committee is set for Nov. 21 at the OMA. 8/29/2019



Nice turnout for the OMA Energy Committee meeting in Mayfield Hts. Thank you, Rockwell Automation, for the hospitality and the technology demonstrations!

Supreme Court Denies FirstEnergy Rider Appeal August 23, 2019

The Supreme Court of Ohio this week rejected FirstEnergy's appeal to reconsider the legality of its Distribution Modernization Rider (DMR). The denial to reopen the case confirms the court's **earlier 4-3 ruling** that customers of FirstEnergy's Ohio utilities have been overcharged by hundreds of millions of dollars since 2017. The court in June said the Public Utilities Commission of Ohio (PUCO) improperly authorized utility surcharges for grid modernization subsidies, and ordered the charges to be removed immediately.

The OMA Energy Group led the legal challenge to remove this rider. 8/22/2019

Thanks, HB 6. Another Ohio Power Plant Scrapped August 23, 2019



Another competitive power generation project has been cancelled due to the enactment of **House Bill 6**, the nuclear bailout plan. *The Youngstown Vindicator* this week **reported** on the decision by Clean Energy Future to shelve its plans to develop a third natural gas-fueled power plant in Lordstown. It is estimated the \$1.1 billion plant would have brought \$29 billion worth of economic benefit to the region over its 50-year life.

Approved by the General Assembly and signed into law in mid-July, HB 6 forces Ohio customers, including manufacturers, to subsidize the state's nuclear power plants, as well as certain coal-fired generation facilities, giving those generators an unfair advantage and undercutting market economics. Last month, it was **announced** that a planned gas-fired power

plant slated for Wood County had been cancelled due to HB 6. 8/21/2019

Study: Electric Utility Riders, Subsidies Could Cost Ohio Billions August 16, 2019



New **research** shows Ohio's deregulated electricity markets have saved the state's ratepayers nearly \$24 billion over the past eight years, or roughly \$3 billion a year. Conducted by researchers at The Ohio State University and Cleveland State University — and commissioned by the Northeast Ohio Public Energy Council (NOPEC) — the study shows that competition has driven down average electricity prices in deregulated Midwestern states, while their regulated peers have seen steady price increases.

Unfortunately, the research also finds that Ohio's investor-owned utility companies are chipping away at those customer savings through the use of subsidies, surcharges, and riders. This is occurring as efforts have intensified to re-regulate electricity markets. See the **whitepaper** and **executive summary**. 8/12/2019

Industry Accounts for One-Third of Ohio's Energy Use August 9, 2019

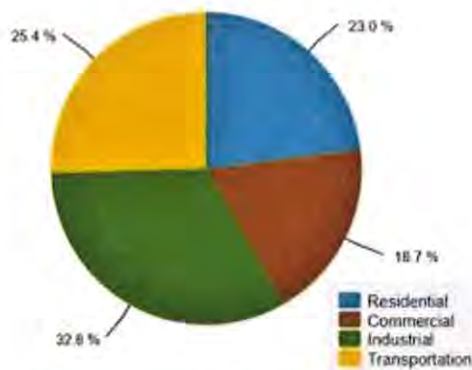
Why is the OMA passionate about energy policy? Because manufacturers and other industrial users account for nearly one-third of Ohio's total energy consumption — including motor fuel and electricity. The U.S. Energy Information Administration (**EIA**) has posted its most recent breakdown of **Ohio's energy consumption**. Key facts include:

- Ohio's industrial sector is a major user of **natural gas**.

- As of April, Ohio's average **industrial electric rate** was 6.26 cents/kWh compared to 6.53 cents/kWh nationally.
- Ohio is the **third-largest coal-consuming state** after Texas and Indiana, and nearly 90% of the coal consumed in Ohio is used for electric power generation. Nationwide, coal-fired generation **continues** to be retired.

As stated in the OMA's **Public Policy Competitiveness Agenda**, energy policy can enhance — or hinder — Ohio's ability to attract business investment, stimulate economic growth, and spur job creation. This is especially true in manufacturing. *8/5/2019*

Ohio Energy Consumption by End-Use Sector, 2017
August 9, 2019



Source: Energy Information Administration, State Energy Data System

Remember to Thank Lawmakers Who Voted 'No' on HB 6
August 9, 2019

Last month, during the final days of legislative action on **House Bill 6** — the nuclear bailout bill — 70 Ohio lawmakers from the House and Senate voted to approve the power plant subsidy package. However, another **50 lawmakers** stood firm and voted against the bill. The votes were not along partisan lines and lawmakers from both parties were pressured heavily by their leadership, as well as multiple stakeholders.

This was a difficult vote, so hearing directly from constituents will mean a great deal to every lawmaker. If your state representative or senator voted "no" on HB 6, take a moment to send him/her a note of thanks. You can find your state lawmakers **here**. *8/5/2019*

HB 6 Referendum Process Now Underway
August 2, 2019

Just over a week since the nuclear bailout bill (**House Bill 6**) was approved by the General Assembly and signed into law, efforts are underway to ask Ohio voters to invalidate the legislation.

A group called Ohioans Against Corporate Bailouts is conducting a referendum campaign. This week, it filed **initial paperwork** with the Ohio Attorney General. If the petition language is approved, more than 265,000 signatures must be collected to put the issue on the November 2020 ballot. The group is not yet disclosing specific supporters of the referendum effort, but they expect many HB 6 opponents to continue voicing their concerns about the law.

Here's **more information** on Ohio's referendum process. *8/1/2019*

Feds Halt Electrical Power Sale Due to State Subsidies
August 2, 2019



The decision of Ohio lawmakers to subsidize nuclear and select other power plants is already negatively affecting the wholesale operation of the regionally administered power markets. Two days after Ohio enacted its nuclear bailout under HB 6, federal policymakers ordered PJM Interconnect — the nation's largest power grid operator, whose territory includes all of Ohio — to indefinitely delay an auction to set power prices.

According to **Bloomberg**, "The halt lays bare the gridlock within the federal energy commission as it grapples with hundreds of millions of dollars in out-of-market subsidies that some states are creating to rescue foundering nuclear power plants." Bloomberg notes that while some power generators have warned that state bailouts are skewing the results of auctions, the Trump administration has pressed for aid to "money-losing reactors and coal units in the name of grid resilience."

The OMA's energy engineer has **analyzed** this situation, which will be discussed at the **Aug. 29 meeting** of the OMA Energy Committee in suburban Cleveland. *8/1/2019*

Energy Legislation
Prepared by: The Ohio Manufacturers' Association
Report created on November 12, 2019

- HB6** **CLEAN AIR PROGRAM** (CALLENDER J, WILKIN S) To create the Ohio Clean Air Program, to facilitate and encourage electricity production and use from clean air resources, and to proactively engage the buying power of consumers in this state for the purpose of improving air quality in this state.
Current Status: 7/23/2019 - **SIGNED BY GOVERNOR**; Eff. 10/22/19
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-6>
- HB20** **SOLAR PANEL LIMITATIONS** (BLESSING III L) To prohibit condominium, homeowners, and neighborhood associations from imposing unreasonable limitations on the installation of solar collector systems on the roof or exterior walls of improvements.
Current Status: 6/26/2019 - House State and Local Government, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-20>
- HB55** **OIL AND GAS WELL ROYALTY STATEMENTS** (CERA J) To require the owner of an oil or gas well to provide a royalty statement to the royalty interest holder when the owner makes payment to the holder.
Current Status: 2/26/2019 - House Energy and Natural Resources, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-55>
- HB94** **LAKE ERIE DRILLING** (SKINDELL M) To ban the taking or removal of oil or natural gas from and under the bed of Lake Erie.
Current Status: 9/17/2019 - House Energy and Natural Resources, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-94>
- HB95** **BRINE-CONVERSION OF WELLS** (SKINDELL M) To alter the Oil and Gas Law with respect to brine and the conversion of wells.
Current Status: 9/17/2019 - House Energy and Natural Resources, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-95>
- HB104** **NUCLEAR DEVELOPMENT** (STEIN D) To enact the Advanced Nuclear Technology Helping Energize Mankind (ANTHEM) Act by establishing the Ohio Nuclear Development Authority and the Ohio Nuclear Development Consortium and authorizing tax credits for investments therein.
Current Status: 10/30/2019 - House Energy and Natural Resources, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-104>
- HB223** **WIND SETBACKS** (STRAHORN F, SKINDELL M) To alter the minimum setback requirement for wind farms of five or more megawatts.

Current Status: 5/8/2019 - Referred to Committee House Public Utilities

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-223>

HB245 **PROPERTY TAX EXEMPTION TIMELINES** (SMITH J) To remove the current deadlines by which an owner or lessee of a qualified energy project must apply for a property tax exemption.

Current Status: 5/21/2019 - Referred to Committee House Energy and Natural Resources

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-245>

HB246 **PUCO/OCC REFORM** (VITALE N) To reform and modernize the Public Utilities Commission and the Consumers' Counsel.

Current Status: 5/21/2019 - Referred to Committee House Public Utilities

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-246>

HB247 **RETAIL ELECTRIC SERVICE LAW** (STEIN D) Regarding the competitive retail electric service law.

Current Status: 10/23/2019 - House Public Utilities, (Third Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-247>

HB260 **CLEAN ENERGY JOBS** (DENSON S, WEINSTEIN C) To maintain operations of certified clean air resources, establish the Ohio generation and jobs incentive program and the energy performance and waste reduction program, and make changes regarding wind turbine siting.

Current Status: 5/28/2019 - Referred to Committee House Energy and Natural Resources

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-260>

HB401 **TOWNSHIP REFERENDUM - WIND FARMS** (REINEKE W) To require inclusion of safety specifications in wind farm certificate applications, to modify wind turbine setbacks, and to permit a township referendum vote on certain wind farm certificates.

Current Status: 11/6/2019 - Introduced

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-401>

HJR2 **CRITICAL INFRASTRUCTURE PROTECTION AMENDMENT** (MANNING D, CALLENDER J) Proposing to enact Section 12 of Article XV of the Constitution of the State of Ohio to provide Ohio critical infrastructure protection.

Current Status: 10/30/2019 - House Energy and Natural Resources, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HJR-2>

SB86 **UTILITY SERVICE RESELLERS** (MAHARATH T) To regulate certain resellers of utility service.

Current Status: 11/12/2019 - Senate Energy and Public Utilities, (Second Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-86>

SB234

WIND FARMS (MCCOLLEY R) To require inclusion of safety specifications in wind farm certificate applications, to modify wind turbine setbacks, and to permit a township referendum vote on certain wind farm certificates.

Current Status: 11/6/2019 - Introduced

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-234>



MEMORANDUM

Date: August 20, 2019
To: The Ohio Manufacturers' Association
From: John Seryak, PE and Jordan Nader (RunnerStone, LLC)
RE: Amended Substitute House Bill 6 and the Nuclear and Renewable Generation Funds – Impact to Manufacturers

Amended Substitute House Bill No. 6 (H.B. 6) was recently signed into Ohio law. H.B. 6 significantly reworks Ohio's electricity policy in a way that substantially affects manufacturers. OMA energy counsel Kim Bojko has separately provided a legal analysis on what H.B. 6 does, and how it works.

In summary, H.B. 6 creates a \$150 million annual fund for nuclear power plants, a \$20 million annual fund for select solar power plants, extends a "power purchase agreement" for legacy, uneconomical coal plants in Indiana and Ohio that currently cost Ohioans tens of millions of dollars, defunds Ohio's competitive renewable portfolio standard, effectively eliminates Ohio's energy efficiency standards on investor-owned utilities, creates a mechanism for utility-backed renewable energy projects, and jeopardizes Ohio's participation in competitive wholesale electricity markets.

These changes in Ohio's electricity policy negatively impact three issues of interest to Ohio's manufacturers: cost, competition, and carbon-dioxide emissions.

Cost

H.B. 6 creates a net increase in customer costs, including the potential to increase manufacturers' electricity bills. First, and most obviously, H.B. 6 creates new customer charges

Impact of H.B. 6

- \$150 million/year in new subsidies for nuclear power, from 2021 through 2026
- Extends subsidies for legacy, uneconomic coal plants in Indiana and Ohio, which cost Ohio tens of millions of dollars each year through 2030
- \$20 million/year for select solar power projects, from 2021 through 2026
- Likely removes significant portions of Ohio generation and consumer load from competitive wholesale capacity auctions
- Likely to increase capacity prices
- Effectively eliminates renewable energy standards
- Utility efficiency programs
 - Continue through 2020
 - Mandate effectively eliminated starting in 2021
 - Subject to mercantile customer opt-out in 2020
- Creates reasonable arrangement mechanisms for trade-exposed industrial manufacturers



for the Nuclear Generation Fund and Renewable Generation Fund - \$10.20 per year for residential customers, \$28,800 /year for large consumers who use over 45 million kWh per year, and a charge to be determined later by the Public Utilities Commission of Ohio for other commercial and industrial businesses¹. Ohio’s four investor-owned utilities will be required to collect the combined \$170 million per year for the Nuclear Generation Fund and Renewable Generation Fund. Because residential customers and large consumers have prescribed, capped charges, all remaining revenue must be collected from small and mid-sized commercial and industrial businesses.

Second, H.B. 6 extends a subsidy for the Ohio Valley Electric Corporation (OVEC) through 2030. OVEC owns two legacy, uneconomical power plants, Clifty Creek in Indiana and Kyger Creek in Ohio. The OVEC subsidy currently collects tens of millions of dollars each year from customers of AEP Ohio, Duke, and DP&L. FirstEnergy customers would receive new charges to subsidize OVEC.

Third, H.B. 6 reduces Ohio’s Renewable Portfolio Standard from 12.5% by 2026, to 8.5%. It also eliminates a 0.5% by 2026 carve-out for solar energy projects, and creates a large-user opt-out of the compliance. The Renewable Portfolio Standard requires retail electric suppliers and electric distribution utilities to procure this percentage of their supply from renewable energy, and is currently at a 5.5% requirement in 2019. For context, we estimate that the renewable standards cost about \$40 million in 2017², and around \$60 million in 2019³.

Fourth, H.B. 6 directs the PUCO to authorize new power purchase agreements (PPA) for utility renewable energy and customer-sited renewable energy for 3-year terms or longer. The private market currently provides 3-year or greater terms for PPAs to customers who are seeking such projects.

Longer term, H.B. 6 will have an impact on wholesale electricity markets, and the impact could be severe and costly to manufacturers. The exact cost is still elusive. This is because of a domino-effect of state-level nuclear power plant subsidies has left the regional grid operator, PJM, without a FERC-approved capacity auction construct. Based on recommendations from FERC, electricity generators receiving funds from the Nuclear Generation Fund, or via a PPA, would be subject to a “bifurcated” capacity auction, in which the state of Ohio would likely set capacity prices for these power plants instead of PJM, and this potentially higher price would be flowed through to Ohioans.

On energy efficiency, the requirement for a utility to run an efficiency program is effectively eliminated, allowing utility run efficiency programs through 2020. Additionally, a “mercantile opt-out” of the efficiency programs would be enacted in 2020, wherein any customer that consumes over 700,000 kWh/year will be allowed to opt-out of paying into the efficiency programs, but will then not be allowed to receive financial assistance from the programs. While there is no allowance in

¹ Previous versions of H.B. 6 prescribed charges of \$180 per year per meter for commercial customers, and \$3,000 per year per meter for industrial customers. The per-account rate structure created issues for manufacturers that have multiple electric meters. It is not clear if the PUCO will adopt a rate structure similar to previous versions of H.B. 6, or something completely different.

² Renewable Portfolio Standard Report to the General Assembly by the Public Utilities Commission of Ohio for the 2017 Compliance Year.

³ Pro-rated from 2017’s RPS benchmark to the 2019 RPS benchmark. Costs would increase to \$142 million by 2026 at 2017 prices, though could be held in check if renewable energy credit prices fall.



H.B. 6 for utilities to continue offering energy-efficiency program, it does not expressly prohibit offering efficiency programs either. For context, during a previous legislative “freeze” of efficiency program requirements in 2015-16, AEP Ohio, Duke, and DP&L continued their programs, while FirstEnergy suspended theirs. In testimony on the original H.B. 6, AEP Ohio, Duke, and DP&L have all expressed interest in operating energy-efficiency programs. Manufacturers should note that there is sharp disagreement over whether efficiency programs represent a cost, or a net benefit, to customers.

Competition

H.B. 6 significantly erodes competition in electricity markets by subsidizing old nuclear and fossil fuel power plants, and favoring specific renewable energy projects over others. H.B. 6 creates subsidies for older generating technologies that have already received cost-recovery from Ohio’s ratepayers several times, are unable to compete in the wholesale electricity markets, and are announced for retirement.

Put another way, H.B. 6 creates subsidies to reverse the competitive electricity market formation that Ohio has supported for 20 years. This is serious - competitive electricity markets save Ohio’s manufacturers, businesses, and residents around \$3 billion per year⁴.

Carbon

H.B. 6 no longer explicitly discusses reduction in carbon or other emissions as objectives. However, purported environmental benefits have been used to justify H.B. 6. When considering carbon emissions, it is important to note several trends:

- Many global manufacturers and their supply chains are adopting greenhouse gas reduction goals, energy reduction goals, or renewable energy supply goals. Thus, the carbon intensity of the regional electric grid is important to a growing number of manufacturers. The carbon intensity of the electric grid counts towards a manufacturer’s internal accounting of Scope 2 emissions and thus impacts a manufacturer’s ability to meet their own corporate emissions reductions goals.
- The US has canceled implementation of the Clean Power Plan, and announced withdrawal from the global Paris Treaty. As a result, there is thus no current federal carbon emissions policy for electricity generation.
- States that have created their own carbon reduction policy for the electricity sector often join regional carbon markets to reduce costs, such as the Regional Greenhouse Gas Initiative comprised of mid-Atlantic and New England states.
- Competitive wholesale electricity markets produce efficiencies of several types, lowering not just cost but carbon emission as well, as producers reduce waste in order to stay competitive.

⁴ “Electricity Customer Choice in Ohio: How Competition Has Outperformed Traditional Monopoly Regulation”, Thomas, A., Bowen, W., Hill, E., Kanter, A., Lim, T. https://engagedscholarship.csuohio.edu/cgi/viewcontent.cgi?article=2420&context=urban_facpub



Thus, maintaining competitive markets is an important aspect of reducing wastes and improving efficiencies, as supported by multiple academic studies⁵.

- Ohio's existing diverse electricity generation mix is keeping costs low, as well as reducing emissions by 38% from 2005 levels⁶. This lower carbon transformation has occurred in a competitive wholesale electricity market.

In light of these trends, a state policy intended to cost-effectively reduce carbon dioxide emissions from the electric sector would likely have the following components:

- Preserve competitive electricity markets.
- Develop a carbon market, typically with regional partners and a fluctuating price.
- Allow broad competition for carbon credits that is technology neutral, and would include nuclear, large scale renewable energy, smaller scale renewable energy, behind-the-meter generation, and energy efficiency.

H.B. 6 does none of this, and in fact, subsidizes uneconomical coal plants. It could impair Ohio's already successful trend of reducing carbon-dioxide emissions in several ways. First, it erodes competitive electricity markets by introducing subsidies for specific technologies and plants. Even zero-carbon nuclear plants are shown to reduce more emissions when they are in competitive markets⁷. Second, H.B. 6 creates subsidies for the OVEC coal plants. Third, H.B. 6 eliminates support for renewable energy technologies and their significant associated emissions reductions.

In conclusion, H.B. 6 is a major reworking of Ohio's energy policy, and could result in significantly higher electricity prices for Ohio's manufacturers, would erode functioning electricity markets, and could even increase Ohio's carbon-dioxide and other emissions from the electricity sector.

⁵ Cicala, Steve. 2015. "When Does Regulation Distort Costs? Lessons from Fuel Procurement in US Electricity Generation." *American Economic Review*, 105 (1): 411-44

Fabrizio, Kira, R., Nancy L. Rose, and Catherine D. Wolfram. 2007. "Do Markets Reduce Costs? Assessing the Impact of Regulatory Restructuring on US Electric Generation Efficiency." *American Economic Review*, 97 (4): 1250-1277.

Craig, J. Dean, and Savage, S., 2013, "Market Restructuring, Competition and the Efficiency of Electricity Generation: Plant-level Evidence from the United States 1996 to 2006", *The Energy Journal*, 34 (1): 1-31

⁶ Ohio EPA letter to the US Environmental Protection Agency, Oct. 30th, 2018, Docket ID No. EPA-HQ-OAR-2017-0355

⁷ Davis, L., Wolfram, C., 2012. "Deregulation, Consolidation, and Efficiency: Evidence from US Nuclear Power," *American Economic Journal: Applied Economics*, American Economic Association, vol. 4(4), pages 194-225, October.

ELEVEN MYTHS SURROUNDING SUB HOUSE BILL 6 (AS PASSED BY THE SENATE)

(This document was updated July 22, 2019.)

There are numerous myths surrounding Ohio’s legislation to bail out uneconomical nuclear power plants. Here are the top 11 myths – and the facts to set the record straight.

MYTH 1: SUB HB 6 IS ALL ABOUT CLEAN AIR – AND NOT A NUCLEAR BAILOUT FOR FIRSTENERGY SOLUTIONS.

FACT: THE BILL CANNOT BE MISTAKEN FOR ANYTHING OTHER THAN A BAILOUT.

- Sub HB 6 provides a Clean Air Credit to nuclear facilities (\$9.00 per MWh of generation) (Sec. 3706.45 and 3706.46) in the amount of \$150 million annually. FirstEnergy already received subsidies for its generation plants during the transition to a competitive market in the amount of \$6.9 billion. Sub HB 6 creates additional subsidies for two Ohio nuclear facilities that are currently in bankruptcy. After bankruptcy, it is estimated that the two Ohio nuclear facilities will become just as profitable as the other nuclear facilities that operate at a profit. (See table below.) Poor debt management should not be rewarded in the form of a corporate bailout.

Nuclear unit forward annual surplus (shortfall) (\$ in millions)

Surplus (Shortfall) (\$ in millions)			
	2019	2020	2021
Beaver Valley	\$134.3	\$93.5	\$84.7
Braidwood	\$106.4	\$80.3	\$51.7
Byron	\$104.3	\$78.6	\$50.6
Calvert Cliffs	\$131.0	\$99.0	\$89.3
Cook	\$95.8	\$48.4	\$41.9
Davis Besse	(\$26.9)	(\$47.8)	(\$45.6)
Dresden	\$97.3	\$76.4	\$53.8
Hope Creek	\$57.9	\$52.0	\$43.3
LaSalle	\$103.5	\$78.0	\$50.2
Limerick	\$112.2	\$100.5	\$83.8
North Anna	\$138.6	\$99.3	\$90.0
Peach Bottom	\$113.4	\$101.5	\$84.1
Perry	(\$22.6)	(\$49.6)	(\$47.8)
Quad Cities	\$61.3	\$42.2	\$20.9
Salem	\$114.6	\$102.8	\$85.5
Surry	\$120.5	\$85.6	\$77.6
Susquehanna	\$77.7	\$37.4	\$28.2
Three Mile Island	(\$56.9)	(\$69.6)	(\$72.3)

Source: PJM 2018 State of the Market, Table 7-42, at page 352 of Volume II

- The latest version of Sub HB 6 also provides subsidies to five large solar facilities in the amount of \$20 million annually and to the Ohio utilities for their direct or indirect ownership in old coal-generating plants, Ohio Valley Electric Corporation (OVEC), which includes one plant in Indiana and will cost customers over \$488 million more than current charges.

MYTH 2: SUB HB 6 WILL REDUCE COSTS.

FACT: SUB HB 6 WILL NOT REDUCE COSTS – IT ACTUALLY CREATES NEW COSTS.

- Sub HB 6 creates the Clean Air Charge that will collect \$170 million annually from customers in new charges.
- Sub HB 6 expands the existing OVEC rider through December 31, 2030 and to include costs associated with FirstEnergy's share for the OVEC plants, adding over \$488 million in costs to customers' bills. The charge will now be assessed to FirstEnergy customers, adding new costs to those customers.
- Sub HB 6 does not eliminate energy efficiency (EE) costs. The bill continues the existing EE programs through December 31, 2020 with increased budgets, and could possibly continue EE programs beyond 2020. **Allows costs associated with those programs to be collected from customers beyond December 31, 2020** if the EE programs continue and/or to reconcile cost recovery of the programs (Sec. 4928.66(F)).
- Sub HB 6 creates a new rider (decoupling mechanism) that will **continue to collect certain EE costs and may add new costs** (Sec. 4928.471). The new rider will continue until the utility's next base distribution rate case. The utility can collect the revenues it received for the 12 months ending December 31, 2018, associated with implementing EE programs, which includes lost distribution revenues. The rider appears to apply to commercial customers that opted out of paying the EE costs pursuant to R.C. 4928.6611, thereby **increasing some opt-out customers' bills**.
- Sub HB 6 will **increase wholesale capacity prices** by eliminating EE mandates that help suppress capacity prices. Also, Sub HB 6 erodes competition in electricity markets by subsidizing certain generating facilities at the expense of others, thereby increasing costs to customers.

MYTH 3: MANUFACTURERS CAN GET THE CLEAN AIR CREDITS OR OTHER FUNDS.

FACT: THAT'S JUST NOT GOING TO HAPPEN.

- The latest version of the bill clearly defines a Clean Air Resource as nuclear or solar facilities that are interconnected to PJM, and that are major utility facilities certified by the Ohio Power Siting Board prior to June 1, 2019, and the bill only provides for funding to Clean Air Resources (Sec. 3706.40). Therefore, manufacturers will not receive any monies from the Clean Air Fund.

MYTH 4: MANUFACTURERS WILL BE EXEMPTED FROM PAYING THE CLEAN AIR FEES.

FACT: MANUFACTURERS WILL NOT BE EXEMPTED.

- There are no longer any provisions in the bill that would exempt a manufacturer from paying the Clean Air Fees.

MYTH 5: COST TO MANUFACTURERS IS MINIMAL.

FACT: MANUFACTURERS' COSTS COULD INCREASE SUBSTANTIALLY.

- The monthly charge to the majority of commercial customers to fund the Clean Air Fund is unknown and undefined as to whether it will be collected on a per-account or per-customer basis or whether it will be a flat monthly charge or a kwh charge (Sec. 3706.46). Typically, utilities assign an account to each meter belonging to a customer; manufacturers frequently have more than one meter. Thus, a large manufacturer with three accounts could be assessed multiple charges based on consumption.

MYTH 6: SUB HB 6 CREATES DIVERSITY OF GENERATING RESOURCES.

FACT: THE BILL REMOVES INCENTIVES TO INVEST IN A BROADER ENERGY PORTFOLIO.

- If two Ohio nuclear plants, five solar facilities, and two old coal plants (one in Ohio and one in Indiana) receive subsidies and other resources do not receive subsidies, the four subsidized plants will likely be able to be dispatched by PJM, replacing other resources, which could include coal plants that recently invested to add scrubbers and emission control equipment. Unfairly subsidizing certain plants at the expense of all others may enable those subsidized plants to remain in the diversity mix, but could cause other resources to be eliminated from the mix.

MYTH 7: SUB HB 6 PROHIBITS GENERATING FACILITIES FROM RECEIVING MULTIPLE GOVERNMENT SUBSIDIES.

FACT: UNDER THE BILL, GENERATORS COULD GET MANY GOVERNMENT SUBSIDIES.

- Sub HB 6 does not prohibit a facility from receiving multiple government subsidies. It does not specifically prohibit resources from receiving one or more state, federal, or municipal subsidies, or local tax abatements, and only permits, not requires, the Ohio Air Quality Development Authority to cease or reduce payments to nuclear facilities if FERC or NRC establish a monetary benefit or incentive payment to continue commercial operation of the plants. Moreover, Sub HB 6 allows a Clean Air Resource to receive a Clean Air Credit, while also allowing for increased capacity payments from PJM that could be triggered by Sub HB 6 (Sec. 3706.61).

MYTH 8: SUB HB 6 SWAPS MANDATES – OHIO'S ENERGY EFFICIENCY AND RENEWABLE PORTFOLIO STANDARDS ARE REPLACED BY A CLEAN AIR FUND.

FACT: MANUFACTURERS COULD GET STUCK PAYING FOR MULTIPLE MANDATES.

- Sub HB 6 does not simply eliminate EE costs and replace with a lower Clean Air Fee. Rather, Sub HB 6 continues to collect costs associated with existing EE programs through December 31, 2020 and possibly beyond 2020, allows the utilities to collect costs and incentives associated with expanding collection of OVEC, and will assess other new charges to customers, including customers that opted out of EE programs (see Myth #2). Additionally, Sub HB 6 does not just affect the EE and Renewable Portfolio Standards (RPS) mandates. Sub HB 6 modifies the ratemaking statutes enacted to effectuate deregulation and allows utilities to add new above-market charges to customers' bills through their Electric Security Plans (ESPs). Sub HB 6 creates a mechanism for distribution utilities to re-enter the generation market, creating bad energy policies. Sub HB 6 is a step backwards for Ohio.

MYTH 9: SUB HB 6 REDUCES EMISSIONS IN OHIO.

FACT: THE CURRENT SYSTEM IS WORKING; SUB HB 6 COULD THWART OHIO'S PROGRESS.

- Ohio's existing diverse electricity generation mix has already reduced emissions by 38 percent from 2005 levels. This lower carbon transformation has occurred in a competitive wholesale electricity market. Subsidizing older plants, including two coal plants, with older technologies that may otherwise retire and make way for newer technologies could result in increased carbon-dioxide emissions in Ohio.

MYTH 10: SUB HB 6 SUBSIDIES FOR OHIO VALLEY ELECTRIC CORPORATION (OVEC) ARE INSIGNIFICANT.

FACT: THE NEW OVEC SUBSIDY WILL COST OHIO FAMILIES AND BUSINESSES AT LEAST AN ADDITIONAL \$488 MILLION THROUGH 2030.

- Total costs to Ohio ratepayers for OVEC under approved ESPs are approximately \$79 million per year.
- The modified OVEC subsidy will expand the duration of the current non-bypassable, above-market charges on customers' electric bills, will include costs associated with FirstEnergy's share of OVEC, and will be expanded to assess the charge on FirstEnergy's customers.(Sec. 4928.148).
- AEP Ohio will recover roughly \$38 million per year from customers under the approved ESP through May 31, 2024. Sub HB 6 would allow the company to recover an additional \$247 million between June 2024 and December 2030.
- Duke Energy Ohio will recover roughly \$32 million per year from customers under the approved ESP through May 31, 2025. Sub HB 6 would allow the company to recover an additional \$176 million between June 2025 and December 2030.
- The Dayton Power and Light Company will recover roughly \$9 million per year from customers under the approved ESP through November 1, 2023. Sub HB 6 would allow the company to recover an additional \$65 million between November 2023 and December 2030.
- Although the OVEC charge will be capped monthly through December 21, 2030, the charge is subject to final reconciliation on December 31, 2030, at which time customers will be responsible to pay all costs that have been deferred and that are due. Customers could be on the hook for a large lump sum payment on December 31, 2030 (Sec. 4928.148(A)(3)).

MYTH #11: SUB HB 6 SUPPORTS ONLY OHIO FACILITIES.

FACT: SUB HB6 WILL GIVE MILLIONS OF DOLLARS TO AN INDIANA COAL PLANT.

- The bill does NOT require that the Legacy Generation Resources (OVEC) be in the state of Ohio to receive subsidies under Sub HB 6 (Sec. 4928.01(A)(41); 4928.148). One OVEC unit partially owned by the Ohio distribution utilities that will receive customer-funded subsidies from Ohioans under Sub HB 6 is in Indiana.

The Columbus Dispatch

Opinion

Column: Sign the correct petition if you oppose utility's bailout

Posted at 4:15 AM

At a recent National Conference of State Legislatures meeting, I was talking to a Kentucky lawmaker who told me that he followed Ohio economic development closely. I asked his opinion on Ohio's House Bill 6, the bailout bill for FirstEnergy Solutions' two nuclear plants and two coal-fired plants. He asked me to thank Ohio legislators for improving Kentucky's business climate.

He was well aware that today Kentucky has a penny-per-kilowatt-hour cost advantage on the electricity businesses use and expected that difference to grow thanks to HB 6.

Ohio helped its border-state rival by wrecking our nation-leading competitive electricity generating market, setting the stage for increased electricity costs when it passed House Bill 6, also known as the billion-dollar utility bailout bill.

Although marketed as a means of helping Ohio businesses and workers, HB 6 hurts both by giving businesses an incentive to locate to a nearby state with more-affordable power.

It's already cost Ohio jobs and \$1.5 billion in investments in the state's blossoming natural gas industry. Even before legislators finalized HB 6, businesses scrapped plans for natural gas-fired power plants in northeast and northwest Ohio, knowing they would be unable to compete with electricity that ratepayers had been forced to help bankroll.

Unless vetoed by the voters, HB 6 will force consumers to subsidize the Davis-Besse and Perry nuclear plants owned by FirstEnergy Solutions, an arm of Akron-based FirstEnergy that is working to emerge from bankruptcy protection. It also bails out two coal-fired power plants — one in Ohio, the other in Indiana, owned by a group that includes American Electric Power.

And the bill guts Ohio's renewable energy and energy efficiency programs.

To summarize: Unless voters say "no," the bill would force utility customers to subsidize uncompetitive power plants, remove all incentives to build more energy efficient power plants and cancel programs that help customers use less electricity. It does provide safe shelter for five solar projects. Unfortunately, they will be able to sell their power safe from the cost discipline of competition. It's a bill that only a utility — and the political establishment it showers with donations — could love.

Whether voters have a chance to weigh in on the bailout will not be known until the referendum campaign plays out.

The anti-bailout team has until Monday, Oct. 21, to gather 265,000 valid signatures to put the measure before voters. With the help of millions in dark money and old-fashioned thuggery, pro-bailout forces are trying to intimidate people from signing the petitions by employing "blockers" who harass people being asked to sign them. They also are offering thousands of dollars to try to lure away petition circulators hired by those who oppose the bailout.

Bailout supporters are circulating their own lookalike, nonbinding petitions to further confuse voters.

If you want to stand up for consumers and sign a petition, make sure you sign the correct one. Real petitions bear the name of Ohioans Against Corporate Bailouts, and they have defined blocks in which signers list their names and addresses. Fake petitions simply have lines, similar to the ones found on legal pads.

Regardless of what the pro-bailout forces say, electricity costs will go up unless the electorate votes this down. FirstEnergy and its lobbyists say that I am wrong. Where's my proof? It's in the millions of dollars they have invested in lobbying, lawyers, deceptive campaign ads and phony, sometimes violent petition gatherers and blockers.

FirstEnergy Solutions' bankruptcy records document that front groups have spent lavishly on ads that have run on TV and social media platforms. A dark money group, Generation Now, sank nearly \$5 million into pro-HB 6 TV and

radio ads and a million more on Statehouse legislative races. And records link an employee at a lobbying firm that was paid more than \$800,000 by FirstEnergy Solutions to the written testimony of at least seven people who testified in favor of the bailout bill.

No entity that invests so heavily in paid media, lobbyists and political contributions is looking to reduce its revenues. FirstEnergy expects a sizeable return on its sizeable investment.

It has worked for them in the past. FirstEnergy has been seeking and receiving bailouts for years.

FirstEnergy has not earned our trust, and it must not benefit from the confusion it has created. The issue deserves to go before voters, and the winner should be determined by a free and open debate — not by which side pays the most to win and which knows how to buy the spin cycle. This is a battle between truth and truthiness. Let's hope that truth wins out.

Edward (Ned) Hill is professor of economic development at Ohio State University and former dean of the College of Urban Affairs at Cleveland State University. This column represents his views and not those of either university.



Campaign Will Not File House Bill 6 Referendum Petitions

Awaits U.S. District Court Decision On Challenge to Petition "Blackout Period"

(Columbus, October 21, 2019) -- Ohioans Against Corporate Bailouts will not file its petitions to repeal House Bill 6 with the Ohio Secretary of State today, campaign leaders announced.

"Nuclear bailout supporters of House Bill 6 have stooped to unprecedented and deceitful depths to stop Ohioans from exercising their Constitutional rights to put a bailout question on the ballot for voters to decide," said campaign spokesman Gene Pierce. "We may never know how much money the corporate backers spent in their campaign of deceit, but we estimate their television, digital and radio advertising, direct mail and their blocking and fake petition to cost over \$50 million."

Tactics employed by supporters of House Bill 6 to protect FirstEnergy Solutions' billion dollar bailout include:

- spending millions of dollars on deceitful, racist and hypocritical ads,
- hiring thousands of "blockers" to interfere with our petitioners and discourage Ohioans from signing our petition,
- encouraging Ohioans to spy on their neighbors,
- bribing our petition circulators with \$2,500 and plane tickets,
- buying signatures from our circulators, a fifth degree felony under Ohio law,
- circulating a bogus petition to confuse Ohio voters,
- paying circulators millions of dollars for signatures on that bogus petition and
- suggesting Ohio's Supreme Court ignore four decades of established legal precedent to try to keep this bailout issue off the ballot.

"The fight to put House Bill 6 on the ballot in 2020 isn't over yet though," said Pierce. "Our lawsuit challenging the 'blackout period' on petitioning, which consumed 38 of the 90 days we had to collect signatures, remains under review in U.S. District Court." An evidentiary hearing is scheduled for Tuesday, October 22 at 1:45 p.m.

The suit reads:

Through imposition of extra-constitutional mandates in Ohio Rev. Code §3519.01(B) (the "Summary Statute") which require, prior to obtaining a single signature on any referendum petition, those seeking to subject legislation to referendum to obtain pre-approval from the government of the proposed petition and that, while awaiting such pre-approval, the 90-day period to obtain signatures on the petition is not tolled or stayed, the State of Ohio has unconstitutionally burdened and infringed upon the full and robust exercise of the First Amendment rights of the Committee and those supportive of subjecting H.B. 6 to a vote of the people.

"We are fully prepared to continue circulating petitions if the court rules in our favor and grants us a full 90 days to collect signatures," said Pierce.

Ohioans Against Corporate Bailouts is a coalition of consumer, business and environmental advocates opposed to House Bill 6's controversial billion dollar bailout and gutting of Ohio's renewable energy standards.

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CARPENTER LIPPS & LELAND LLP

ATTORNEYS AT LAW
280 PLAZA, SUITE 1300
280 NORTH HIGH STREET
COLUMBUS, OHIO 43215

HB 6 Implementation Issues and Timelines

Before the PUCO:

1. Statewide OVEC Costs—effective 1/1/20.
 - a. Staff filed a Staff proposal that has been issued for comment.
 - i. Comments due 10/17/19; Reply Comments due 10/28/19.
 - b. OVEC costs recovered 1/1/20 through 12/31/30.
 - c. PUCO prudency reviews in 2021, 2024, 2027, and 2030.
2. Reduction in RPS Baseline for RPS Compliance—effective compliance year 2020.
 - a. Reduce baseline for utilities and suppliers by kwh produced by qualifying renewable resources.
 - b. Reduce baseline for economic growth.
 - c. Reduce baseline to exclude load and usage of self-assessor customers.
3. Energy Efficiency Programs—effective 10/22/19.
 - a. PUCO shall extend EE Plans that expire before 12/31/20 through 12/31/20.
 - b. Except for the increase in the budget amount, all other terms and conditions of the EE plan shall remain the same unless changes are authorized by the PUCO.
 - c. By 2/1/21, the PUCO shall determine the cumulative energy savings collectively achieved since 2009 by all utilities as of 12/31/20.
 - d. Establish EE baseline that is the average of the total kwhs sold by all utilities in the state in 2018, 2019, and 2020.
 - i. Exclude from EE baseline a reasonable arrangement customer and opt-out customers.
 - e. If cumulative energy savings collectively achieved is less than 17.5% of baseline, further EE programs will occur as determined by PUCO to reasonably achieve 17.5%.
 - f. EE cost recovery mechanism terminated after full compliance achieved and reconciliation complete.
4. Expanded EE Opt-out—effective 1/1/20
 - a. EE Opt-out expanded to all mercantile customers.

5. Renewable PPAs—effective upon PUCO approval after 10/22/19.
 - a. Utility may enter into an agreement for a 3 year PPA with one or more mercantile customers to construct a customer-sited renewable resource in this state that will provide the mercantile customer(s) with a material portion of the customer’s electricity requirements.
 - b. Any direct or indirect costs associated with project must be paid for solely by the utility and mercantile customer(s).
 - c. Must get PUCO approval; Utility must act on a non-discriminatory basis.
6. Decoupling Mechanism—effective upon PUCO approval within 60 days of application.
 - a. Utility may file an application to implement on 11/22/19 and after.
 - b. Effective date could be within 60 days of 11/22/19 (prior to 1/21/20).
7. Ohio Clean Air Fund Collection—effective 1/1/21.
 - a. Collect amount sufficient to produce \$170M annually in revenue.
 - b. Collect charge on all bills rendered on or after 1/1/21.
 - c. PUCO needs to determine allocation methodology.
 - d. Level and structure of the charge needs to be approved by PUCO.
8. PUCO retrospective management and financial review.
 - a. By May 1st of each year for period of 2021 through 2027, the PUCO shall conduct a review of the owner or operator of a qualifying resource.
 - b. PUCO shall submit a report summarizing the findings of each annual audit.

Before OAQDA:

1. Nuclear and Renewable Generation Program and funding mechanism—adopt by 1/1/20.
 - a. OAQDA (in conjunction with PUCO) drafted and issued proposed rules for comment.
 - i. Comments due 10/7/19.
 - b. Application to become a qualifying nuclear resource or renewable resource—due to OAQDA by 2/1/20.
 - c. OAQDA must approve applications by 3/31/20.
2. Qualifying Facilities’ Reports.
 - a. First report by 4/7/20; last report by 1/7/27.
3. Fund Disbursement.
 - a. Beginning with April 2021 and ending with January 2028 remit money to qualifying resources every three months by the 21st day of each month.



October 22, 2019

The Honorable Jamie Callender, Chair
The Honorable Shane Wilkin, Vice Chair
The Honorable Kent Smith, Ranking Member
Members, Ohio House Public Utilities Committee

RE: OMA Letter of Opposition to House Bill 247

Dear Chairman Callender, Vice Chair Wilkin, Ranking Member Smith and Members:

I write on behalf of the Ohio Manufacturers' Association (OMA). As an industry, Ohio's manufacturers consume nearly a third of all energy resources in our state. Public policies that impact the cost of electricity are of great interest to our membership. The OMA has reviewed the legislation and we write today to convey our opposition to House Bill 247 (HB 247) as you consider the bill.

HB 247 allows for expansion of regulated utilities into existing and emerging competitive markets. It does so by allowing the regulated, monopoly electric distribution companies to offer products and services currently offered by competitive, private enterprise. HB 247 may be best summarized by one of its most striking set of provisions – it repeatedly eliminates language that safeguards markets, customers, and ratepayers from anti-competitive utility behavior.

HB 247 would make unprecedented changes to how Ohio's electric distribution utilities could operate, largely at the expense of competitive markets. Quite literally, HB 247 allows anti-competitive behavior by the electric distribution utilities in existing and emerging markets. While some guardrails are proposed, the protection to markets, customers, and ratepayers is illusory.

HB 247 as proposed, however, should not be confounded with the promise of the technologies and services it addresses. The emerging technologies and services influencing customer energy use are a bright spot in the energy industry and Ohio's economy – please do not stymie that further by passing this legislation.

We would caution you regarding some of the claims made last week by proponent witnesses from Ohio's four monopoly electric distribution utility companies. HB 247 is not about coordinating state economic development work. This bill is not about grid modernization. This bill is not about building out charging stations for electric vehicles. There are mechanisms in place today at the PUCO for utilities to gain customer cost-recovery if they can prove system need and benefit. In fact, Ohio customers are already paying for many of those costs through existing riders on the distribution portion of their power bill.

Make no mistake, this bill is about one thing -- eroding competitive market economics and forcing captive customers to pay more on power bills, all while reducing the amount of scrutiny and due process to protect customers.

For these reasons we urge you to oppose HB 247.

Please feel free to contact me if you would like to discuss the matter further. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Ryan Augsburger".

Ryan Augsburger
Vice President & Managing Director of Public Policy
614-629-6817
raugsburger@ohiomfg.com



MEMORANDUM

Date: October 8, 2019
To: The Ohio Manufacturers' Association
From: John Seryak, PE (RunnerStone, LLC)
RE: House Bill 247 – Expansion of Regulated Utilities into Competitive Markets of Products and Services

House Bill (HB) 247 was recently introduced to the Public Utilities Committee of the Ohio House of Representatives. HB 247 is notable, in that it allows for expansion of regulated utilities into existing and emerging competitive markets. It does so by allowing the regulated, monopoly electric distribution companies to offer products and services currently offered by competitive, private enterprise. HB 247 may be best summarized by one of its most striking set of provisions – it repeatedly eliminates language that safeguards markets, customers, and ratepayers from anti-competitive utility behavior.

Allowances for Anticompetitive Behavior

HB 247 repeatedly changes language in the Ohio Revised Code that limits anti-competitive behavior by electric distribution utilities. For markets to function effectively, it is important to clearly delineate the responsibilities of Ohio's "wires only" electric monopolies, and alternately what products and services are to be offered by the competitive markets. For example, Ohio law has previously prohibited "anticompetitive subsidies flowing...to a product or service other than retail electric service" HB 247 eliminates the phrase "to a product or service other than retail electric service", thereby allowing anticompetitive subsidies. In three other locations, HB 247 strikes-through language protecting markets for products and services from anti-competitive behavior and undue influence.

HB 247

- Allowance of anti-competitive utility behavior
- Illusory safeguards to markets, customers, and ratepayers
- Allows regulated distribution utility involvement in emerging markets, such as electric vehicle charging and batteries
- Allows regulated distribution utility involvement in existing markets, such as lighting installations, equipment financing, warranties, and energy management services
- Makes changes to utility cost recovery regarding the "used and useful" doctrine
- Allows socialized cost recovery for select privately-owned projects

Expansion of Regulated Utility Services into Existing Competitive Markets

HB 247 expands the ability of the regulated electric distribution utility to offer customer-facing products and services. Markets for these behind-the-meter products and services already exist and are served by competitive enterprise. These products and services would include:



- Load curtailment and demand response
- Energy efficiency
- Energy storage and batteries
- Energy management
- Energy monitoring and controls
- Lighting and other controls
- Warranty and repair services
- Electric vehicle charging stations
- Microgrids
- Community solar facilities
- Energy-related physical security and cybersecurity, reliability services, or resiliency services
- Installation of products and technology
- Financing, leasing, and management of products and technology

Under HB 247, the list of products and services a distribution utility would be able to offer is so expansive it covers nearly the entirety of private enterprise offerings to customers regarding their energy consumption. Alarmingly, many of these areas have fully developed markets, while the distribution utilities have no experience in the offering, such as installing lighting controls, offering warranty and repair services, and offering energy management services. These competitive markets also rapidly change, and the participants are regularly innovating. This entrepreneurialism produces successful outcomes for customers, but can also produce business failures, as ideas are tested by the market. Competitive markets are well suited for incorporating these rapid changes, allowing good businesses to grow and uneconomic concepts to fail. This high risk environment, however, does not match well with the distribution utility business model, which requires low risk, stability, and tried-and-true technologies in order to protect ratepayers, who bear the financial risk of the distribution utilities' decisions.

HB 247 does have some guardrails for how the distribution utility offers services and products to customers, including that the products and services are optional for customers, that separate accounting is maintained, and that incremental costs are not recovered through base rates. These protections are illusory however. Even if distribution utilities offerings are optional, it could produce a significant chilling effect on private investment in a competitive market, as the distribution utility has a distinct competitive advantage through its status as a regulated monopoly. Additionally, while the optional, incremental costs can be accounted for separately, there is no way of separating financial risks of these projects from the distribution corporation, short of actual corporate separation.

Expansion of Regulated Utility Services into Emerging Technologies and Markets



HB 247 also expands the ability of a distribution utility to offer smart grid technologies, but, specifically for “storage, control, or delivery of electrical energy.” Electric distribution utilities already can deploy and receive cost recovery for many of the items listed as smart grid technologies in HB 247. However, some technologies are listed as emerging, and arguably could be deployed by private enterprise and competitive markets, with the distribution utility playing the role of the “platform” for these products and services. HB 247 defines the following smart grid technologies:

- Technologies that distribution utilities already commonly deploy and receive cost recovery for
 - Advanced metering
 - Automation of system functions
 - Distribution automation
 - Physical and cybersecurity technologies
 - Volt-VAR optimization and similar technologies
- Emerging technologies that can be served by competitive enterprise
 - Battery technology
 - Electric vehicle charging stations
 - Microgrids
 - Intelligent traffic sensors
- Existing technologies and services already served by competitive enterprise
 - Demand response and other energy management technologies
 - Lighting controls and other smart controls

Changes to the Used and Useful Doctrine, Socialized Cost Recovery for Select Customer Projects

HB 247 makes significant changes to how Ohio’s electricity infrastructure can be used for economic development. Specifically, under HB 247 the distribution utility is given authority to undertake “infrastructure development” for economic development interests. Presently, utilities may already conduct infrastructure development projects for economic development interests through the reasonable arrangement process. Important changes to existing practice that HB 247 proposes include allowing non-bypassable recovery of these costs from all ratepayers of the utility, regardless of whether the infrastructure is “used or useful.” Currently, a utility may not recover costs for equipment that is not used or useful. Thus, this is a concerning change in law.

Moreover, HB 247 goes on to allow non-bypassable cost recovery from all ratepayers of these infrastructure projects, which benefit single customers for economic development, and then the



RunnerStone, LLC

5701 N. High Street, Worthington, OH 43085
614.268.4263

ownership of these new facilities is passed to the benefitting customer. This could allow an expansive amount of private facility investment to be shifted to the public sector and ratepayers.

Conclusion

HB 247 would make unprecedented changes to how Ohio's electric distribution utilities could operate, largely at the expense of competitive markets. Quite literally, HB 247 allows anti-competitive behavior by the electric distribution utilities in existing and emerging markets. While some guardrails are proposed, the protection to markets, customers, and ratepayers is illusory.

HB 247 as proposed, however, should not be confounded with the promise of the technologies and services it addresses. The emerging technologies and services influencing customer energy use are a bright spot in the energy industry and Ohio's economy.

October 31, 2019

It may be Halloween, but this is no trick. Beware of some downright scary requests and proposals your company may have received from your electric distribution utility. We believe the threat deserves this special note. We also sent this note to members of the OMA's energy community.

Beware of HB 247

Several member manufacturers have been contacted recently by their AEP account representatives asking them to submit a letter of support for House Bill 247. Don't be fooled. This bill does nothing to help customers.

HB 247 is another affront to competitive markets and will impose new costs on your power bill without corresponding benefits. Last week, the OMA presented [opponent testimony to HB 247](#). Other customer groups share our concerns. Review the [OMA's customer impact memo](#) to better understand the frightening provisions of the legislation.

We suggest you send a letter of opposition to the House Public Utilities Committee chairman to amplify your concerns and protect your company. Here is a [model letter](#) (in Word) for your convenience. You can email your letter to [Rep. Jamie Callender](#). Please send a copy to me so we can ensure your letter gets the proper attention.

Beware of Virtual PPA (Power Purchase Agreement)

Some of your companies have been solicited to consider signing onto a renewable energy "virtual power purchase agreement." Be aware that this product is *not* a power supply contract. Use these [OMA resources](#) to learn more.

TO: OMA Government Affairs Committee
FROM: Ryan Augsburger / Rob Brundrett
RE: Environment Public Policy Report
DATE: November 13, 2019

Overview

No new or major comprehensive environmental legislation has been introduced this General Assembly. Ohio played a secondary role in the state budget discussions that stretched past the June 30 deadline into mid-July. Several EPA changes were included in the bill, most notably LEBOR defense. H2Ohio received a funding commitment from the General Assembly and should begin to take a more solid shape this fall.

Governor DeWine asked Ohio EPA and the Ohio Department of Health to develop a plan to review PFAS in Ohio. PFAS has become a major flashpoint in environmental circles over the past year. This issue has the potential to impact manufacturers both through regulations and through legal challenges.

OMA continues to be heavily engaged at the agency level regarding rules and regulations that impact Ohio's manufacturers.

General Assembly News and Legislation

Senate Bill 2 – Statewide Watershed Planning

The bill's goal is to create a comprehensive statewide watershed planning structure to be implemented by local soil and water conservation districts to encourage efficient crop growth, soil conservation and water protection methods. The bill specifically states that it is the General Assembly's intent to collaborate with organizations representing agriculture, conservation, the environment, and higher education to establish a certification program for farmers that utilize practices designed to minimize impacts to water quality.

The Senate sees the bill as a complementary piece of legislation to the work done in the budget on creating and funding H2Ohio. The House of Representatives has begun to hold hearings on the bill.

House Bill 7 – H2Ohio Trust Fund

The bill creates the H2Ohio Trust Fund for the protection and preservation, and restoration of the water quality of Ohio's lakes and rivers. It requires the Ohio Water Development Authority to act as trustee of the fund and grants them full powers to invest money. It also creates the H2Ohio Advisory Council to establish priorities for use of the fund for water quality initiatives.

The House initially removed most of the funding for H2Ohio from the state budget. However, the startup funding was reinserted during House and Senate discussions along with other H2Ohio framework provisions.

Senate Bill 50 – Increase Solid Waste Disposal Fee

Senator Eklund has reintroduced Senate Bill 50. The bill would increase one of the state fees levied on the transfer or disposal of solid waste in Ohio. The proceeds of this increase will be deposited into the Soil and Water Conservation District Assistance Fund. Last General Assembly the OMA worked with allies to oppose the fee increase. Recently the Soil and Water Conservation Districts have been the point agency on any new water programs to battle nutrient runoff. The bill has had two hearings. The budget bill provided increased state funding to the soil and water conservation districts.

House Bill 94 – Lake Erie Drilling Ban

HB 94 bans the taking or removal of oil or natural gas from and under the bed of Lake Erie.

House Bill 166 – State Operating Budget

Governor DeWine introduced his budget bill on March 15. Included in the budget bill was the framework for the new H2Ohio fund. That fund would be used to increase Ohio water quality throughout the state.

Originally introduced the initiative would provide funding of as much as \$900 million over ten years to protect Ohio's water quality spread over three agencies, EPA, Agriculture, and Natural Resources.

Investments would be made in programs affecting state waters including Lake Erie and other rivers, lakes, and waterways. Efforts could include pollution prevention, land-based management programs, water-based restoration programs, as well as science, research and measurement.

The General Assembly decided to fund the initiative with the \$172 million "H2Ohio fund," aimed at protecting Lake Erie, other state waterways, and community water projects. The administration has begun to form a strategy on how best to administer the dollars, while promising "more public discussions in the next few weeks."

Approximately \$46 million of the fund will be dedicated to wetland restoration to help to prevent nutrient run-off that contributes to algal blooms. The budget requires the Lake Erie Commission to coordinate with state agencies and boards to submit an annual report to the governor and legislature on H2Ohio spending during the prior fiscal year.

Also included in the state budget was an amendment that provided that nature or any ecosystem does not have standing to participate or bring an action in a court of common pleas, and prohibited any person on behalf of an ecosystem or nature from bringing or intervening in an action in such court. This amendment supported by the OMA was in direct response to the Lake Erie Bill of Rights which was passed earlier this year in Toledo.

Senate Bill 222 – Container Use Restriction

The Senate version of House Bill 242 also authorizes the use of an auxiliary container for any purpose; it also prohibits the imposition of a tax or fee on those containers and applies existing anti-littering laws to those containers. The OMA provided proponent testimony on Tuesday of this week.

House Bill 242 – Container Use Restriction

The bill authorizes the use of an auxiliary container for any purpose, to prohibit the imposition of a tax or fee on those containers, and to apply existing anti-littering law to those containers.

This so-called bag bill is aimed at providing uniformity across the state regarding packaging and other products that have been ground zero for local government bans. The OMA provided strong support in committee.

House Bill 328 – PFAS Firefighting Foam

The bill prevents testing and training with firefighting foam with PFAS added.

Regulations

Ohio EPA Seeks Stakeholder Input on Affordable Clean Energy Rules

The Affordable Clean Energy rule (ACE) — finalized by the U.S. Environmental Protection Agency on July 8, 2019 — consists of emission guidelines for greenhouse gas (GHG) emissions from existing electric utility generating units (EGUs) under the federal Clean Air Act. The rule will inform states on the development, submission, and implementation of state plans to establish performance standards for GHG emissions from certain fossil fuel-fired EGUs.

The new rules will be a part of Ohio EPA's plan for implementing the ACE program in the Buckeye State. Ohio EPA has issued an Early Stakeholder Outreach (ESO) to help develop the rules.

EPA Rescinds 2015 WOTUS Rule

In September, the U.S. EPA formally scrapped the Obama-era Waters of the United States (WOTUS) rule. While environmental groups are expected to fight the withdrawal of the rule in the courts — and California has threatened to sue the administration — EPA officials already have a narrower rule in the works. The OMA has formally supported the administration's proposed rule, which is more restrained and observes traditional limits on the scope of federal power.

OMA: Air Pollution Rules Need Clarity

This summer the OMA submitted comments in response to the Ohio EPA's air pollution rules. The comments were made as part of the agency's Early Stakeholder Outreach program.

The OMA used the opportunity to share its concern over ambiguity in the current air pollution rules, and suggested the need for more clarity — specifically regarding the attainment and maintenance of the National Ambient Air Quality Standards. Because of the significant impact that air pollution regulations can have on manufacturers, the OMA requested that the association “be included in any work groups or future discussions on amendments to these rules.”

OMA Files Comments on NY Ozone Air Quality Case

On March 12, 2018, the State of New York filed a petition under Section 126 of the federal Clean Air Act naming approximately 350 sources of nitrogen oxides emissions in Illinois, Indiana, Kentucky, Maryland, Michigan, Ohio, Pennsylvania, Virginia, and West Virginia as contributing to violations of the ozone air quality standards in New York. On May 20, 2019, U.S. EPA proposed to deny the petition. The OMA filed comments at U.S. EPA supporting the denial of the petition.

OMA Comments on Ohio EPA's Water Quality Standards – Human Health Criteria

In May the OMA submitted comments in response to Ohio EPA's draft revisions to Ohio's water quality standards for human health criteria set forth in Ohio Administrative Code Rules 3745-1-32, -33, and -34. Among the comments the OMA noted that the potential impacts of these draft rule amendments to the business community have the potential to be highly significant, particularly if more stringent permit limitations or permit limitations for entirely new criteria are imposed through NPDES permits directly or through more stringent indirect discharge limitations on discharges sent to POTWs.

OMA Comments on ORSANCO's Proposed Revisions to Pollution Control Standards

Earlier this year, the OMA submitted comments pertaining to the Ohio River Valley Water Sanitation Commission (ORSANCO) and potential revisions to the commission's pollution control standards (PCS).

In its comments, the OMA expressed concerns that differences between ORSANCO's standards and those of the Clean Water Act "can and do lead to confusion for the manufacturing community" and that "there is often no effective way to question or challenge the appropriateness or applicability of the underlying PCS in specific permitting situations." OMA recommended that the PCS should be removed from the ORSANCO program.

OMA Comments on Ohio EPA Biocriteria

Earlier this year the OMA submitted general comments in response to Ohio EPA's Early Stakeholder Outreach for its Application of Biological Survey Data to Development of Water Quality Based Effluent Limitations (OAC 3745-2-03).

The new rule is intended to provide clarification and additional detail regarding when and how the biocriteria narrative should be used, as well as define what information is needed by Ohio EPA in order evaluate a request to use the biocriteria narrative.

Ohio EPA Agency News

Governor Enters Fray on PFAS

Gov. Mike DeWine announced that he has directed state agencies to analyze the prevalence of per- and polyfluoroalkyl substances (PFAS) in Ohio's drinking water. This action followed a Sept. 18 letter from Gov. DeWine and 14 other governors to federal lawmakers, calling for more comprehensive federal legislation on PFAS standards.

The debate over PFAS has become controversial as plaintiffs' lawyers aggressively attempt to litigate against manufacturers.

New Movie Attacks Manufacturer, Ignores Science

The producers of an upcoming feature film that casts aspersions on a manufacturer in the Ohio River Valley region has just released the movie's trailer. The film ignores sound science and truth in order to foster a trial-lawyer agenda.

For years, the OMA has worked to improve Ohio's legal climate from junk lawsuits that allege injury without proving causation. The OMA will be communicating to set the record straight and rebut the myths of this Hollywood fantasy. In doing so, we will also be defending our region's job-creators and employees who make great products.

OMA Members and US EPA Region V Meeting

OMA has partnered with the law firm of Steptoe and Johnson to host a manufacturers' meeting with senior management of U.S. EPA Region V and Ohio EPA.

New date! The meeting will take place on Tuesday, November 19 from 9 a.m. to noon (Central time) at the U.S. EPA offices, 77 W Jackson Blvd, Chicago, IL 60604.

Representatives of U.S. EPA and Ohio EPA will provide updates on recent developments in all major program areas, followed by a Q & A session for the benefit of those in attendance.

Attendees of last year's meeting found it to be valuable in terms of learning more about Region V policies and practices and building relationships with EPA management and staff.

All OMA members are welcome; however, due to security and limited seating, please reserve your spot early. Please contact Rob Brundrett at the OMA to reserve your spot. Only those who RSVP can be admitted.



Bricker & Eckler LLP
100 South Third Street
Columbus, OH 43215
Office: 614.227.2300
www.bricker.com
info@bricker.com

Christine Rideout Schirra
Direct Dial: 614.227.8810
cschirra@bricker.com

MEMORANDUM

TO: The Ohio Manufacturers' Association
FROM: Bricker & Eckler, LLP
DATE: October 8, 2019
RE: Governor DeWine Issues Order to Analyze PFAS in Ohio's Drinking Water

On September 27, 2019, Governor Mike DeWine announced that he has directed the Ohio Environmental Protection Agency ("Ohio EPA") and Ohio Department of Health ("ODH") to analyze the prevalence of per- and polyfluoroalkyl substances (collectively, "PFAS") in Ohio's drinking water systems ("[Governor's Order](#)"). PFAS are not currently regulated compounds in Ohio. According to the Governor, the current levels of PFAS in Ohio's water supply are unknown and an analysis "is important for both the protection of [Ohio's] natural resources and for public health."

I. Summary of Governor DeWine's Order

More specifically, Governor DeWine has directed the Ohio EPA and ODH to develop an "action plan" by December 1, 2019, with the focus of testing public and private water systems. Importantly, the Governor's Order specifically notes that water supplies "near known sources of PFAS, such as firefighting training sites and manufacturing facilities" are to be analyzed.

As part of this action plan, Ohio EPA and ODH are to develop a strategy to work with communities and private well owners on "appropriate response measures if high levels of PFAS are found." The Governor's Order further directs the agencies to develop education and outreach materials to assist Ohioans in better understanding PFAS compounds, any associated health risks, and practical measures to reduce exposure. Lastly, the Governor's Order directs Ohio EPA and ODH to continuously monitor emerging areas of national research as they pertain to adequate chemical substitutes for PFAS, soil remediation, and technologies to treat PFAS.

The Governor's press release comes on the heels of a [September 18, 2019 letter](#) sent by Governor DeWine to the U.S. Senate and House Armed Services Committees calling for more comprehensive national legislation on the regulation of PFAS. That letter was joined by fourteen other governors from across the country. According to the Governor, the evaluation of PFAS risks is an issue that requires the attention and resources of the federal government in addition to states in order to effectively address potential PFAS contamination.

II. What are PFAS?

The category of compounds known as "PFAS" represents a larger group of chemicals that include both perfluorooctane sulfonate ("PFOS") and perfluorooctanoic acid ("PFOA"), among

others. PFAS have been manufactured and used in a variety of industries around the globe since the 1940s, and are ubiquitous in the environment and found in products used on a daily basis. According to the United States Environmental Protection Agency ("US EPA"), PFAS compounds can be found in the following: (i) food packaged in PFAS-containing materials, processed with equipment that used PFAS, or grown in PFAS-contaminated soil or water; (ii) commercial household products, including stain- and water-repellent fabrics, nonstick products (e.g., Teflon), polishes, waxes, paints, cleaning products, and fire-fighting foams; (iii) workplaces such as production facilities or industries that use PFAS; (iv) drinking water typically localized and associated with a specific facility; and (v) living organisms, including fish, animals and humans, where PFAS have the ability to build up and persist over time.

According to US EPA, the concern with PFAS compounds – and specifically with PFOS and PFOA – is that they are very persistent in the environment and in the human body, as they do not break down and can therefore accumulate over time, which can lead to adverse human health effects.

Notably, the two main PFAS compounds have already been phased out of production in the United States (PFOS in 2002; PFOA in 2015), due to the commitment of eight major chemical manufacturers to participate in US EPA's PFOA Stewardship Program and thereby eliminate the use of these PFAS compounds. However, these compounds are still produced in international markets and imported into the United States through consumer goods such as carpet, leather and apparel, textiles, paper and packaging, coatings, rubber and plastics.

III. Status of PFAS Regulation in Ohio and Across the Country

While Ohio is in the early stages of considering PFAS regulation, US EPA and a handful of states have already promulgated standards in an attempt to begin the process of regulating PFAS compounds.

US EPA has established health advisory levels for PFOS and PFOA at 70 parts per trillion for PFOS and PFOA in drinking water. US EPA has further announced that it is moving toward establishing enforceable maximum contaminant level ("MCL") requirements for PFOS and PFOA in drinking water, defining those compounds as "hazardous substances" for purposes of CERCLA, and developing groundwater cleanup recommendations for contaminated sites and toxicity values for related substances.

States that have already promulgated guidelines or standards for PFOA and/or PFOS include Alaska, Maine, Minnesota, New Jersey, North Carolina, Texas, and Vermont, and a number of other states are moving towards similar action. Notably, existing state standards vary widely in terms of the numerical value of the standard, the process for developing the standard, and the manner in which the standard is to apply.

IV. Potential Impacts of the Governor's Order on Manufacturers

The Governor's Order raises numerous questions, while providing few answers. To name just a few of the questions raised:

- When determining which public and private water systems are to be tested, how will "near" be defined when considering the directive to test "near known sources of PFAS"?
- What constitutes "known" sources of PFAS? Will this be based on suspected use? Documented use? Current or historic use? Or will this be based on self-reported data or actual sampling data?
- Will sampling data include drinking water, ground water, or both?
- Which PFAS compounds are to be tested for?
- What sampling and analytical procedures are to be utilized?
- What constitutes "high levels of PFAS" when triggering the requirement for the agencies to work with communities and private well owners on appropriate response measures if high levels of PFAS are found, given the absence of a regulatory standard in Ohio?
- How will it be determined which communities and private well owners are to be involved if "high levels of PFAS" are triggered?
- Who will take the lead on and what will be the procedure for developing the education and outreach materials that Governor DeWine's Order requires?

The December 1, 2019 timeline imposed by Governor DeWine's Order presents a tight timeline for answering these many unknown questions associated with the Governor's Order.



**BEFORE THE SENATE LOCAL GOVERNMENT, PUBLIC SAFETY AND VETERANS
AFFAIRS COMMITTEE
SENATOR NATHAN MANNING, CHAIRMAN**

**TESTIMONY
OF
ROB BRUNDRETT
DIRECTOR, PUBLIC POLICY SERVICES
THE OHIO MANUFACTURERS' ASSOCIATION**

NOVEMBER 12, 2019

Mr. Chairman and members of the Senate Local Government, Public Safety, and Veterans Affairs Committee, my name is Rob Brundrett and I am director of public policy services at the Ohio Manufacturers' Association (OMA). Thank you for the opportunity to provide proponent testimony on Senate Bill 222.

The OMA was created in 1910 to advocate for Ohio's manufacturers; today, it has nearly 1,300 members. Its mission is to protect and grow Ohio manufacturing.

Manufacturing is the largest of the state's 20 primary industry sectors. Manufacturing contributed more than \$112 billion in GDP according to the most recent data. This amounts to nearly 17% of the state's economy. According to the most recent federal data, more than 700,000 Ohioans work in manufacturing.

Ohio is home to:

- 34 stationary paper manufacturers (more than any other state);
- 28 plastic bottle manufacturers (also more than any other state);
- 30 paper board container manufacturers (second most in U.S.);
- 28 plastics packaging film and sheet establishments (second most in U.S.);
- 66 paper bag and coated-and-treated paper manufacturers (third most in U.S.);
- 13 metal can manufacturers (second most in U.S.); and
- 31 packaging machinery manufacturers (second most in the U.S.).

These manufacturers alone produce more than \$7 billion in output for the Buckeye State. These same manufacturers employ more than 16,300 Ohioans with an average annual wage around \$55,000. These are solid, family-sustaining jobs.

Moreover, these businesses supply packaging products to many of our state's other manufacturers in sectors such as food and beverage production, consumer products, and appliances. Additionally, manufacturing is an enormous consumer when it comes to utilizing recycled materials, fostering conservation and employing sustainable business practices.

Ohio manufacturers make a wide variety of world-class products. So when local jurisdictions in our state enact restrictions or outright bans on certain products or product content; or impose mandates to label certain products; or place a tax on certain products, it makes it very difficult for Ohio manufacturers to comply here at home, much less in the global economy.

This is why the OMA routinely advocates mitigating locally-imposed restrictions, mandates and taxes. In many cases these types of regulations are most appropriately

adopted at the federal government level so as to not disadvantage businesses in one state over businesses in another state.

For these reasons, the OMA favors Senate Bill 222. We must ensure that taxes, fees and regulations on packaging are adopted uniformly and not via a cumbersome patchwork of local mandates that would make Ohio a less friendly climate for manufacturing.

We thank Senator Rulli for sponsoring this important legislation to protect and grow Ohio manufacturing. We urge your prompt passage of Senate Bill 222.

Thank you. I would be happy to answer any questions.

ENVIRONMENTAL PROTECTION AGENCY

Extension of E-Check

- Extends the motor vehicle inspection and maintenance program (E-Check) through June 30, 2025, where federally mandated.
- Retains all statutory requirements governing the program, including:
 - The new contract must ensure that the program achieves at least the same emissions reductions as achieved by the program under the prior contract;
 - The Director of Administrative Services must use a competitive selection process when entering into a new contract with a vendor; and
 - E-Check must be a decentralized program and include a new car exemption for motor vehicles that are up to four years old.

Local air pollution control authority

- Removes the Mahoning-Trumbull Air Pollution Control Authority, City of Youngstown from the list of agencies that qualify as a local air pollution control authority.

Post-use polymers and recoverable feedstocks

- Excludes, under certain circumstances, post-use polymers (plastics) and recoverable feedstocks from the laws governing solid waste disposal.

Asbestos abatement

- Makes the following changes to the law governing asbestos abatement:
 - Expands the scope of activities that are subject to regulation by applying the law to activities involving more than three linear or square feet of asbestos-containing material, rather than more than 50 linear or square feet as in prior law;
 - Authorizes the Ohio Environmental Protection Agency (OEPA) to take certain enforcement actions against a contractor licensee or certificate holder if either violates or threatens to violate specified federal regulations adopted under the Federal Toxic Substances Control Act; and
 - Eliminates the Director of Environmental Protection's (OEPA Director) authority to approve, on a case-by-case basis, alternatives to the continuing worker protection requirements for a project conducted by a public entity.

Extension of various fees

- Extends the sunset of the following fees for two years:
 - Annual emissions fees for synthetic minor facilities;
 - Annual discharge fees for National Pollutant Discharge Elimination System (NPDES) permit holders;

- License fees for public water system licenses;
- Fees levied on the transfer or disposal of solid wastes; and
- Fees levied on tire sales.
- Extends the levying of higher fees for the following, and the decrease of those fees at the end of two years:
 - Applications for plan approvals for wastewater treatment works;
 - State certification of laboratories and laboratory personnel (for purposes of the Safe Drinking Water Law);
 - Applications to take examinations for certification as water supply system or waste water system operators;
 - Applications for permits, variances, and plan approvals under the Water Pollution Control and Safe Drinking Water Laws.

George Barley Water Prize

- Appropriates \$125,000 in FY 2020 to a new line item, Environmental Program Support, to support the final stage of the awards process for the Everglades Foundation's George Barley Water Prize.
- If the \$125,000 is not fully spent in FY 2020, authorizes the OEPA Director to certify an amount up to the unexpended, unencumbered balance to be reappropriated in FY 2021.

Extension of E-Check

(R.C. 3704.14)

The act extends the motor vehicle inspection and maintenance program (E-Check) in counties where this program is federally mandated by:

- Authorizing the OEPA Director to request the Director of Administrative Services (DAS Director) to extend the existing contract (with the contractor that conducts the program) beginning June 30, 2019, for a period of up to 24 months through June 30, 2021; and
- Requiring the OEPA Director, before the contract extension expires, to request the DAS Director to enter into a contract (with a vendor to operate a decentralized program) through June 30, 2023, with an option to renew the contract for up to 24 months through June 30, 2025.

The act retains the requirement that the new contract ensure that the program achieves at least the same emissions reductions achieved under the prior contract. It also retains the requirement that the DAS Director must use a competitive selection process when entering into a new contract with a vendor. Last, the act retains all statutory requirements governing the program, including requirements that E-Check be a decentralized program (meaning tests do

not take place at dedicated testing centers) and include a new car exemption for motor vehicles that are up to four years old.

Local air pollution control authority

(R.C. 3704.01 and 3704.111)

The act removes the Mahoning-Trumbull Air Pollution Control Authority (City of Youngstown), which ceased operations in 2018, from the list of agencies that statutorily qualify as a local air pollution control authority. Under continuing law, a local air pollution control authority agrees, via a delegation agreement, to perform certain air pollution control regulatory services on behalf of OEPA.

Post-use polymers and recoverable feedstocks

(R.C. 3734.01)

The act excludes post-use polymers and recoverable feedstocks from the laws governing solid waste disposal if all of the following apply:

- The post-use polymers or recoverable feedstocks are stored for fewer than 90 days;
- They remain retrievable and substantially unchanged physically and chemically;
- Their storage does not cause a nuisance;
- Their storage does not pose a threat from vectors (e.g., insects or vermin);
- Their storage does not adversely impact public health, safety, or the environment; and
- Prior to the end of the 90-day or less storage period, they are converted using gasification or pyrolysis.

The following table describes each scientific term as used in the act.

Term	Scientific description
Post-use polymer	<p>A plastic polymer that is both:</p> <ul style="list-style-type: none"> ▪ Derived from any source and is not being used for its original intended purpose; and ▪ Used or intended to be used to manufacture crude oil, fuels, other raw materials, intermediate products, or final products using pyrolysis or gasification. <p>May contain incidental contaminants or impurities, such as paper labels or metal rings.</p>
Recoverable feedstock	<p>One or more of the following materials, derived from nonrecycled waste, that have been processed for use as a feedstock in a gasification facility:</p> <ul style="list-style-type: none"> ▪ Post-use polymers; or

Term	Scientific description
	<ul style="list-style-type: none"> ▪ Materials for which the U.S. Environmental Protection Agency has made a nonwaste determination or has otherwise determined are not solid waste.
Pyrolysis	<p>A process through which post-use polymers are heated in the absence of oxygen until melted and thermally decomposed, and are then cooled, condensed, and converted into:</p> <ul style="list-style-type: none"> ▪ Crude oil, diesel, gasoline, home heating oil, or another fuel; ▪ Feedstocks; ▪ Diesel and gasoline blendstocks; ▪ Chemicals, waxes, or lubricants; or ▪ Other raw materials, intermediate products, or final products.
Gasification	<p>A process through which recoverable feedstocks are heated and converted into a fuel-gas mixture in an oxygen-deficient atmosphere, and the mixture is converted into fuel (including ethanol and transportation fuel, chemicals, or other chemical feedstocks).</p>

Asbestos abatement

(R.C. 3710.01, 3710.04, 3710.05, 3710.051, 3710.06, 3710.07, 3710.08, and 3710.12)

Prior to the act, OEPA's asbestos management program did not meet the requirements of the U.S. EPA's Model Accreditation Plan (MAP). As such, OEPA did not have the authority to approve training courses and license individuals, and Ohio-based training course providers were required to obtain course approvals in other compliant states. The act aligns Ohio law with the MAP by making the following changes to the law governing asbestos abatement:

- Expands the scope of activities that are subject to regulation by applying the law to activities involving more than three linear or square feet of asbestos-containing material, rather than more than 50 linear or square feet as in prior law. (For example, if an activity involves four linear feet, a person must meet certain certification and training requirements that previously would not have applied.)
- Adds the maintenance of asbestos-containing materials as one of the activities subject to regulation;
- Adds the operation of asbestos-containing materials as one of the activities subject to regulation;

- Authorizes OEPA to take certain enforcement actions against a contractor licensee or certificate holder if either violates or threatens to violate specified federal regulations adopted under the Federal Toxic Substances Control Act as amended by the Asbestos Hazard Emergency Response Act;
- Requires OEPA to deny a contractor license application if the applicant or any of the applicant's officers or employees has been found liable in a civil proceeding under any state or federal environmental law. (Previously, denial was limited to felony convictions.)
- Eliminates the OEPA Director's authority to approve, on a case-by-case basis, alternatives to the existing worker protection requirements for a project conducted by a public entity;
- Requires a person to be certified as an asbestos hazard evaluation specialist for inspections and assessments of suspect asbestos-containing materials;
- Requires a person to be certified as an asbestos hazard abatement project designer in order to oversee an asbestos hazard abatement activity;
- With regard to the certification of an asbestos hazard abatement air-monitoring technician (responsible for environmental monitoring or work area clearance air sampling), eliminates the exemption from certification that applies to industrial hygienists-in-training since the American Board of Industrial Hygiene no longer certifies those hygienists; and
- Requires a contractor to notify the Director at least ten working days, rather than at least ten days as in prior law, before beginning an asbestos hazard abatement project.

Extension of various fees

(R.C. 3745.11, 3734.57, and 3745.901)

The act extends the time period for charging various OEPA fees, as follows:

Type of fee	Description	Fee under prior law	Fee under the act
Emission fees for synthetic minor facilities	Each person who owns or operates a synthetic minor facility must pay an annual fee per a fee schedule. The schedule is based on the sum of the actual annual emissions from the facility of particulate matter, sulfur dioxide, nitrogen dioxide, organic compounds, and lead. A synthetic minor facility is a facility that has the potential to	The fee was required to be paid through June 30, 2020.	The act extends the fee through June 30, 2022.

Type of fee	Description	Fee under prior law	Fee under the act
	emit pollutants in amounts that are at or above the thresholds for major (Title V) sources, but its emissions are restricted such that the emissions are below those thresholds.		
Plan approval application fee for wastewater treatment works	A person applying for a wastewater treatment works plan approval is required to pay one of the following fees, depending on the date: --A tier-one fee of \$100 plus 0.65% of the estimated project cost, up to a maximum of \$15,000; or --A tier-two fee of \$100 plus 0.2% of the estimated project cost, up to a maximum of \$5,000.	An applicant was required to pay the tier-one fee through June 30, 2020, and the tier-two fee would have applied on and after July 1, 2020.	The act extends the tier-one fee through June 30, 2022; the tier-two fee begins on or after July 1, 2022.
Discharge fees for NPDES permit holders	Each NPDES permit holder that is a public discharger or an industrial discharger, with an average daily discharge flow of 5,000 or more gallons per day, must pay an annual discharge fee based on the average daily discharge flow.	The fees were due by January 30, 2018, and January 30, 2019.	The act extends the fees and the fee schedules to January 30, 2020, and January 30, 2021.
Surcharge for major industrial dischargers	An NPDES permit holder that is a major industrial discharger must pay an annual surcharge of \$7,500.	The surcharge was due by January 30, 2018, and January 30, 2019.	The act extends the fee to January 30, 2020, and January 30, 2021.
Discharge fee for specified exempt dischargers	Certain NPDES permit holders (one category of public discharger and eight categories of industrial dischargers) must pay an annual fee of \$180, regardless of average daily discharge flow.	The fee was due by January 30, 2018, and January 30, 2019.	The act extends the fee to January 30, 2020, and January 30, 2021.
License fee for public water system license	A person may not operate or maintain a public water system without an annual license from OEPA. Applications for initial	The fee for an initial license or a license renewal applied through June 30, 2020,	The act extends the initial license and license renewal fee through June 30,

Type of fee	Description	Fee under prior law	Fee under the act
	licenses or renewals must be accompanied by a fee, which is calculated using schedules for the three basic categories of public water systems.	and had to be paid annually in January.	2022.
Fee for plan approval to construct, install, or modify a public water system	Anyone who intends to construct, install, or modify a public water supply system must obtain OEPA's approval. The fee for the plan approval is \$150 plus 0.35% of the estimated project cost. However, current law caps the fee.	The fee cap was \$20,000 through June 30, 2020, and would have been \$15,000 on and after July 1, 2020.	The act extends the \$20,000 cap through June 30, 2022; the \$15,000 cap applies on and after July 1, 2022.
Fee on state certification of laboratories and laboratory personnel	<p>In accordance with two schedules, OEPA charges a fee for evaluating certain laboratories and laboratory personnel.</p> <p>An individual laboratory cannot be assessed a fee more than once in a three-year period; but, if the person requests analytical methods or analysts, the person must pay \$1,800 for each additional survey requested.</p>	<p>The schedule with higher fees applied through June 30, 2020, and the schedule with lower fees would have applied on and after July 1, 2020.</p> <p>The \$1,800 additional fee applied through June 30, 2020.</p>	<p>The act extends the higher fee schedule through June 30, 2022; the lower fee schedule applies on and after July 1, 2022.</p> <p>The act extends the additional fee through June 30, 2022.</p>
Fee for examination for certification as an operator of a water supply system or wastewater system	A person applying to OEPA to take an examination for certification as an operator of a water supply system or a wastewater system (class A and classes I-IV) must pay a fee, at the time an application is submitted, in accordance with a statutory schedule.	A schedule with higher fees applied through November 30, 2020, and a schedule with lower fees would have applied on and after December 1, 2020.	The act extends the higher fee schedule through November 30, 2022; the lower fee schedule applies on and after December 1, 2022.
Application fee for a permit (other than an NPDES permit), variance, or plan approval	A person applying for a permit (other than an NPDES permit), a variance, or plan approval under the Safe Drinking Water Law or the Water Pollution Control Law must pay a nonrefundable fee.	If the application was submitted through June 30, 2020, the fee was \$100. If the application would have been submitted on or after July 1, 2020, the fee would have been \$15.	The act extends the \$100 fee through June 30, 2022; the \$15 fee applies on and after July 1, 2022.

Type of fee	Description	Fee under prior law	Fee under the act
Application fee for an NPDES permit	A person applying for an NPDES permit must pay a nonrefundable application fee.	If the application was submitted through June 30, 2020, the fee was \$200. If the fee would have been submitted on or after July 1, 2020, the fee would have been \$15.	The act extends the \$200 fee through June 30, 2022; the \$15 fee applies on and after July 1, 2022.
Fees on the transfer or disposal of solid wastes	A total of \$4.75 in state fees is levied on each ton of solid waste disposed of or transferred in Ohio. The fees are used for administering the hazardous waste (90¢), solid waste (75¢), and other OEPA programs (\$2.85), and for soil and water conservation districts (25¢).	The fees applied through June 30, 2020.	The act extends the fees through June 30, 2022.
Fees on the sale of tires	A base fee of 50¢ per tire is levied on the sale of tires to assist in cleaning up scrap tires. An additional fee of 50¢ per tire is levied to assist soil and water conservation districts.	Both fees were scheduled to sunset on June 30, 2020.	The act extends the fees through June 30, 2022.

George Barley Water Prize

(Sections 277.10 and 277.20)

The act appropriates \$125,000 in FY 2020 to a new line item, Environmental Program Support, to support the final stage of the awards process for the Everglades Foundation's George Barley Water Prize. If the \$125,000 is not spent in its entirety in FY 2020, the OEPA Director may certify to the Director of Budget and Management an amount up to the unexpended, unencumbered balance to be reappropriated in FY 2021. The George Barley Water Prize recognizes groundbreaking innovation in removing excess phosphorus from freshwater sources.⁵²

⁵² <https://www.barleyprize.org>.

Environment

Online Platform that Helps Businesses Recycle Adds More Materials November 8, 2019

There have been recent additions to the **Ohio EPA's Materials Marketplace** — a free online tool that allows participating companies to easily post available or wanted materials, identify reuse opportunities, and exchange underutilized materials. Several new materials have been added, including post-consumer polyester fiber fill from pillows, black and green mum pots, and bags of oxalic acid. Meanwhile, there's a big demand for used wood pallets. *11/5/2019*

OSU Study: Nature may be Cheaper, More Effective at Reducing Emissions November 8, 2019

The Ohio State University reports on **OSU research** showing that adding plants and trees to the landscapes near factories and other sources of emissions could reduce air pollution by an average of 27%. The study shows that plants — not technologies — may be a cheaper option for cleaning the air near industrial sites. *11/7/2019*

Federal Standards for Auto Emissions Divide States November 8, 2019

Recently, California — joined by 21 other states — turned to the courts to contest final regulations issued by the National Highway Traffic Safety Administration (NHTSA) and the U.S. Environmental Protection Agency. The agencies have ruled that federal law pre-empts state and local tailpipe greenhouse gas emissions standards, as well as zero emission vehicle mandates.

The lawsuit raises several issues, including whether federal agencies have authority to pre-empt state vehicle emissions standards. **Read the analysis** by OMA Connections Partner Jones Day regarding what appears to be a long, intense legal battle. *11/4/2019*

Tax Foundation Examines Carbon Tax Proposal November 8, 2019

With some federal lawmakers expressing support for a carbon tax, the Tax Foundation has **produced a study** to examine the possible impacts of such a policy. The Foundation notes that the economic impact of a carbon tax would vary significantly based on how the generated tax revenues were used. Overall, the think tank estimates that a \$50 carbon tax implemented in 2020 — growing at 5% each year — would raise \$1.87 trillion in additional federal revenue, while reducing GDP by 0.4% and full-time equivalent employment by 447,000 jobs. *11/6/2019*

Ohio EPA Resources and Reminders November 8, 2019

Over the past few months, the Ohio EPA has recorded several helpful webinars, including the following: "**Hazardous Waste Generator Improvements Rule**," "**How to Activate and Enter a Report in Ohio EPA's Electronic Discharge Monitoring Reporting eDMR System**," and "**Overview of Air Services Webinar**."

Also, some key comment periods will end soon, including:

- Nov. 19, 2019, comments due and public hearing, Division of Air Pollution Control, **Ohio's Emergency Episode Rules and Ambient Air Quality Standards Rules**; and
- Nov. 27, 2019, comments due, Division of Surface Water, **General NPDES Permit Rules (OAC Chapter 3745-38)**.

If you have any questions on any of these issues, contact the OMA's **Rob Brundrett**. *11/7/2019*

Senate Hears Testimony on Auxiliary Container Bill November 8, 2019

This week, State Sen. **Michael Rulli** (R-Salem) provided **sponsor testimony** on **Senate Bill 222** — a companion to **House Bill 242**. The legislation would "authorize a person to use an

auxiliary container for any purpose and prohibit a municipal corporation, charter counties, or limited home-rule townships from imposing a tax or fee on auxiliary containers.” At the same time, it would clarify that the existing anti-littering law applies to auxiliary containers.

The legislation defines an auxiliary container as any of the following: paper or plastic bag, can, cup, food service item, container, keg, bottle, or other packaging item designed for consuming, transporting, or protecting merchandise, food, or beverages.

Both SB 222 and HB 242 come after Cuyahoga County banned most large retailers from distributing single-use plastic bags. Bexley near Columbus and Orange Village near Cleveland have passed their own plastic-bag bans, while cities like Cincinnati have explored taxing them to discourage their use. The OMA supports both bills. When local jurisdictions enact restrictions or outright bans on certain products or product content — or impose mandates to label certain products, or place a tax on certain products — it makes it extremely costly and difficult for Ohio manufacturers to comply. *11/7/2019*

Get Recognized for Your Company’s Environmental Efforts November 1, 2019

Each year, Ohio EPA recognizes exceptional achievements in environmental stewardship through the agency’s Encouraging Environmental Excellence (E3) Program. All Ohio manufacturers are eligible to be recognized for their commitment to environmental excellence. In preparation for the next awards cycle, Ohio EPA’s Division of Environmental and Financial Assistance (DEFA) is offering a **free webinar** on Nov. 20 to explain the E3 award application process.

The application deadline for awards is Dec. 20. For more information, see the **E3 website** or email **Bill Narotski**. *10/31/2019*

Do You Need an Air Permit? November 1, 2019

Ohio EPA has put together **this handy resource** to walk you through the decision making process to determine whether your business needs an air permit. *10/31/2019*

Ohio EPA Officials Visit OMA October 25, 2019



This week, the OMA’s Environment Committee held its third meeting of the year at the OMA in Columbus. Guest speakers included three key officials from Ohio EPA – Chief Legal Counsel Todd Anderson, Deputy Director of Government Affairs Michael Guastella, and Deputy Director of Business and Regulatory Affairs Mark Johnson – who provided members with an update on agency actions.

Other meeting highlights included a discussion regarding Gov. Mike DeWine’s recent order to analyze the prevalence of per- and polyfluoroalkyl substances (PFAS) in Ohio drinking water. Frank Merrill of OMA’s legal counsel Bricker & Eckler LLP, along with the OMA’s Rob Brundrett provided updates on state legislative, regulatory and legal activity. *10/23/2019*

Recycling Grants Available to Ohio Manufacturers October 25, 2019

Ohio EPA’s **Recycling and Litter Prevention Program (R&LP)** provides grant funding to communities and businesses that initiate or expand recycling programs, encourage sustainable practices, and stimulate market development for reusing recyclables and litter prevention efforts. Opportunities for manufacturers include:

- **Market Development Grant:** Helps fund the purchase of equipment to create or expand processing capacity for recyclable materials, including equipment to remanufacture recyclable materials into bulk raw material or finished product. The

maximum award is \$200,000 and requires a 100% match.

- **Scrap Tire Grant:** Offers funding to create or expand processing and recycling opportunities for scrap tires. Business applicants must have a governmental sponsor. The maximum award is \$300,000 and requires a 100% match. Applications can be submitted from Nov. 4, 2019 through Feb. 7, 2020 — with grants awarded on July 1, 2020. *10/24/2019*

House Holds First Hearing on Watershed Planning Bill **October 18, 2019**



The Ohio House this week heard **sponsor testimony** for **Senate Bill 2**, which would establish a statewide watershed planning and management program to be administered by the Ohio Department of Agriculture. Many different groups and agencies are working on watershed issues, such as stream monitoring, using vegetation to prevent flooding, and erosion control. SB 2 is designed to complement the **H2Ohio program**, which was established in the state budget bill to provide funding for water quality resources. *10/17/2019*

Ohio EPA Seeks Stakeholder Input on Affordable Clean Energy Rules **October 11, 2019**

The Affordable Clean Energy rule (ACE) — finalized by the U.S. Environmental Protection Agency on July 8, 2019 — consists of emission guidelines for greenhouse gas (GHG) emissions from existing electric utility generating units (EGUs) under the federal Clean Air Act. The rule will inform states on the development,

submission, and implementation of state plans to establish performance standards for GHG emissions from certain fossil fuel-fired EGUs.

The new rules will be a part of Ohio EPA's plan for implementing the ACE program in the Buckeye State. Ohio EPA has issued an **Early Stakeholder Outreach (ESO)** to help develop the rules. If you or your company would like to provide input on ACE implementation, please contact **Rob Brundrett**. *10/10/2019*

What You Need to Know About the Governor's PFAS Announcement **October 11, 2019**

OMA environmental legal counsel has provided the membership **this memo** regarding Gov. Mike DeWine's recent **order** to analyze PFAS in Ohio's drinking water. In the governor's press release, Ohio EPA Director Laurie Stevenson says the agency is planning to involve stakeholders in its process of establishing a regulatory framework for PFAS. The OMA will be actively engaged as a key stakeholder in this process to ensure manufacturers are heard. The association will also form a work group to determine how best to represent manufacturers with interests in this area. You can be part of this discussion at the upcoming **OMA Environment Committee** meeting on Oct. 23. Please notify the OMA's **Rob Brundrett** if you are interested. *10/10/2019*

Ohio EPA Notes 25 Years of Voluntary Cleanup Program **October 4, 2019**

Ohio EPA **recently recognized** the 25-year anniversary of the agency's Voluntary Action Program (VAP), which encourages property owners to voluntarily clean up their land for redevelopment. According to Ohio EPA, more than 13,540 acres of contaminated land on 615 sites in 69 counties have been improved since the VAP was created in September 1994. Remediated properties range from a former gas station to the sites of closed steel mills. *9/30/2019*

Governor Enters Fray on PFAS **October 4, 2019**

Gov. Mike DeWine late last week **announced** that he has directed state agencies to analyze the prevalence of per- and polyfluoroalkyl substances (PFAS) in Ohio's drinking water. This action followed a Sept. 18

letter from Gov. DeWine and 14 other governors to federal lawmakers, calling for more comprehensive federal legislation on PFAS standards.

The debate over PFAS has become controversial as plaintiffs' lawyers aggressively attempt to litigate against manufacturers. Stay tuned for more on this important topic. 10/3/2019

Opportunities for Comment on Ohio EPA Regs Changes
October 4, 2019

Ohio EPA is offering stakeholders the chance to provide the agency with input on the following:

- Oct. 18, 2019 deadline: **Division of Air Pollution Control (DAPC), Carbon Monoxide, Photochemically Reactive Materials, Hydrocarbons, and Related Materials Standards.**
- Oct. 22, 2019 deadline: **Division of Air Pollution Control (DAPC), Emission Reduction Credit (ERC) Banking Program Rules.**
- Oct. 28, 2019 deadline: **Division of Surface Water (DSW), Beneficial Use Designation Rules, Wave 2.**
- Oct. 28, 2019 deadline: **Division of Surface Water (DSW), Beneficial Use Designation Rules, Wave 3.**

Please contact the OMA's **Rob Brundrett** with questions. 10/3/2019

You're Invited: Nov. 19 Meeting with EPA Officials in Chicago
September 27, 2019

As reported earlier, the OMA has partnered with the law firm of Steptoe & Johnson to host a manufacturers' meeting with senior management of U.S. EPA Region V and Ohio EPA. The meeting has been rescheduled for Tuesday, Nov. 19, at the U.S. EPA offices in Chicago — and all OMA members are invited.

Attendees of last year's meeting found it valuable in terms of learning more about EPA policies and practices, while building

relationships with agency leaders. Due to security and limited seating, you'll need to reserve your spot early. Please contact the OMA's **Rob Brundrett** to save your spot. Only those who RSVP can be admitted. 9/24/2019

OMA Files Comments on NY Ozone Air Quality Case
July 19, 2019

On March 12, 2018, the State of New York filed a **petition** under Section 126 of the federal Clean Air Act naming approximately 350 sources of nitrogen oxides emissions in Illinois, Indiana, Kentucky, Maryland, Michigan, Ohio, Pennsylvania, Virginia, and West Virginia as contributing to violations of the ozone air quality standards in New York. On May 20, 2019, U.S. EPA **proposed** to deny the petition. The OMA **filed comments** at U.S. EPA supporting the denial of the petition. 7/17/2019

Aquatic Life Monitoring Stakeholder Recording Available
July 19, 2019

On July 10, 2019, Ohio EPA's Division of Surface Water hosted a webinar introducing the enhanced two-pronged approach to surveying and monitoring aquatic life in Ohio's streams and rivers. A recording of the webinar and the presentation are now available on the agency's **website**. Comments and questions regarding this approach are **being accepted** by the Ohio EPA through Aug. 12, 2019. For more details, contact the OMA's **Rob Brundrett**. 7/18/2019

Analysis: Uncertainty Surrounding WOTUS Likely to Continue
July 12, 2019

OMA Connections Partner **Dinsmore** has published **its analysis** regarding the uncertainty surrounding "waters of the United States" (WOTUS) under the federal Clean Water Act. The issue became a key topic of concern for manufacturers when the Obama administration issued its overreaching WOTUS rule in 2015. In 2017, President Donald Trump issued an executive order instructing EPA to rescind the Obama-era rule, which was also **contested legally**.

Dinsmore says the EPA's current administrator, **Andrew Wheeler** — an Ohio native — has said the new WOTUS definition proposed last February is "focused on providing regulatory certainty and clarity that every

American can understand.” But the EPA’s new definition, which is scheduled to be published as a final rule in December 2019, is widely expected to face significant legal challenges. 7/10/2019

Online Platform that Helps Businesses Recycle & Reuse Adds More Options **July 2, 2019**

There have been recent additions to the **Ohio Materials Marketplace** — a free online platform that allows businesses to connect and find reuse and recycling solutions for waste and by-product materials. According to a notice from the Ohio EPA, several new materials have been added to the marketplace, including: cardboard gaylords, used garnet, diatomaceous earth, uncured polymer, collapsible wire containers, salt brine, and more. 7/1/2019

Pre-Emption Bill Addressing Auxiliary Containers Advances to Full House **June 28, 2019**



At least 13 states (shown above in red) have already passed legislation to restrict political subdivisions from regulating the use of auxiliary containers. Source: National Conference of State Legislatures

State

legislation that would pre-empt local governments from banning or taxing the sale, use, or consumption of auxiliary containers (such as single-use plastic or paper bags) was advanced to the full House this week. The House State and Local Government Committee **voted 8-6** to approve **House Bill 242**, although passage by the full House before fall is unlikely due to the upcoming summer recess.

The bill comes after Cuyahoga County banned most large retailers from distributing single-use plastic bags. Bexley near Columbus and Orange Village near Cleveland have passed their own plastic-bag bans, while cities like Cincinnati have explored taxing them to discourage their use.

The **OMA supports** HB 242. When local jurisdictions enact restrictions or outright bans

on certain products or product content — or impose mandates to label certain products, or place a tax on certain products — it makes it difficult for Ohio manufacturers to comply. Nationwide, **13 states** have already passed pre-emption laws similar to HB 242 to avoid a patchwork of local restrictions. 6/27/2019

Ohio EPA Stakeholder Input Opportunities **June 21, 2019**

Ohio EPA is offering stakeholders the chance to provide the agency with input on the following:

- Division of Materials and Waste Management (DMWM), **Construction and Demolition Debris (C&DD) Rules**. Comments due June 24.
- Division of Air Pollution Control (DAPC), OAC Chapter 3745-23, **“Nitrogen Oxide Standards.”** Comments due June 25.
- Division of Air Pollution Control (DAPC), **Accidental Release Prevention Rules**, OAC 3745-104-01 through 3745-104-53. Comments due June 26.
- Division of Materials and Waste Management (DMWM), **“Rule 13,”** OAC Rule 3745-27-13. Comments due July 3.
- Division of Air Pollution Control (DAPC), **Ohio’s Emergency Episode Rules and Ambient Air Quality Standards Rules**, OAC Chapter 3745-25. Comments due July 12.
- Division of Air Pollution Control (DAPC), **Revisions to Rules** in OAC Chapter 3745-14 (Phase 2) Nitrogen Oxide (NOx) Budget Program Rules. Comments due and public hearing July 16.
- Division of Materials and Waste Management (DMWM), **Municipal Solid**

Waste Landfill Rules, OAC 3745-27

6/20/2019. Comments due July 22.
Please contact the OMA's **Rob Brundrett** with questions. 6/20/2019

Ohio EPA's Air Quality Chief Presents to OMA Environment Committee **June 14, 2019**

Bob Hodanbosi, the longtime chief of **air pollution control** at Ohio EPA, was the keynote speaker at this week's meeting of the OMA Environment Committee.

In his presentation, Hodanbosi briefed members on progress made to improve Ohio's air quality and ensure compliance. In the categories of 24-hour particulate matter, nitrogen dioxide (NO₂), carbon monoxide (CO), and lead, the entire state is designated as "in attainment" with federal clean air standards. However, portions of Ohio are designated as in non-attainment for annual particulate matter, sulfur dioxide (SO₂), and ozone.

Other highlights from the meeting included an update on federal and state issues, as well as a report from OMA Environmental Counsel **Frank Merrill** of Bricker & Eckler LLP.

The OMA Environment Committee, chaired by Julianne Kurdila of ArcelorMittal, will meet again **October 23**. 6/12/2019



The Ohio EPA's Bob Hodanbosi briefs OMA members on the state's air quality efforts.

U.S. EPA Aims to Update Rule on Ignitable Liquid Waste **June 14, 2019**

In early April, the U.S. EPA published its proposed "Modernizing Ignitable Liquids Determinations" rule in the Federal Register. The rule has been described as an effort to update certain aspects of the regulations to determine whether a waste is hazardous based on the characteristic of ignitability as defined at the federal level. For more on what this may mean for manufacturers, see **new**

analysis by **Dinsmore**, an OMA Connections Partner. 6/12/2019

OMA Testifies in Support of 'Auxiliary Container' Pre-Emption Bill **June 7, 2019**

The OMA this week provided proponent **testimony** on **House Bill 242**, legislation that **would prohibit** local governments from imposing a tax, fee, assessment, or other charge on auxiliary containers (e.g., a plastic or paper bag) — as well as the sale, use, or consumption of auxiliary containers, or on the basis of receipts received from the sale of auxiliary containers. There are currently more than 300 laws pending in state legislatures that would regulate or ban certain types a packaging.

As the OMA stated in its **testimony**, "Ohio manufacturers make a wide variety of world-class products. So when local jurisdictions in our state enact restrictions or outright bans on certain products or product content; or impose mandates to label certain products; or place a tax on certain products, it makes it very difficult for Ohio manufacturers to comply here at home, much less in the global economy." 6/6/2019

New Bill Would Pre-Empt Local Plastic Bag Bans **May 31, 2019**

On the heels of Cuyahoga County's action to prohibit the use of plastic shopping bags — as well as the Columbus suburb of Bexley outlawing plastic bags, straws, and cutlery — the Ohio House this week heard sponsor testimony on **House Bill 242**.

The OMA and other business groups have been supporters of this legislation in the past. 5/30/2019

fuel use ... through a broad array of social and economic reforms and public works projects." Jones Day adds: "The potential impact of the ensuing debate will vary from company to company but, in almost all cases, warrants serious attention in business, political, and legal planning efforts."

The full report can be seen **here**. 5/15/2019

EPA Rescinds 2015 WOTUS Rule **September 20, 2019**

Late last week, the U.S. EPA formally scrapped the Obama-era Waters of the United States (WOTUS) rule. **Read the summary** by the National Association of Manufacturers (NAM). While environmental groups are expected to fight the withdrawal of the rule in the courts — and California has threatened to sue the administration — EPA officials already have a narrower rule in the works. The OMA has **formally supported** the administration's proposed rule, which is more restrained and observes traditional limits on the scope of federal power. 9/16/2019

Ohio EPA Accepting Comments Regarding VOCs and Carbon Emissions **September 20, 2019**

Ohio EPA has released an **Early Stakeholder Outreach** for rules in Ohio Administrative Code chapter 3745-21, which establishes requirements for the control of emissions of volatile organic compounds (VOCs) and carbon monoxide (CO) from stationary emission sources. VOCs are a precursor compound from which ozone is formed. Ozone is one of the six criteria pollutants for which a National Ambient Air Quality Standard (NAAQS) has been established under the federal Clean Air Act. CO is also one of the six criteria pollutants for which a NAAQS has been established. Ohio EPA seeks to make minor amendments to the current rules. Written comments will be accepted through close of business Friday, Oct. 18, 2019. Members may submit input to: *Mr. Paul Braun, Ohio EPA Division of Air Pollution Control, PO Box 1049, Columbus, Ohio 43216-1049*, or by **e-mail**. 9/19/2019

Ohio's NOx Rules Up for Comment **September 13, 2019**

Ohio EPA has **revised rules** contained in Ohio Administrative Code (OAC) Chapter 3745-110, which addresses nitrogen oxide (NOx) emissions from Ohio sources. The chapter includes provisions on limits, testing, and record keeping.

Ohio EPA determined that certain changes to the current regulations were needed, primarily because OAC rule 3745-110-03 contains site-specific facility rules that must be updated as the need arises. In addition, a new compliance methodology for the use of a temporary continuous-emissions monitor is being added to OAC rule 3745-110-05.

Please see the **rule synopsis** for a complete summary of the proposed rule amendments. Comment deadline is Wednesday, Oct. 2, 2019. Comments must be submitted by either **emailing Paul Braun** at Ohio EPA or sending comments via U.S. Mail to: Paul Braun, Ohio Environmental Protection Agency, DAPC, Lazarus Government Center, P.O. Box 1049, Columbus, Ohio 43216-1049. 9/12/2019

Columbus is First Non-Attainment Area in U.S. to Meet Ozone Standard **September 6, 2019**



OMA Connections Partner Bricker & Eckler LLP **reports** that the U.S. Environmental Protection Agency (EPA) and Ohio EPA recently **announced** that “the Columbus area is the first non-attainment area in the nation to meet the most recent federal air quality standard for ozone.”

Now that the Columbus area meets the National Ambient Air Quality Standard (NAAQS) for ground-level ozone, businesses in the area “will face fewer air permitting restrictions, paving the way for infrastructure investment and economic development that will create jobs,” according to the report. 9/3/2019

Aug. 21 Webinar Will Address New Rules on Hazardous Waste **August 16, 2019**

The U.S. Environmental Protection Agency has finalized the Hazardous Waste Generator Improvements Rule. The main objectives of the rule-making are to update the generator regulations, provide flexibility in hazardous waste management, and close regulatory gaps. On Aug. 21, the Ohio EPA will host a **webinar for manufacturers** and others to learn about where this regulatory change is in the Ohio rule-making procedure and how the new provisions apply to generators. 8/15/2019

Reminder: ‘Manufacturers Only’ Meeting with EPA Officials Set for Oct. 10 in Chicago
August 9, 2019

This is a reminder that the OMA has partnered with the law firm of Steptoe & Johnson to host a manufacturers meeting with senior management of U.S. EPA Region V and Ohio EPA. The meeting — set for Oct. 10 at the U.S. EPA offices in Chicago — will feature updates on all major program areas, followed by a Q&A session. All OMA manufacturing members are welcome, but due to security and limited seating, you need to reserve your spot early. Please contact the OMA’s **Rob Brundrett** to save your spot. You must RSVP to be admitted. *8/8/2019*

Budget Halts Enforcement of Lake Erie Bill of Rights

August 2, 2019

In early 2019, Toledo’s voters passed the Lake Erie Bill of Rights (LEBOR) — an amendment to the city charter that declares Lake Erie and its watershed have enforceable legal rights to “exist, flourish and naturally evolve.” It prohibits any corporation (defined to include any business) or government from violating these rights, and it allows the city or any resident of the city to sue in state court to enforce these rights and prohibition.

The LEBOR initiative is similar to other community proposals seeking to establish

legally enforceable rights for natural resources. Many corporations or entities could be impacted by the LEBOR’s enactment — especially businesses that have an Ohio EPA-issued water discharge permit authorizing them to conduct operations within the Lake Erie watershed.

The OMA was able to help secure an **amendment** in the recently enacted state budget to declare that “nature or any ecosystem does not have standing to participate or bring an action in any court.” The amendment also prohibits any person on behalf of nature or an ecosystem from bringing an action in court. The inclusion of this language in the final budget is a big win, especially for any permit-holding manufacturer in the Lake Erie basin. *8/1/2019*

OMA, Business Allies Work Together on Air Regulations

August 2, 2019

As **reported** last week, the OMA recently submitted comments in response to Ohio EPA’s **Early Stakeholder Outreach** on the agency’s five-year rule review of air pollution regulations. The OMA also **teamed up** with some business allies to ensure the agency was aware of the broad-based support for specific suggestions to the current regulations. The OMA will continue to work with Ohio EPA as changes to the rules are developed. *8/1/2019*

Environment Legislation
Prepared by: The Ohio Manufacturers' Association
Report created on November 12, 2019

- HB7** **H2OHIO PROGRAM** (GHANBARI H, PATTERSON J) To create the H2Ohio Trust Fund for the protection and preservation of Ohio's water quality, to create the H2Ohio Advisory Council to establish priorities for use of the Fund for water quality programs, and to authorize the Ohio Water Development Authority to invest the money in the Fund and to make recommendations to the Treasurer of State regarding the issuance of securities to pay for costs related to the purposes of the Fund.
Current Status: 10/22/2019 - Senate Finance, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-7>
- HB94** **LAKE ERIE DRILLING** (SKINDELL M) To ban the taking or removal of oil or natural gas from and under the bed of Lake Erie.
Current Status: 9/17/2019 - House Energy and Natural Resources, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-94>
- HB95** **BRINE-CONVERSION OF WELLS** (SKINDELL M) To alter the Oil and Gas Law with respect to brine and the conversion of wells.
Current Status: 9/17/2019 - House Energy and Natural Resources, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-95>
- HB242** **CONTAINER USE RESTRICTIONS** (LANG G, JONES D) To authorize the use of an auxiliary container for any purpose, to prohibit the imposition of a tax or fee on those containers, and to apply existing anti-littering law to those containers.
Current Status: 6/26/2019 - **REPORTED OUT**, House State and Local Government, (Fourth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-242>
- HB340** **DRAINAGE LAW** (CUPP B) To revise the state's drainage laws.
Current Status: 11/6/2019 - House State and Local Government, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-340>
- HR247** **AIR QUALITY STANDARDS** (ROEMER B) To respectfully urge Congress and President Donald Trump to amend the Federal Clean Air Act to eliminate the requirement to implement the E-Check Program and direct the Administrator of USEPA to begin new rule-making procedures under the Administrative Procedures Act to repeal and replace the 2015 National Ambient Air Quality Standards; to respectfully urge Congress and President Donald Trump to pass legislation to achieve improvements in air quality more efficiently while allowing companies to innovate and help the economy grow; to urge the Administrator of USEPA to alleviate burdensome requirements of the E-Check Program and the Clean Air Act if Congress and the President fail to act; and to encourage OEPA to explore alternatives to E-Check in Ohio.
Current Status: 10/30/2019 - House Energy and Natural Resources, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HR-247>

SB2 STATEWIDE WATERSHED PLANNING (PETERSON B, DOLAN M) To create a statewide watershed planning structure for watershed programs to be implemented by local soil and water conservation districts.

Current Status: 10/16/2019 - House Energy and Natural Resources, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-2>

SB50 INCREASE SOLID WASTE DISPOSAL FEE (EKLUND J) To increase state solid waste disposal fee that is deposited into the Soil and Water Conservation District Assistance Fund, and to make an appropriation.

Current Status: 4/2/2019 - Senate Finance, (Second Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-50>

To: OMA Government Affairs Committee
From: Ryan Augsburger / Rob Brundrett
Re: Human Resources Report
Date: November 13, 2019

Overview

The OMA hosted its third annual OMA Workforce Summit at the end of October. Over 530 manufacturers, educators, and workforce thought leaders attended to share information and learn from each other and the OMA's workforce roadmap.

Workforce remains a top priority and the OMA continues to work with its network for industry sector partnerships. OMA is working closely with Lt. Governor Husted and the administration to upskill manufacturers and reduce the skills gap for manufacturers in Ohio.

General Assembly News and Legislation

House Bill 2 – Credential Assistance Program

The budget bill included money for credential assistance and industry sector partnerships. The House removed the funding language from the budget bill and introduce a piece of legislation based on the budget recommendations. HB 2 is a priority workforce bill in the House. The OMA is supportive of the purpose of the legislation and is working with the bill sponsors to ensure that the money allocated will be used in programs that support the OMA industry sector partnership network.

The House and Senate shifted gears in conference committee and included all workforce funding in the budget bill but implementation language remains with HB 2. The Senate recently passed House Bill 2 from its Finance Committee and is awaiting a full floor vote which is expected as early as this week. The OMA was able to get several changes in the bill to benefit the statewide sector partnership network and industry sector partnership grant program.

House Bill 4 – Industry Credentialing and Office of Workforce Transformation

The bill would allow the Governor's Office of Workforce Transformation to act as a liaison between industry and the Department of Education when developing and applying for new credentials. The bill has passed the House and has had one hearing in the Senate.

Senate Bill 9 – Health Plan Claim Information

The bill requires a health plan issuer, beginning in July 2020, to release specific information to a requesting group policyholder. This information includes, net claims data paid or incurred by month, monthly enrollment data, monthly prescription claims information, and, for paid claims over \$30,000, the amount paid toward each claim and claimant health condition. The bill has passed the Senate and was just re-referred to a second House Committee.

Senate Bill 11 – Ohio Fairness Act

The bill prohibits discrimination on the basis of sexual orientation or gender identity or expression. The bill adds mediation to the list of informal methods by which the Ohio Civil Rights Commission may use to induce compliance with Ohio's Civil Rights Law before instituting a formal hearing. The bill also upholds existing religious exemptions under Ohio's Civil Rights Law. OMA was supportive of the House version in the previous General Assembly. The Senate has held three hearings on the bill.

House Concurrent Resolution 17 – Expand SNAP Benefits to Striking Workers

The Resolution Congress to expand Supplemental Nutrition Assistance Program eligibility to include the households of striking workers.

House Bill 21 – Unemployment Comp: Mass Layoffs

The bill would grant an additional 25 weeks of unemployment benefits to an individual who was laid off or separated from their most recent employment as part of a group of 75 or more individuals who were laid off or separated by the same employer within a seven-day period due to lack of work. The bill is a major concern for manufacturers and other businesses who fund the unemployment system.

House Bill 34 – State and Local Minimum Wage Increase

The bill would increase the state minimum wage and to allow municipalities, townships, and counties to establish higher minimum wage requirements.

House Bill 91 – Family Medical Leave

The bill would establish family and medical leave insurance benefits. The bill has had one hearing in the House.

House Bill 166 – State Operating Budget

The budget provides \$5 million for industry sector partnerships and an additional \$30 million for TechCred which is a program for upskilling incumbent and prospective workers with short term industry recognized credentials.

The budget also created a manufacturing mentorship program allowing 16 and 17 year olds to work in a manufacturing facility part time. The bill now allows these minors to work at a manufacturing facility without being attached a bone fide educational program.

The OMA also pushed for a continuation of the unemployment compensation compromise but the House removed the item from the budget.

Senate Bill 201 – Alternate Employer Organizations

The bill creates alternative employer organizations. The AEO mirrors the functions of PEOs (Professional Employer Organizations) with the exception that an AEO must file federal payroll taxes under the tax identification number of its client instead of its own, which is the traditional model. The OMA is studying the proposal.

House Bill 221 – Wage Discrimination Complaints

The bill would require the Ohio Civil Rights Commission to establish a system for individuals to make anonymous complaints regarding wage discrimination. It has had three hearing in the House.

House Bill 352 – Civil Rights Employment Law

The bill is Ohio's latest attempt to clean up its outdated and complex employment laws. The bill brings Ohio more closely in uniform with federal laws and includes the following changes:

Creates a uniform two-year statute of limitations for all employment discrimination claims.

- Unites the filing of age discrimination claims to the same procedures and remedies as all other protected classes.
- Eliminates individual statutory liability for managers and supervisors.

- Requires individuals file an administrative charge of discrimination with the Ohio Civil Rights Commission as a prerequisite to filing a discrimination lawsuit in court.
- Establishes certain affirmative defenses

House Bill 369 – Ohio Fairness Act

Much like its companion bill in the Senate, House Bill 369 prohibits discrimination on the basis of sexual orientation or gender identity or expression. The bill adds mediation to the list of informal methods by which the Ohio Civil Rights Commission may use to induce compliance with Ohio's Civil Rights Law before instituting a formal hearing. The bill also upholds existing religious exemptions under Ohio's Civil Rights Law. OMA is supportive of the Senate version and is supportive of the House version.

House Bill 378 – Striking Employees Unemployment Compensation

The bill would provide unemployment benefits to striking workers. This would be a complete reversal of unemployment compensation law which is for workers who are unexpectedly out of work through no fault of their own. The OMA opposes this massive overreach.

Medical Marijuana

After a delay on January 16, 2019 medical marijuana officially went on sale across the state of Ohio for patients who have a recommendation from their physician. Manufacturers should make sure their drug and smoking policies are up to date and should work with an expert if they have questions on how they should comply with the new law and program.

Workforce Services

More than 525 individuals from across Ohio took part in the OMA's third annual Ohio Manufacturers' Workforce Summit at the Greater Columbus Convention Center in Columbus.

Participants were provided new information about Ohio's existing workforce development efforts, as well as updated details about plans to create 5,000 apprenticeships statewide over the next four years. Individual breakout sessions — presented by workforce experts — shared strategies and best practices to grow manufacturing talent at the local level.

Other highlights included a keynote address by Ohio Development Services Agency Director Lydia Mihalik, as well as informative presentations on industry sector partnerships, automation and robotics, and how to engage non-traditional populations in manufacturing career pathways.

Making Ohio: Ohio Manufacturing Careers Get Their Own Brand/Website

Last year the OMA debuted Making Ohio, a new website designed to help Ohioans understand that exciting, secure and fulfilling manufacturing careers are available.

OMA recently undertook comprehensive research to understand working-age Ohioans' attitudes and beliefs about Ohio manufacturing jobs and careers. We learned:

- Perceptions of manufacturing are generally favorable, but lack clarity.
- Job seekers expect detailed information.
- Pay, benefits, and job stability messages are well-received.



Ohio's New Manufacturing Mentorship Program

September 20, 2019

What is Ohio's Manufacturing Mentorship Program?

In its 2019-2021 state budget (House Bill 166), Ohio created the Manufacturing Mentorship Program. The goal of the program is to expose young people, 16 and 17 years old, to manufacturing occupations through part-time employment with an Ohio manufacturer. The aim is to educate young people about interesting and fulfilling careers in manufacturing, while strengthening the workforce development pipeline for manufacturers.

When does the program take effect?

The enabling legislation will be effective on October 17, 2019. However, the program itself will not begin until the Ohio Department of Commerce promulgates rules designed to operate the program. Therefore, it could potentially be several more months until manufacturers can hire minors outside of sanctioned educational programs.

I thought minors could not be employed in a manufacturing facility.

Before this provision was passed by the legislature, only students aged 16 and 17 could work in the manufacturing sector *if* they were part of a "bona fide educational program." Ohio's Career and Technical Center programs are typically considered bona fide, as are other school programs that have been approved by the Ohio Department of Education.

The Manufacturing Mentorship Program would enable *all* 16 and 17-year-olds to work in manufacturing without being enrolled in a specific "bona fide educational program."

How does the new program work?

The new program requires the employer to do four things:

1. Provide the minor with required training;
2. Assign the minor to a mentor;
3. Encourage the minor to participate in a career technical education program; and
4. Comply with all applicable state and federal laws and regulations relating to the employment of minors.

What training requirements must employers provide to minors?

An employer participating in the Manufacturing Mentorship Program must provide the following training:

1. An OSHA-approved ten-hour course in general industry safety and health hazard recognition and prevention;
2. Instruction on how to operate the specific tools the employee will use;
3. The general safety and health hazards to which the employee may be exposed;
4. The value of safety and management's commitment to safety; and
5. Information on the employer's drug testing policy.

Employers are required to pay for the OSHA approved training. If the employee provides proof of OSHA required training in the previous six months, then the employer is not required to pay for new OSHA training.

Are there any restrictions on the job duties that minor employees can perform?

The Ohio Department of Commerce will provide a list of tools that minor employees are permitted to use or operate during their employment in the mentorship program.

How does a manufacturer qualify to offer a Manufacturing Mentorship Program?

The intent is that any manufacturer can qualify for the program. However, there are restrictions as to what a minor can perform while working at a manufacturer. These restrictions will be defined along with the rules that are being developed with the Ohio Department of Commerce. Manufacturers must follow those rules and be aware of federal child labor restraints as well.

If you would like to participate in the rule writing process, please reach out to OMA's Rob Brundrett at rbrundrett@ohiomfg.com.

Additional Information

OMA legal counsel Bricker & Eckler LLP has drafted this legal memo about the program.



Bricker & Eckler LLP
100 South Third Street
Columbus, OH 43215
Office: 614.227.2300
Fax: 614.227.2390

Matthew R. Koppitch
Direct Dial: 614.227.8824
mkoppitch@bricker.com
www.bricker.com
info@bricker.com

MEMORANDUM

TO: Ohio Manufacturers' Association
FROM: Bricker and Eckler LLP
RE: Manufacturing Mentorship Program
DATE: September 15, 2019

H.B. 166, the state's general operating budget, created the Manufacturing Mentorship Program. The program exposes 16- or 17-year old minors to careers in various manufacturing occupations through temporary employment with a manufacturing employer. Below is a general overview of the law's requirements for this new program.

Program Basics

The law defines "manufacturing occupation" as "employment that consists of the mechanical, physical, or chemical transformation of materials, substances, or components into new products for sale, including the assembling of component parts into a finished product." R.C. 4109.22(A)(1).

An employer who wants to participate must do the following: 1) determine the duration of the minor's employment; assign the minor a mentor, who provides direct and close supervision of the minor when the minor is engaged in workplace activity; 3) provide the minor with training; 4) encourage the minor to participate in career-technical education programs, approved by the Ohio Department of Education, if the minor is not already participating in a career-technical education program; and 5) comply with all applicable state and federal laws and regulations related to the employment of minors. R.C. 4109.22(B).

Required Training for Minors

The required training (see above) must include all of the following: 1) a ten-hour course in general industry safety and health hazard recognition and prevention approved by the occupational safety and health administration of the United States department of labor; 2) instructions on how to operate the specific tools the minor will use during employment; 3) general safety and health hazards to which the minor may be exposed at

the minor's workplace; 4) the value of safety and management commitment; 5) Information on the employer's drug testing policy. R.C. 4109.22(C)(1).

If a minor has already completed a ten-hour course, the minor may participate in a thirty-hour course in general industry safety and health hazard recognition and prevention approved by the occupational safety and health administration. R.C. 4109.22(C)(2).

The employer is responsible for all costs associated with the training.

Restrictions on Tools Operated by Minors

The law requires that the Director of the Ohio Department of Commerce specify a list of tools that a minor, who is 16- or 17-years old, may operate during the minor's employment in a manufacturing occupation. The Director must use the manual issued by the wage and hour division of the United States Department of Labor titled the "Field Operations Handbook" when developing the list, but is not required to list all tools on the list. R.C. 4109.22(D).

The law prohibits an employer from permitting a minor who is not participating in the Manufacturing Mentorship Program from operating a tool on the list developed by the Commerce Director. An employer is prohibited from permitting a minor, regardless of their participation in the Manufacturing Mentorship Program, to operate a tool that is prohibited for use by minors of that age under the Fair Labor Standards Act, section 4109.05 of the Revised Code or the rules adopted under that section. R.C. 4109.22(F).

Violations result in a civil penalty of up to \$1,730 for each violation. R.C. 4109.99(F).

Conclusion

H.B. 166 was passed by the Ohio House and Ohio Senate on July 17, 2019 with Governor Mike DeWine signing the legislation into law, with certain veto messages, on July 18, 2019. The manufacturing mentorship program provisions become effective on October 17, 2019.



2019 WORKFORCE ROADMAP:

Priorities for Systems Change in Workforce Development

INTRODUCTION

ACKNOWLEDGEMENTS

We would like to recognize our partners at Ohio TechNet and The Ohio Manufacturing Institute at The Ohio State University who contribute significantly to OMA's workforce strategy. We would also like to express our appreciation to the manufacturers, educators and workforce stakeholders who helped to identify the priorities and themes discussed in these pages.

RECOGNITION OF SUPPORT

We thank these organizations that provided leadership-level support for OMA's Workforce Services:



PURPOSE OF THIS ROADMAP

The roadmap is intended to document OMA's 2019 workforce services strategy and action steps to facilitate skill development and talent acquisition among Ohio manufacturers.

OMA uses this roadmap to help communicate its strategy and plans with stakeholder audiences in order to facilitate collaboration, execution and learning.

THE PROBLEM

Manufacturing is the top private sector for employment in Ohio.¹ And, it is growing.² The biggest constraint to this growth, however, continues to be a significant disparity between the number of available jobs in manufacturing and the number of qualified applicants for them. The talent gap is driven by—at least—these key factors:

- A shrinking labor pool and increasing baby boomer retirements
- Rapid technology change that requires training for today's systems and tomorrow's
- Competitive recruitment tactics from other sectors

In addition, manufacturing is still suffering from the misperception (or lack of awareness altogether) among young people, their parents and educators that it is not a thriving industry with challenging career opportunities and competitive pay. Further severing the connection between the workforce and the manufacturing industry is the absence of an efficient statewide training and recruiting system that brings together manufacturers, educators, community leaders and the public workforce system.

Many industry leaders, post-secondary and K-12 institutions are still working in isolation, focusing on their individual niches rather than in a larger collective system. Regionally, while a growing number of Ohio manufacturers have implemented industry-led regional sector partnerships to address workforce challenges, many manufacturers are missing opportunities to collaborate with one another and with training providers to close the skill and talent gap. In order to meet the demands of the manufacturing sector and skill up the workforce, industry leaders must work with service and training providers to align local, regional and statewide assets to their requirements.

Partnerships like Ohio TechNet (OTN), a consortium of Ohio's post-secondary institutions focused on accelerating the readiness of adults for Ohio's manufacturing careers, are making incredible progress in this kind of alignment, and, as such, are an integral part of OMA's workforce strategy.

¹Source: Ohio Department of Job and Family Services, Office of Workforce Development, Ohio Labor Market Information, <http://ohiolmi.com/ces/lmr.htm>

²Source: Ohio Manufacturing Institute

THE SOLUTION

OMA has embraced Industry Sector Partnerships (sector partnerships), as a model for addressing workforce development challenges through collaboration. Sector partnerships put employers in the driver's seat and have demonstrated effectiveness across the country. Twenty-nine states have adopted state policies in support of sector partnerships.³ Manufacturers within a regional labor market work together to influence alignment around common solutions with education and training, economic and workforce development and community organizations. The key elements of sector partnerships include:

- Industry leadership (CEO/executive level) drives the agenda
- Manufacturers identify and collectively address priority workforce issues
- Workforce, economic development and education partners work as a system to meet industry needs
- All stakeholders pitch in to align resources and strengthen the community

Over the last two years, OMA has worked with manufacturers and their partners across the state to create a network of sector partnerships and to help establish partnerships where none exists. Through OMA's efforts, the network of sector partnerships is becoming a collective voice for—and system of—the manufacturing industry's workforce development priorities and solutions.

OMA does not seek to usurp any workforce activity underway, overtake any organizations or diminish existing efforts; it seeks to facilitate employer-led workforce development in Ohio's manufacturing industry where there are favorable conditions. For example, small- to medium-sized manufacturers are often unable to individually address their talent shortages, thus collaboration in outreach and alignment are critical to support the industry. OMA will help facilitate collaboration among partners with an eye toward eliminating duplicate services and creating alignment where the sector is fragmented, but not by fiat.

OMA has developed proven strategies and tools to assist parties in forming and operating sector partnerships to address the manufacturing talent shortage. This is systems-level change that is intended to ultimately lead to a more effective way for everyone to approach the workforce shortage:

- A machine operator who understands why he needs to spend time talking to young people and their parents about the job he loves—even though it makes him nervous to speak in front of groups.
- A high school math teacher who understands what great career opportunities exist within modern manufacturing and knows his students will someday be responsible for the safe assembly of an airplane engine.
- A CEO who believes her company's current and future profits are more secure when she engages her industry peers and education and workforce partners to develop common strategies.

³Source: National Skills Coalition. "Skills in the States: Sector Partnership Policy 50-State Scan." October 2017. <https://www.nationalskillscoalition.org/resources/publications/file/Sector-Partnership-Scan-1.pdf>

OMA'S APPROACH

EDUCATE AND ENGAGE

Through regional meetings, webinars, and an annual statewide summit, OMA has presented manufacturers information about the benefits of sector partnerships and showcased best practices in sector partnerships. Through it all, OMA has emphasized the importance of approaching the workforce problem from the systems level so that every program, every initiative and every individual can be working toward the same goal: a coordinated talent system that helps ensure that Ohio manufacturers have access to the skilled workforce they need today and tomorrow.

To this end, the OMA has formed three workforce committees:

- Leadership Committee, made up of OMA board member company representatives and invited industry leaders, charged with driving the OMA workforce agenda.
- Intermediary Committee, which includes a representative from each manufacturing sector partnership in Ohio.
- State Agency Committee, which includes representatives from the Governor's Office of Workforce Transformation, Ohio Department of Higher Education (ODHE), Ohio Department of Education (ODE), Ohio Department of Veterans Services, Ohio Development Services Agency, and the Ohio Department of Jobs and Family Services (ODJFS) and JobsOhio.

Through ongoing briefings and planning meetings, these committees and OMA collaborate and facilitate alignment with manufacturing industry requirements.

IMPLEMENT

Through online resources such as case studies, worksheets, webinars, and technical assistance, the OMA provides industry champions and their partners with tools to increase participation in, and impact of, industry sector partnerships. Together with the committees described above, these activities are designed to foster a network of sector partnerships that share best practices and work through challenges together. In 2019, the OMA will begin to measure sector partnership progress using Key Performance Indicators developed by the Leadership Committee (see Appendix).

IMPROVE

Drawing on the Baldrige 'Performance Excellence' framework, OMA is committed to helping manufacturers and manufacturing sector partnerships embrace continuous improvement by basing workforce programming on the dimensions of:

- Leadership
- Strategy
- Customers
- Measurement, analysis, and knowledge management
- Workforce
- Operations
- Results⁴

One way OMA has done this is through the Sector Partnership Self-Assessment tool, which asks sector partnerships to identify improvement plans in critical areas of success, as well as to benchmark best practices. Again, the idea is to embed a workforce system in Ohio, and not a disjointed set of unrelated programs.

⁴For more information on the 7 Baldrige Criteria, visit: <https://www.nist.gov/baldrige/baldrige-criteria-commentary>

SUMMARY OF PRIORITIES

At the 2017 Ohio Manufacturers' Workforce Summit, regional breakout sessions and follow-up surveys allowed participants to identify concerns and potential solutions. From those, four key themes emerged. These priorities continue to drive OMA's workforce strategy:

- **Leadership / Sector Partnership Capacity Building:** Through technical assistance and best practices sharing, increase industry champions' and partnerships' abilities to drive systems change
- **Policy Development:** Amplify the voice of manufacturers with lawmakers and public officials
- **Marketing and Communication:** Leverage the Making Ohio brand to elevate awareness and interest in manufacturing careers
- **Education Innovation:** Increase public/private collaborations that train and educate the manufacturing workforce of tomorrow

NEW IN 2019: THEMES

The OMA Workforce Community will continue to be organized around the four priorities described. However, based upon the evolving needs of the community, in 2019, the following themes will be reflected in each priority:

- **Industry-Recognized Credentials (and Industry-Recognized Apprenticeship):** Expand awareness and attainment of industry-recognized credentials by educating manufacturers, intermediaries, and education providers on the value of credentials; advocate for policies that award credit for credentials; and align earn-and-learn programs with credentials
- **Career Pathways:** Adopt statewide pathways to ensure that programs and initiatives are aligned with industry demand and offer predictable transitions for students
- **Partner Engagement:** Support industry champions and emerging sector partnerships as they ensure workforce, economic development, and education systems are fully engaged in sector partnership strategy
- **Fund Development and Sustainability:** Expand outreach to sponsors and philanthropic funders; build regional sector partnerships' ability to secure their own funding

PRIORITY 1 – LEADERSHIP/SECTOR PARTNERSHIP CAPACITY BUILDING

Through technical assistance and best practices sharing, increase industry champions’ and sector partnerships’ abilities to drive systems change.

STRATEGIC ACTIONS	STATUS
<p>Create a work process for manufacturer engagement that organizes and communicates available sector partnership assets and benefits to manufacturers while streamlining opportunities for manufacturers to provide feedback and shape programming.</p>	<p>COMPLETE OMA formed three standing committees representing key stakeholder groups: manufacturers (Leadership Committee), sector partnerships (Intermediary Committee), and their workforce, education, and economic development partners (State Agency Committee). This committee structure creates clear communication channels that put manufacturers front-and-center in decision making while simultaneously ensuring that information, resources, and best practices are shared with sector partnerships and workforce stakeholders.</p>
<p>Provide leadership training for industry champions participating in sector partnerships, including webinars on topics such as organizational governance and succession planning.</p>	<p>ONGOING The OMA supports industry champions with customized technical assistance and coaching. Additionally, webinars covering sector partnership strategic planning as well as education and work-based learning best practices are offered to the workforce community.</p>
<p>Create a structure and process for best practice sharing and networking across sector partnerships, intermediaries and other manufacturing workforce stakeholders.</p>	<p>ONGOING The Intermediary Committee meets regularly to share best practices and address Leadership Committee input and requests. This group also serves as subject matter experts for webinars and case studies which are available to the entire workforce community.</p>
<p>Provide webinars, workshops and events for sector partnerships and other workforce stakeholders.</p>	<p>ONGOING Webinars launched in 2018 will continue in 2019, focusing on topics prioritized by the workforce community at large. Eight webinars are planned in 2019.</p>
<p>Create and track sector partnership Key Performance Indicators.</p>	<p>ONGOING Working closely with the Leadership Committee, OMA developed Key Performance Indicators and began the process of collecting sector partnership data for benchmarking. Results will be available beginning in Q1 2019.</p>
<p>Create a process that will categorize sector partnerships by level of development. The purpose of this is to:</p> <ul style="list-style-type: none"> • Raise self-awareness of where a sector partnership is along a continuum of development • Facilitate continuous improvement • Introduce Baldrige concepts • Build capacity to think in systems and process terms vs. initiatives or programs • Provide technical assistance and networking to help partnerships advance 	<p>IN PROGRESS Categories were drafted in 2018. This will become a greater focus in 2019 as the OMA refines and communicates the process.</p>

NEW ACTIONS FOR 2019

- Educate manufacturers about the value and uses of industry-recognized credentials
- Provide training for leadership and intermediaries on how to customize and use statewide career pathways
- Educate industry champions on the role of various partners in sector partnerships and support emerging sector partnerships as they engage their local workforce development board, OhioMeansJobs staff, education partners, economic development agencies, community-based organizations, and other important stakeholders
- Support industry sector partnerships as they conduct opportunity scans in search of local funding sources

PRIORITY 2 – POLICY DEVELOPMENT

Amplify the voice of manufacturers with lawmakers and public officials.

STRATEGIC ACTIONS	STATUS
<p>Increase opportunities to leverage private investment with public and otherwise available funds. Conduct an ongoing opportunity scan for grant opportunities and leverage the roadmap to assess requests for support and partnership with external partners.</p>	<p>ONGOING In 2018, OMA partnered with Ohio TechNet and others to pursue grants from the U.S. DOL, the Joyce Foundation, and Strada Education Network, among others. Fund development continues to be a priority in 2019.</p>
<p>Develop policy papers for governor's administration and key public officials.</p>	<p>COMPLETE Policy recommendations were provided to both major-party gubernatorial candidates during the 2018 campaign. Policy recommendations have since been documented in <i>"Transforming the Ohio Manufacturing Workforce Development System."</i> OMA is now working with the DeWine administration to coordinate interests.</p>
<p>Work with state agencies and service providers to align funding and reduce duplication of services; continue coordinating the Leadership Committee, Intermediary Committee, and State Agency Committee. This will include periodic briefings and ad hoc meetings to address priorities, opportunities and issues.</p>	<p>ONGOING Through meetings of the State Agency Committee, the OMA was able to establish the Leadership Committee as an advisory council to the Ohio Department of Education's SuccessBound initiative. In addition, the OMA partnered with the ODHE to explore opportunities to improve student tracking and data collection. ODJFS provided matching funds to provide technical assistance to qualifying emerging sector partnerships.</p>
<p>Leverage OMA's advocacy expertise to amplify the voice of manufacturers; identify those areas where manufacturers' needs are not being considered and identify common barriers facing sector partnerships. Serve as the statewide advocate for manufacturing sector partnerships.</p>	<p>ONGOING The Leadership and Intermediary Committees offer a forum for OMA to collect this feedback, which is then shared with the State Agency Committee. In addition, members of the OMA workforce community provide feedback to their legislators and candidates, making sure they understand the issues that matter to manufacturers.</p>
<p>Position OMA's Leadership Committee as a statewide advisory board for education; centralize the source of manufacturers' and intermediaries' feedback and requests to education partners.</p>	<p>ONGOING The Leadership Committee has taken on this role for the ODE. In 2019, the OMA will continue to advocate for centralizing the flow of information using the committee structure.</p>

NEW ACTIONS FOR 2019

- Ensure manufacturers' preferred credentials are recognized by ODE and ODHE; explore opportunities to apply federal workforce funding to the cost of credentials
- Gain support of State Agency Committee and other key partners in the adoption of statewide manufacturing career pathways
- Engage local workforce development boards and OhioMeansJobs staff, as well as economic development and other public partners, in sector partnership activity
- Identify opportunities to tap into local workforce development and economic development funds and create alignment in local policies to address talent needs and sector partnership strategies

PRIORITY 3 – MARKETING AND COMMUNICATION

Leverage the Making Ohio image assets to elevate awareness and interest in manufacturing careers.

STRATEGIC ACTIONS	STATUS
<p>Create a plan to launch the Making Ohio brand assets beyond the 2017 pilot; include common practices, standards and messaging.</p>	<p>COMPLETE A revised Making Ohio website was launched in October 2018. Through it, OMA provides partnerships with a “How to Guide” and Making Ohio assets that can be used in local career awareness and recruiting initiatives. Those who are approved to receive the Making Ohio branded assets receive the results of OMA-commissioned market research conducted by Fahlgren Mortine that explore working-age Ohioans’ attitudes about manufacturing careers. In 2019, OMA will continue to partner with Fahlgren Mortine to develop regional marketing assets as funding is secured.</p>
<p>Explore opportunities to attract underrepresented populations to the manufacturing industry including women, disabled and veterans.</p> <ul style="list-style-type: none"> • Partner with the National Association of Manufacturers (NAM) to create Ohio-specific campaign for women • Partner where practical with NAM’s Creators Wanted initiative 	<p>IN PROGRESS The OMA is working with Ohio TechNet to launch open-education resources for engaging women in manufacturing through the OMA SkillsCommons.org portal. Other efforts to engage targeted populations will be evaluated in 2019.</p>
<p>Create processes and operations to monitor and measure the impact of the Making Ohio campaign</p> <ul style="list-style-type: none"> • Provide technical assistance to regional partnerships interested in using Making Ohio assets; create a playbook to guide effective use of campaign assets • Collect analytics through website and social media platforms • Execute social media campaigns to targeted populations • Train regional partners (including human resources representatives, college navigators, guidance counselors, and workforce service providers) to gather data about job seekers through their outreach efforts • Define metrics of success, e.g. tracking enrollment in education and training programs related to manufacturing 	<p>IN PROGRESS The Making Ohio asset application includes a request to report outcomes and a commitment to provide data following the campaign; the OMA expects partners to provide case studies and quantitative results of their marketing efforts. At the same time, JobsOhio and the Mahoning Valley Manufacturers Coalition are investing in early efforts to launch strategic campaigns at the regional level. Results and related processes will be recorded and available for use by other partners.</p>

NEW ACTIONS FOR 2019

- Where applicable, include information about industry-recognized credentials in the job profiles and career pathways on MakingOhio.com
- Update career pathways content on MakingOhio.com to reflect statewide manufacturing career pathways
- Encourage sector partnerships to engage their partners in deploying regional Making Ohio campaigns
- Explore growing sponsorships to fund outreach initiatives

PRIORITY 4 – EDUCATION INNOVATION

Increase in public/private collaborations to train and educate the manufacturing workforce of tomorrow.

STRATEGIC ACTIONS	STATUS
<p>Continue to support Ohio TechNet and its education, workforce and industry partners as it engages employers, accelerates learning, expands work-based learning and provides supportive services for adults interested in manufacturing careers. Foster innovative collaborations among higher education institutions (high school, career tech, community college and universities) and industry that facilitate upskilling and degree or credential attainment of Ohioans aligned to in-demand manufacturing careers.</p>	<p>ONGOING OMA worked closely with OTN throughout 2018 and will continue to do so in 2019. Most notably, the organizations partnered to submit a \$12 million grant application to the U.S. DOL. If awarded, the grant will support the expansion of the OMA’s workforce community and the use of Industry Recognized Apprenticeship Programs (IRAP) across the state. OTN is strategically expanding to include other segments of the education system (beyond higher education) and to encourage statewide collaboration among training providers.</p>
<p>Engage education providers (K-16) in industry-led sector partnerships and increase alignment between employer needs and available programs</p> <ul style="list-style-type: none"> • Develop metrics to measure program alignment to industry needs • Improve best practice and resource sharing among providers • Create template(s) for capturing/sharing best practices • Adopt, curate, and promote Skills Commons resources 	<p>IN PROGRESS Initial metrics were identified and included in the Key Performance Indicators developed by the Leadership Committee, and a sub-committee worked with OTN to curate the best-of-the-best resources available for the Skills Commons portal. The OMA will work with OTN and others to determine the best process for collecting and recording performance metrics and additional best practices and resources.</p>
<p>Form action teams/committees to develop and implement work-based, project-based, and experiential learning for students of all ages, which may include the following based upon the priorities of local sector partnerships:</p> <ul style="list-style-type: none"> • Apprenticeships and other forms of innovative ‘earn and learn’ models (e.g. create resource map of existing manufacturing apprenticeships and apprenticeship / earn and learn resources) • Internships • Summer camps • MakerMinded program 	<p>IN PROGRESS In 2018, OMA and its partners explored and documented various ‘earn and learn’ models to further investigate and perhaps implement in 2019. The focus of OMA’s action teams in 2019 will be contingent upon the successful receipt of the U.S. DOL IRAP grant.</p>

NEW ACTIONS FOR 2019

- Establish processes to award college credit for industry-recognized credentials and to provide on-the-job training aligned to them as well
- Work with ODE, ODHE, and local education providers to align manufacturing curricula to statewide manufacturing career pathways
- Encourage K-12 and post-secondary institutions to engage with Ohio TechNet and join their local sector partnerships
- Support collaborative relationships between sector partnerships and education providers related to philanthropic and grant-funded programs

CALL TO ACTION

While OMA is committed to making Ohio the recognized national leader in talent development, there are a number of actions any interested party can take. Please consider doing one or more of the following:

- Email workforce@ohiomfg.com to opt in to the Workforce Community to receive ongoing information, including webinar announcements
- Join your [local sector partnership](#)
- Request access to the Making Ohio image assets by visiting makingohio.com/partners
- Become a sponsor of OMA's workforce initiatives. Contact Dan Noreen, Managing Director, Development at dnoreen@ohiomfg.com
- Explore the sector partnership tools available at www.ohiomfg.com/workforce-services
- Contribute a [case study](#)
- Participate in an [upcoming webinar](#)

APPENDIX

Key Performance Indicators: Priorities for Systems Change in Workforce Development.

PRIORITY 1 – LEADERSHIP/ SECTORS PARTNERSHIP CAPACITY BUILDING	PRIORITY 2 – POLICY DEVELOPMENT	PRIORITY 3 – MARKETING AND COMMUNICATION	PRIORITY 4 – EDUCATION INNOVATION
Through technical assistance and best practice sharing, increase industry champions' and sector partnerships' abilities to drive systems change.	Amplify the voice of manufacturers with lawmakers and public officials.	Leverage the Making Ohio brand to elevate awareness and interest in manufacturing careers.	Increase in public/private collaborations to train and educate the manufacturing workforce of tomorrow.
Number of sector partnerships <i>(OMA data point)</i>	Number of interactions with state leaders <i>(Intermediary and member surveys)</i>	Creation of best practices repository on ohiofmfg.com <i>(OMA data point)</i>	New or revised training programs aligned to manufacturer needs <i>(Intermediary survey)</i>
County coverage <i>(OMA data point, Intermediary survey)</i>	Inclusion of funding for sector partnerships in state budget	<ul style="list-style-type: none"> • Increased traffic to website • Increased social media activity <i>(Data points to be provided by Park Bench Digital, et. al.)</i>	Number of students enrolled in prioritized occupational training programs: <ul style="list-style-type: none"> • OTN programs (credit and non-credit) • Ohio Technical Center adult programs • K-12 <i>(Data point collection piloted in cooperation with ODHE/ODE)</i>
Number of manufacturers involved <i>(Intermediary survey)</i>	Development of policy papers for key candidates and public officials <i>(OMA data point)</i>	Number of students/ potential applicants engaged through: <ul style="list-style-type: none"> • Speaking engagements • Tours • Summer camps • MakerMinded • Robotics competition • MFG Day • Other <i>(Intermediary survey)</i>	Number of industry-recognized credentials <i>(NAM Student Clearinghouse)</i>
Number and composition of partner members <i>(Intermediary survey)</i>	Joint projects/grants supporting sector partnerships <i>(OMA data point and Intermediary survey)</i>		Number of work-based, project-based, and experiential learning opportunities <ul style="list-style-type: none"> • Apprenticeships • Internships • Summer camps • MakerMinded program <i>(Intermediary, member survey)</i>
Manufacturer Investment <i>(Intermediary and member surveys)</i> <ul style="list-style-type: none"> • Financial • In-kind 			Enrollment, completion, and wage data <i>(Provided by education partners)</i>



33 N. High Street, 6th Floor
Columbus, OH 43215

800-662-4463
workforce@ohiomfg.com
www.ohiomfg.com

Human Resources

Denial, OH Campaign is Effective, but Work Remains November 8, 2019

Last year, the Ohio Opioid Education Alliance launched the Denial, OH campaign with the aim of preventing prescription opioid misuse. The OMA is a partner in this effort. A recent survey was conducted to examine the campaign's effectiveness. Findings include:

- Nearly half of respondents in central Ohio have seen the Denial, OH ads, including 37% of those living in other areas of the state.
- While most Ohioans still underestimate the threat of opioids to their families, the majority of those who have seen the Denial, OH advertisements reported talking to their kids about opioids as a result.
- The majority of those who have seen Denial, OH ads reported being more cautious about how they dispose of unused pills.

See the **full results** of the survey. Visit DontLiveinDenial.org. 11/4/2019

Using Voluntary Benefits to Attract Millennial Talent November 8, 2019

Millennials (ages 23 to 38 in 2019) consistently cite work-life balance and employer benefits as key factors when considering a job offer. To capitalize on this market shift, OMA Connections Partner One Source Advisors says employers should consider offering more imaginative and comprehensive perks to attract younger talent, starting with voluntary benefits, including:

- Pet insurance
- Student loan repayment
- Identity theft insurance

- Elder care
- On-site daycare

For more, get in touch with **One Source Advisors**. 11/5/2019

NLRB: Employers Can Remove Labor Organizers from Parking Lot November 8, 2019

The National Labor Relations Board recently issued another decision benefitting employers by holding that an employer does not violate the National Labor Relations Act when it removes from the employer's parking lot non-employee union representatives who encourage customers to boycott the employer. **See the analysis** from OMA Connections Partner Bricker & Eckler LLP. 11/4/2019

Is Your Business a Recovery-Supportive Workplace? November 8, 2019

What is a recovery-supportive workplace? Unfortunately, many employers do not know what being a recovery-supportive workplace really means for their organization. OMA Connections Partner *Working Partners*® has produced **this video** to help explain the concept to employers. 11/5/2019

Labor Department Clarifies Fluctuating Work Week Pay Method November 8, 2019

The U.S. Department of Labor, to simplify its wage and hour regs, has proposed a **rule** allowing employers to offer bonuses or other incentive-based pay to employees whose hours vary from week to week. **Read the analysis** by OMA Connections Partner Frantz Ward. 11/6/2019

IRS Announces 401(k) Contribution Limit for 2020 November 8, 2019

The Internal Revenue Service has **announced** that employees in 401(k) plans will be able to contribute up to \$19,500 next year. 11/7/2019

Employers See Steady Increase in Compensation Costs
November 1, 2019

The U.S. Bureau of Labor Statistics **reported this week** that compensation costs for private industry workers increased 2.7% over the year, compared to an increase of 2.9% in September 2018. Wages and salaries increased 3.0% for the 12-month period ending in September 2019, while the cost of benefits rose 2.0%. Employer costs for health benefits increased 2.0% for the same one-year period. *10/31/2019*

Nov. 4 Webinar will Address Federal Overtime Rule
October 25, 2019



In late September, we **reported** that the U.S. Department of Labor (DOL) had announced its **final rule** to make an additional 1.3 million workers eligible for overtime pay. On Monday, Nov. 4, 2019, at 1 p.m. (EST), the U.S. Labor Department's Wage and Hour Division will offer a **free webinar** to provide employers with compliance assistance regarding the final rule. Participants will have the opportunity to submit questions. *10/22/2019*

NLRB: Simply Misclassifying Workers Doesn't Violate Federal Labor Law
October 25, 2019

OMA Connections Partner Bricker & Eckler LLP **reports** that the National Labor Relations Board (NLRB) recently issued a decision in employers' favor by holding that misclassification of an employee as an independent contractor, by itself, does not violate the National Labor Relations Act (NLRA). Employers are still advised to continue to exercise caution and consult legal counsel when making classifications since misclassifications can bring significant liability under other employment laws and regulations. *10/21/2019*

Full-Time Workers' Median Earnings up 3.6% in Past Year
October 25, 2019

According to the U.S. Bureau of Labor Statistics, median weekly earnings of the nation's 118.4 million full-time wage and salary workers were \$919 in the third quarter of 2019 (not seasonally adjusted). This was **3.6% higher** compared to a year earlier. *10/21/2019*

Worker Sues CBD Oil Maker After Positive Drug Test
October 25, 2019



Legalization of marijuana and hemp has complicated life for employers, as well as for some applicants and employees. OMA Connections Partner Franz Ward **reports on a case** from New York involving a professional hazmat truck driver of 29 years. While the trucker knew he was subject to regular drug testing, he told the court he used the defendant's CBD oil after seeing an ad that claimed the product contained no THC (the intoxicating compound in cannabis). Later, he tested positive for marijuana at almost double the concentration limit. He was terminated — and then sued the seller of the oil.

Because of the unpredictable developments in this area of the law and industry, "employers should continue to act thoughtfully when making decisions regarding applicants and employees who use marijuana or CBD," the firm advises. *10/22/2019*

Anti-Discrimination Bill Introduced
October 18, 2019

At a press conference with representatives from the business community, including the OMA, state Reps. **Brett Hudson Hillyer** (R-Uhrichsville) and **Michael Skindell** (D-Lakewood) this week unveiled **House Bill 369**. Titled the Ohio Fairness Act, the bill would add sexual orientation and gender identity to the list of protected groups under current Ohio's anti-

discrimination law, which prohibits discrimination against a person's characteristics such as race, gender, and disability.

OMA member and former state Rep. Ross McGregor, who in the past championed the proposal, said the legislation is important for workforce development efforts as employers, such as his company, compete for a new generation of workers. Hannah News Service quoted McGregor as saying: "That's why you'll see this list of businesses and business groups that have put their names down as saying this is important. We didn't have that in 2009." 10/17/2019

Discussion Resumes on Employment Law Uniformity Act October 18, 2019

This week, the House Civil Justice Committee began hearings on **House Bill 352**, the Employment Law Uniformity Act. The OMA has been a supporter of this legislation through its various iterations over the years.

On Wednesday, state Reps. **George Lang** (R-West Chester Township) and **Jon Cross** (R-Kenton) provided **sponsor testimony**. The two described the bill as legislation that "aims to improve Ohio's workplace discrimination laws by allowing for timely, fair, and efficient resolution of claims for both employers and employees."

The bill tackles several key provisions of the law, including — but not limited to — reducing the statute of limitations; preventing simultaneous filing of administrative and judicial actions; amending the definition of private employer; and creating an affirmative defense. 10/17/2019

Get Your Drug Test Results Faster October 11, 2019

Is your business still using paper drug-testing forms? OMA Connections Partner *Working Partners*® reports that studies show companies using an electronic custody and control form received their results at least 7.5 hours sooner than employers using traditional paper forms. Learn more by watching **this two-minute video**. 10/10/2019

Study: More Than 80% of Employers Anticipate Higher Health Costs in 2020 October 4, 2019

OMA Connections Partner One Source Advisors cites a **new national study** that finds more than 80% of employers plan to increase their spending on health care and wellness in the next year. The average health insurance premium for family coverage was \$19,616 in 2018, with employers paying 71% of that cost, according to the Kaiser Family Foundation. To help mitigate rising costs, many employers plan to spend more on wellness initiatives.

One Source Advisors also reports that Medicare Part D notices are due by Oct. 15. Employers should confirm whether their health plans' prescription drug coverage is **creditable or non-creditable** and prepare to submit their Medicare Part D disclosure notices before the middle of the month. Direct questions to **One Source Advisors**. 10/1/2019

Ohio Minimum Wage to Increase Jan. 1 October 4, 2019

Ohio's minimum wage will increase 15 cents an hour — to \$8.70 an hour — on Jan. 1. That's due to a 2006 Ohio constitutional amendment that requires yearly inflationary increases in the minimum wage, currently \$8.55 an hour. The Ohio Department of Commerce **announced the increase Monday**. Employers with annual gross receipts of more than \$319,000 a year must comply with the increase. **Read more** from OMA Connections Partner Bricker & Eckler. 9/30/2019

It's Here: New Federal Overtime Rule September 27, 2019

This week, the U.S. Department of Labor (DOL) **announced a final rule** to make 1.3 million workers newly eligible for overtime pay. This rule updates the earnings thresholds necessary to exempt executive, administrative, and professional employees from minimum wage and overtime pay requirements. It also allows employers to count a portion of certain bonuses/commissions towards meeting the salary level.

According to **DOL's fact sheet**, under the **new rule**, the "standard salary level" is increased from \$455 per week to \$684 per week (equivalent to \$35,568 per year for a full-year worker).

See summaries from OMA Connections Partners **Clark Schaefer Hackett; Roetzel & Address; Calfee; and Frantz Ward**. 9/24/2019

**Ohio Senate Hearings on \$15/Hour Minimum Wage Bill
September 27, 2019**

This week, the Ohio Senate Government Oversight & Reform Committee heard sponsor testimony on legislation (**Senate Bill 90**) to gradually boost Ohio's minimum wage to \$15 an hour. Offered by Sen. **Hearcel Craig** (D-Columbus) and Sen. **Cecil Thomas** (D-Cincinnati), the bill would increase the state minimum wage to \$12 an hour starting Jan. 1, 2020, and raise it by another \$1 annually until 2023, when minimum wage would be \$15 an hour.

During the hearing, several committee members voiced concerns regarding the negative impact SB 90 would have on businesses, as well as consumers, who would see drastically higher prices. The bill faces strong headwinds in the GOP-controlled General Assembly. 9/25/2019

**Free Oct. 3 Employment Law Seminar
September 27, 2019**

On Thursday, Oct. 3, OMA Connections Partner Bricker & Eckler will host its annual "**Hot Topics**" seminar in Columbus to provide human resources professionals and in-house attorneys with the latest insight into key labor and employment issues. This course has been submitted to the Supreme Court of Ohio Commission on Continuing Legal Education for 3.0 total CLE hours instruction. Additionally, 3.0 HRCI credits have been approved. There is no fee to attend, but space is limited. 9/24/2019

**Employers Face Sept. 30 Deadline to Submit Pay Data
September 20, 2019**

An important Equal Employment Opportunity Commission (EEOC) deadline is quickly approaching. Due to an Obama-era regulation, employers with 100 or more employees must submit EEO-1 Component 2 pay data for 2017 and 2018. The report is due no later than Monday, Sept. 30.

Earlier this year, certain employers were required to file EEO-1 Component 1 data listing employees by job category, race, ethnicity, and gender. Component 2 asks for employees' hours

worked and pay information from their W-2 forms, broken down into the same categories.

OMA Connections Partner Franz Ward has provided **this update to brief OMA members** on the status of the reporting obligation, while offering compliance tips and an explanation as to why this reporting obligation may be a one-time task. 9/19/2019

**Comparing Employee Benefits Offered by Manufacturers
September 20, 2019**

One way manufacturers are retaining talent is by offering more competitive employee benefits. OMA Connections Partner Barnes Dennig recently published the results of its *2019 Manufacturing Compensation & Benefits Benchmarking Study*, which surveyed manufacturers in Ohio, Kentucky, and Indiana. The study found the following:

- Only about half of the companies surveyed offer 401(k) plans. Of those that did, employee contributions per month were comparable for small and large companies.
- Besides 401(k) plans, the top benefits offered by all companies were: health insurance; group life; vision; dental; and disability.
- About 95% of companies said that wellness programs were important in controlling costs.
- Only 17% of companies cover an employees' spouse under their health plans.
- Many companies are using alternative plan funding such as self-funded plans to reduce plan costs — taking on additional risk, which reduces the carrier profit.

For more on the survey, **see Barnes Dennig's summary**. 9/16/2019

quality coverage currently available to Fortune 500 companies.

The ACA-compliant plans will focus on manufacturers with 2 to 99 employees. To participate, you must be an OMA member. More details will come in early September, so be on the lookout for e-mails and postcards regarding this exciting new health insurance option for you and your employees. If you have questions, e-mail the OMA's **Dan Noreen** or call him at (614) 629-6816. 8/29/2019

Pro-Union Federal Legislation Gains Momentum August 30, 2019

The National Association of Manufacturers (NAM) reports from Washington that there has been a continued push for federal legislation known as the **Protecting the Right to Organize (PRO) Act**. According to the NAM, this federal legislation would make it easier for unions to use card check; restrict opportunities for employers to communicate with their workers; apply pressure via secondary boycotts; and get access to employee shift and personal contact information. The NAM is **aggressively fighting** the legislation. A House markup is expected this October, and the bill will likely be considered by the full House shortly thereafter. 8/27/2019

Are Employers Required to Accommodate Medical Marijuana? August 30, 2019

More than 53,000 Ohio residents have applied for and received medical marijuana cards. How should an employer handle an employee who is legally permitted to use medical marijuana?

OMA Connections Partner Roetzel & Andress reports that employers may still implement drug testing, drug-free workplaces, and zero-tolerance policies — and Ohio law does not require employers to accommodate the use, possession, or distribution of medical marijuana. But the **Roetzel report** notes that outside of Ohio, the issue is becoming increasingly complicated as some states have expanded the

rights of employees who use medical marijuana. Roetzel advises employers with operations in multiple states to stay abreast of changing marijuana laws. 8/28/2019

Testing for Alcohol: How it's Different August 23, 2019

Testing employees or applicants for alcohol can be tricky. OMA Connections Partner *Working Partners®* has posted **this brief video** to provide some insights on best practices when testing for alcohol in a drug-free program that is not regulated by an outside authority, such as DOT. 8/22/2019

What if You Receive a 'No-Match' Letter? August 23, 2019

In the past few months, many businesses nationwide have received “no-match” letters from the Social Security Administration, alerting employers about discrepancies between the agency's files and data reported on W-2 forms. OMA Connections Partner Clark Schaefer Hackett reports that there are several reasons why names and SSNs don't match — from input errors, to name changes due to marriage or divorce, to undocumented workers. **Find out** what you should do if your business receives a no-match letter. 8/22/2019

Ohio Updates its Motor Carrier Employment Test August 23, 2019

OMA Connections Partner Calfee has analyzed Ohio's new statutory changes regarding the state's definition of “employment” as it pertains to motor carriers and those in the trucking industry. These changes went into effect July 3, 2019 under **House Bill 62**, Ohio's transportation budget bill. The new law impacts how administrative agencies, including the Ohio Bureau of Workers' Compensation (BWC), view independent contractor drivers. If your business could be affected by these changes, see **this article**, which details how the new law provides clarity for motor carriers operating in Ohio. 8/21/2019

Analysis: Minimizing Drug-Test Cheating August 16, 2019



What options are available to employers when an employee is suspected of cheating on a drug test? More importantly, how can companies prevent employees from cheating in the first place? OMA Connections Partner *Working Partners®* has published a “**real life incident**” recounting the suspicious circumstances surrounding the testing of a particular worker and how the incident could have been avoided. 8/13/2019

Executive Order Could Affect Employer Health Plans August 16, 2019

Earlier this summer, President Donald Trump signed an **executive order** aimed at improving price and quality transparency in health care, while protecting patients from surprise medical bills. The order also seeks to enhance patients' control over their own health care resources through tax-preferred medical accounts. As a result, OMA Connections Partner One Source Advisors says the Treasury Department will soon issue guidance to expand access to high-deductible health plans. Additionally, the Treasury will propose regulations to increase the amount of funds that can carry over without penalty at the end of the year for flexible spending accounts.

Questions? Get in touch with **One Source Advisors**. The OMA will keep you posted on any new developments. 8/12/2019

Small, Mid-Sized Manufacturers Can Start No-Cost Wellness Program for Employees August 9, 2019



Your employees may be eligible for **Better You, Better Ohio!®** – a free health-and-wellness program for workers of small and mid-sized businesses engaged in higher-risk industries, including manufacturing. Administered by the Ohio Bureau of Workers' Compensation (BWC), the program gives employers a chance to start a wellness program with no cost and no paperwork hassle.

Businesses with 150 or fewer employees are eligible if they do not have an established wellness program. The BWC can even arrange on-site biometric screenings for your employees. **Email the BWC** for more information. 8/6/2019

Legalization of CBD Oil May Mean More Employer Headaches August 9, 2019

OMA Connections Partner Bricker & Eckler has published new **analysis** of what Ohio's legalization of products containing hemp-derived cannabidiol (CBD) means for employers. According to the firm's experts, legalization under Ohio law does not alter employers' obligations to drug-test certain employees under federal law. Pilots, CDL drivers, mass transit, pipeline industry workers, and many others in safety-sensitive positions are still subject to applicable random testing requirements, and covered employers must be mindful of these obligations. The analysis notes that a high enough quantity of CBD oil consumed through edibles, vaping, or other non-topical means could result in impairment and a positive drug test. 8/6/2019

Federal Court Blocks EEOC Guidance on Employers' Use of Criminal History for Hiring August 9, 2019

The U.S. Court of Appeals for the Fifth Circuit this week upheld an earlier ruling that rejected federal guidance for employers on hiring felons. The issue goes back to 2012, when the Obama administration's Equal Employment Opportunity

Commission (EEOC) tried to make it easier for ex-convicts to find employment.

It its **analysis**, OMA Connections Partner Dinsmore says this week's opinion will "undoubtedly" result in widespread legal challenges to the EEOC's 2012 guidance. Nonetheless, "employers should take caution when devising a policy regarding the treatment of employees or applicants with criminal records" since the "applicability of the EEOC's guidance will likely be in flux for some time, and other laws remain which must be carefully considered when reviewing the criminal background of an employee or applicant — most notably the Fair Credit Reporting Act and state 'ban the box' laws." *8/8/2019*

NLRB Makes it Easier to Challenge Union Representation **August 2, 2019**

Employers, as well as unionized workers wishing to move on from their relationship with labor unions, recently received good news from the National Labor Relations Board (NLRB). On July 3, 2019, the board modified the legal framework that permits employers to stop

bargaining prior to the expiration of a collective bargaining agreement, and announce they will eject the union when the contract ends. **Here** is analysis from OMA Connections Partner Bricker & Eckler. *7/30/2019*

What Legalization of CBD Products Means for Employers **August 2, 2019**

Gov. Mike DeWine this week signed into law **Senate Bill 57**, legalizing hemp and hemp-derived cannabidiol (CBD) products in Ohio. This means retailers can start selling hemp-derived CBD products and Ohio's Department of Agriculture can outline a program for farmers to start growing the crop.

Employers are raising questions about CBD, such as whether there is tetrahydrocannabinol (THC) in CBD products, or if CBD will show up on drug tests. OMA Connections Partner Working Partners® has published this **helpful video** and **infographic** to assist employers (and their employees) in navigating this touchy topic as they work to maintain a drug-free workplace. *8/1/2019*

Human Resources, Health Care & Employment Law Legislation
Prepared by: The Ohio Manufacturers' Association
Report created on November 12, 2019

- HB21** **MASS LAYOFFS-UNEMPLOYMENT COMP** (HOLMES G, MILLER A) Regarding notices, resources, and benefits under the Unemployment Compensation Law when a mass layoff occurs.
Current Status: 2/12/2019 - Referred to Committee House Commerce and Labor
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-21>
- HB34** **STATE-LOCAL MINIMUM WAGE** (KELLY B) To increase the state minimum wage and to allow municipalities, townships, and counties to establish higher minimum wage requirements.
Current Status: 2/12/2019 - Referred to Committee House Commerce and Labor
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-34>
- HB38** **COMMERCIAL CREDIT REPORTING** (HILLYER B) To require a commercial credit reporting agency to provide credit reports to businesses and to establish a procedure whereby a business may dispute statements on the report.
Current Status: 11/14/2019 - House Financial Institutions, (Seventh Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-38>
- HB78** **PREVAILING WAGE-PUBLIC IMPROVEMENTS** (RIEDEL C, MANCHESTER S) To allow political subdivisions, special districts, and state institutions of higher education to elect to apply the Prevailing Wage Law to public improvement projects.
Current Status: 2/20/2019 - Referred to Committee House Commerce and Labor
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-78>
- HB91** **FAMILY-MEDICAL LEAVE** (BOGGS K, BOYD J) To establish family and medical leave insurance benefits.
Current Status: 3/26/2019 - House Insurance, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-91>
- HB221** **WAGE DISCRIMINATION COMPLAINTS** (BOYD J, CRAWLEY E) To require the Ohio Civil Rights Commission to establish a system for individuals to make anonymous complaints regarding wage discrimination.
Current Status: 6/18/2019 - House Civil Justice, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-221>
- HB268** **VACCINES-EMPLOYMENT** (HOOD R, KENT B) To enact the "Medical Consumer Protection Act" to prohibit an employer from taking an adverse employment action against a person who has not been or will not be vaccinated.
Current Status: 6/4/2019 - Referred to Committee House Commerce and Labor
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-268>
- HB292** **UNIVERSAL HEALTH CARE COVERAGE** (SKINDELL M, KENT B) To establish and operate the Ohio Health Care Plan to provide universal health care coverage to all Ohio residents.

Current Status: 9/10/2019 - House Health, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-292>

HB304 ELIMINATE SEX-BASED WAGE DISPARITIES (CLITES R, HOWSE S) To enact the Ohio Equal Pay Act to require state contractors and economic incentive recipients to obtain an equal pay certificate, to require public employers to establish a job evaluation system to identify and eliminate sex-based wage disparities, to prohibit employers from seeking a prospective employee's wage or salary history, and to prohibit employer retaliation against an employee who discusses salary or wage rates with another employee.

Current Status: 6/30/2019 - Referred to Committee House Commerce and Labor
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-304>

HB352 CIVIL RIGHTS EMPLOYMENT LAWS (CROSS J, LANG G) To modify Ohio civil rights laws related to employment.

Current Status: 10/16/2019 - House Civil Justice, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-352>

HB369 SEXUAL, GENDER DISCRIMINATION (HILLYER B, SKINDELL M) To enact the Ohio Fairness Act to prohibit discrimination on the basis of sexual orientation or gender identity or expression, to add mediation as an informal method that the Ohio Civil Rights Commission may use, and to uphold existing religious exemptions under Ohio's Civil Rights Law.

Current Status: 10/22/2019 - Referred to Committee House Civil Justice
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-369>

HB378 STRIKING WORKER UNEMPLOYMENT BENEFIT (CROSSMAN J, LEPORE-HAGAN M) To provide unemployment benefits to striking workers and to declare an emergency.

Current Status: 10/23/2019 - Referred to Committee House Insurance
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-378>

HCR17 EXPAND SNAP TO STRIKERS (SOBECKI L, RUSSO A) Urging Congress to expand Supplemental Nutrition Assistance Program eligibility to include the households of striking workers.

Current Status: 10/23/2019 - Referred to Committee House Health
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HCR-17>

SB9 HEALTH PLAN CLAIM INFORMATION (HUFFMAN M) To require health plan issuers to release certain claim information to group plan policyholders.

Current Status: 11/12/2019 - House Insurance, (Fourth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-9>

SB11 PROHIBIT DISCRIMINATION-SEXUAL ORIENTATION, GENDER IDENTITY (ANTONIO N) To enact the Ohio Fairness Act to prohibit discrimination on the basis of sexual orientation or gender identity or expression, to add mediation as an informal method that the Ohio Civil Rights Commission may use, and to uphold existing religious exemptions under Ohio's Civil Rights Law.

Current Status: 5/22/2019 - Senate Judiciary, (Third Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-11>

SB91 **FAMILY AND MEDICAL LEAVE (MAHARATH T)** To establish family and medical leave insurance benefits.

Current Status: 9/25/2019 - Senate Insurance and Financial Institutions, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-91>

SB92 **WAGE DISCRIMINATION (MAHARATH T)** 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: 3/20/2019 - Senate General Government and Agency Review , (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-92>

SB94 **PREGNANT WORKERS (MAHARATH T)** To enact the "Ohio Pregnant Workers Fairness Act" to generally require employers to make reasonable accommodations for employees who are pregnant or breastfeeding.

Current Status: 9/10/2019 - Senate Government Oversight and Reform, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-94>

SB149 **EMPLOYEE WAGE HISTORY (MAHARATH T)** To prohibit employers from seeking a prospective employee's wage or salary history.

Current Status: 9/11/2019 - Referred to Committee Senate Transportation, Commerce and Workforce

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-149>

SB201 **ALTERNATE EMPLOYER ORGANIZATIONS (DOLAN M)** To create alternate employer organizations.

Current Status: 11/6/2019 - Senate Transportation, Commerce and Workforce, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-201>

SB207 **DRUG TESTS-UNEMPLOYMENT BENEFITS (SCHAFFER T)** To require unemployment benefit applicants to take a drug test under certain circumstances, to create the Ohio Works First drug testing pilot program, and to make an appropriation.

Current Status: 11/13/2019 - Senate General Government and Agency Review , (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-207>

TO: OMA Government Affairs Committee
FROM: Ryan Augsburger / Rob Brundrett
RE: Safety and Workers' Compensation Report
DATE: November 13, 2019

Overview

Eight months into the new Administration and the BWC has already passed a 20% private employer rate cut starting this summer and announced \$1.5 billion back to employers.

The BWC budget became a political football and its passage was delayed until well after the June 30 deadline.

Expanding workers' comp coverage to mental/mental claims remains a contentious issue.

Legislation and Rules

House Bill 79 – Industrial Commission Budget

The often non-controversial Industrial Commission budget was the only budget to be passed and signed by the June 30th deadline. The bill due to its non controversial nature was signed by the Governor on June 27th, and contained only IC appropriations.

House Bill 80 – Bureau of Workers' Compensation Budget

Administrator McCloud provided her initial testimony on the BWC budget to the House Insurance Committee in February. The budget bill included a 7% increase in funding due to the extra pay period in 2019. The Insurance Committee passed the bill out of committee with no changes. The bill was rereferred to the Finance Committee for more debate since it contains appropriations.

The House Finance Committee provided a substitute version which was accepted. Included in that version was PTSD coverage for first responders. The business community has long opposed the so-called mental/mental provision because it challenges the longstanding precedent that physical injuries are required to receive workers' compensation. Also included was severe employee misclassification penalties and settlement changes. The OMA opposed the House revisions.

The Senate removed all the House added policy changes to the bill. The two chambers eventually agreed to changes and accepted a bill that did not include the policy changes.

Both the House and Senate have publicly stated they would like to approve PTSD in the fall. The OMA and other business groups have shopped a proposal that would provide benefits outside of the BWC system.

House Bill 81 – Workers' Comp for Bodily Fluid Exposure

The bill would provide workers' compensation coverage of post-exposure medical diagnostic services for a detention facility employee's exposure to another person's blood or bodily fluids. The House is looking to expand the bill and adding provisions that were originally included in the workers' comp budget bill.

House Bill 308 – PTSD First Responders

The bill would provide workers' compensation and disability retirement for peace officers, firefighters, and emergency medical workers diagnosed with posttraumatic stress disorder arising from employment without an accompanying physical injury.

BWC Agency Notes

Yet Another Billion Back

This summer the BWC announced another billion back at OMA member Dynalab. The money is Ohio's fifth investment return to private and public employers of at least \$1 billion since 2013 and sixth overall during that time. Manufacturers can start expecting checks at any time.

Jim Hughes to Chair Ohio's Industrial Commission

Gov. Mike DeWine appointed Jim Hughes of Upper Arlington (Franklin Co.) to the Industrial Commission of Ohio, which adjudicates workers' compensation disputes. Hughes' term begins July 1, 2019 and will end June 30, 2025. He will serve as chair of the commission when his term commences.

A Republican, Hughes was a member of the Ohio State Senate from 2008 to 2016, as well as a member of the Ohio House from 2000 to 2008. He has worked an assistant prosecutor for Franklin County.

BWC Rebranding?

Administrator McCloud sent a letter to stakeholders asking for Ohio BWC rebranding suggestions and opinions.

BWC Board Approves Largest Private Employer Rate Decrease in 60 Years

Earlier this year the Ohio Bureau of Workers' Compensation (BWC) Board of Directors approved a 20% reduction in the average premium rate it charges private employers, which is the largest rate cut in nearly 60 years.

Fewer workplace injuries and falling estimates of future medical costs are driving the recommendation.

The rate reduction is effective July 1 and is projected to save private employers \$244 million over premiums for fiscal year 2019.

Premiums paid to BWC not only cover health care and wages for injured workers, they support BWC's Safety & Hygiene Division, which offers grants, training, consultations and other services to help employers improve workplace safety.

The 20% rate cut represents an average statewide change. The actual premium paid by individual private employers depends on a number of factors, including the expected future claims costs in their industry, their company's recent claims history and their participation in various BWC rebate programs.

BWC Board Releases MCO Study

The board of directors recently heard a presentation on a second phase of a study of managed care organization (MCO) performance in the Ohio system.

Unlike 20 years ago when Governor Voinovich called the Ohio workers' compensation system the "silent killer of jobs," the Ohio system today is a national leader on any number of metrics, including medical.

However, that success comes at a cost. The study indicates that MCOs are paid 27% of total medical costs; meanwhile, benchmarks in from other programs are 15% of total costs for administrative costs.

That suggests a possible overpayment of \$70 to \$80 million for MCO services. Those costs, of course, are born by employers.

The BWC has established work groups to study this matter in detail.

Safety Issues

N / A

Legislative Budget Office of the Legislative Service Commission

BWC & OIC Budgets in Brief

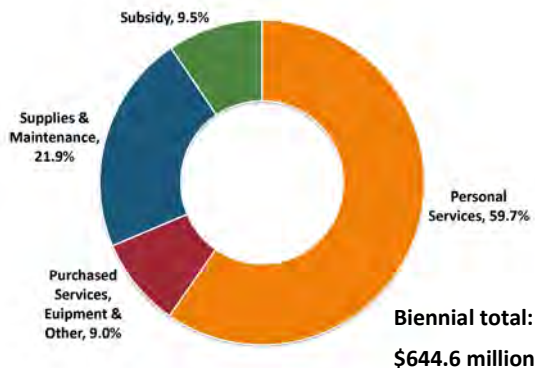
House Bills 79 & 80 – As Enacted

[www.lsc.ohio.gov/Budget Central](http://www.lsc.ohio.gov/BudgetCentral)

- ◇ R.C. 101.532 requires the Bureau of Worker’s Compensation (BWC) and the Ohio Industrial Commission (OIC) each have its own budget bill, separate from the main operating budget bill.
- ◇ BWC and OIC budgets receive no GRF funding. They are primarily funded by administrative assessments charged to employers. A small portion of the BWC budget is supported by federal grants.
- ◇ BWC administers the largest *exclusive workers’* compensation system in the country. Under such a system, the state, not private insurers, provides workers’ compensation insurance to all public and private employers except for those that qualify for self-insurance.
 - * Insuring approximately 240,600 Ohio employers, BWC policies cover about 60% of the state’s workforce.
 - * The bulk of medical and lost-time benefits paid to injured workers are made from the State Insurance Fund, a trust fund that is not subject to appropriations by the General Assembly.
 - * BWC is governed by an 11-member Board of Directors who are appointed by the Governor.
- ◇ OIC hears appeals of workers’ compensation claim decisions made by BWC and self-insured employers.
 - * OIC is governed by a panel of three commissioners who are appointed by the Governor.

BWC Budget by Expense Category

FY 2020-FY 2021 Biennium



- ◇ As of May 2019, BWC employed 1,722 full-time permanent staffers. Personal services or payroll comprises the largest share of its budget, accounting for 59.7% of the FY 2020-FY 2021 biennial budget.
- ◇ In FY 2018, BWC paid \$1.46 billion in total benefits, consisting of \$0.53 billion in medical and \$0.94 billion in lost time benefits.
- ◇ At the end of FY 2018, BWC had about 672,000 pending claims, including about 85,000 claims that were filed in that year.

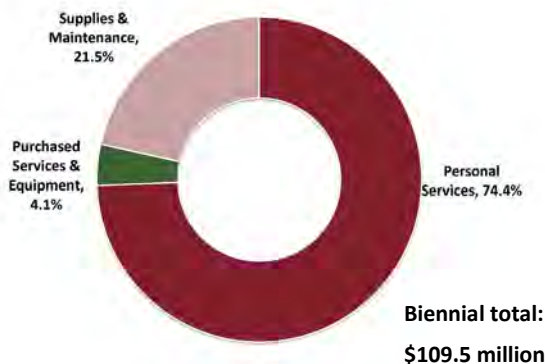
Workplace health and safety grant (subsidy) funding totals \$28.1 million in FY 2020 and \$33.1 million in FY 2021, including the following:

- ◇ Substance Use Recovery and Workplace Safety Program (ALI 855618): Funding for this grant program is increased from \$2.5 million in FY 2019 to \$5.0 million in FY 2020 and \$10.0 million in FY 2021.
- ◇ Safety Grants (ALI 855610): This appropriation item is flat funded at \$20.0 million per year.

BWC’s 30-day interim budget (S.B. 172) was superseded by H.B. 80 on July 22 when the Governor signed that bill into law.

OIC Budget by Expense Category

FY 2020-FY 2021 Biennium



- ◇ As of May 2019, OIC employed 332 full-time permanent staffers. Personal services or payroll is the largest area of its budget, accounting for 74.4% of the FY 2020-FY 2021 biennial budget.
- ◇ OIC operates five regional and seven district offices across the state to adjudicate disputed claims through three levels of hearings: district hearing officers, staff hearing officers, and the Commission.
- ◇ In FY 2018, OIC heard 112,250 claim appeals, of which 79,055 were heard by district hearing officers (first level), 32,936 by staff hearing officers (second level), and 259 by the Commission. The majority of appeal claims were filed through the Industrial Commission Online Network (ICON).
- ◇ In FY 2018, on average, it took 38 days for a first-level hearing to occur and 35 days for a second-level hearing to occur while the statutory requirement is 45 days to adjudicate the first- and second-level appeals.

Legislative Budget Office of the Legislative Service Commission

BWC & OIC Budgets in Brief

House Bills 79 & 80 – As Enacted

www.lsc.ohio.gov/Budget Central

Fund	ALI	ALI Title	FY 2018 Actual	FY 2019 Estimate	FY 2020 As Enacted	FY 2021 As Enacted
H.B. 80, As Enacted - BWC budget						
Dedicated Purpose Fund Group						
7023	855407	Claims, Risk and Medical Management	\$107,957,594	\$119,353,057	\$120,939,816	\$124,329,031
7023	855408	Fraud Prevention	\$12,802,628	\$12,945,330	\$14,095,916	\$14,231,413
7023	855409	Administrative Services	\$104,133,380	\$110,241,072	\$117,250,236	\$116,025,396
7023	855410	Attorney General Payments	\$4,621,850	\$4,621,850	\$4,621,850	\$4,621,850
8220	855606	Coal Workers' Fund	\$150,931	\$162,931	\$186,632	\$188,487
8230	855608	Marine Industry	\$48,396	\$65,140	\$78,188	\$78,698
8250	855605	Disabled Workers Relief Fund	\$49,097	\$174,332	\$193,419	\$195,709
8260	855609	Safety and Hygiene Operating	\$21,080,114	\$22,317,031	\$24,079,350	\$23,745,661
8260	855610	Safety Grants	\$9,127,504	\$20,000,000	\$20,000,000	\$20,000,000
8260	855611	Health and Safety Initiative	\$1,245,189	\$6,000,000	\$6,000,000	\$6,000,000
8260	855612	Safety Campaign	\$843,000	\$1,624,355	\$1,500,000	\$1,500,000
8260	855613	Research Grants	\$0	\$2,000,000	\$2,000,000	\$2,000,000
8260	855618	Substance Use Recovery and Workplace Safety Program	\$0	\$2,500,000	\$5,000,000	\$10,000,000
8260	855619	Safety and Health Center of Excellence	\$0	\$0	\$2,000,000	0
Dedicated Purpose Fund Group subtotal			\$262,059,683	\$302,005,098	\$317,945,407	\$322,916,245
% change			--	15.2%	5.3%	1.6%
Federal Fund Group						
3490	855601	OSHA Enforcement	\$1,630,654	\$1,676,000	\$1,676,000	\$1,676,000
3FW0	855614	BLS SOII Grant	\$132,393	\$195,104	\$195,104	\$195,104
3FW0	855615	NIOSH Grant	\$150,347	\$200,000	\$24,995	\$0
Federal Fund Group sub-total			\$1,913,394	\$2,071,104	\$1,896,099	\$1,871,104
% change			--	8.2%	-8.4%	-1.3%
BWC all-funds budget total			\$263,973,077	\$304,076,202	\$319,841,506	\$324,787,349
% change			--	15.2%	5.2%	1.5%
H.B. 79, As Enacted - OIC budget						
Dedicated Purpose Fund Group						
5W30	845321	Operating Expenses	\$41,276,260	\$47,223,650	\$49,697,274	\$49,885,128
5W30	845402	Rent - William Green Building	\$1,017,838	\$1,150,000	\$1,150,000	\$1,150,000
5W30	845410	Attorney General Payments	\$3,793,650	\$3,793,650	\$3,793,650	\$3,793,650
OIC budget total			\$46,087,747	\$52,167,300	\$54,640,924	\$54,828,778
% change			--	13.2%	4.7%	0.3%
H.B. 79 & H.B. 80, As Enacted						
BWC & OIC budget grand total			\$310,060,824	\$356,243,502	\$374,482,430	\$379,616,127
% change			--	14.9%	5.4%	1.4%



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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
and Drafting

Legislative Budget
Office

H.B. 80
133rd General Assembly

Final Analysis

[Click here for H.B. 80's Fiscal Analysis](#)

Version: As Passed by the General Assembly

Primary Sponsor: Rep. Oelslager

Effective date: Appropriations effective July 22, 2019; other provisions effective October 21, 2019

Christopher Edwards, Attorney

SUMMARY

- Authorizes the Director of Natural Resources to annually request the Administrator of Workers' Compensation to transfer a portion of the net position of the Coal-Workers Pneumoconiosis Fund to the Mining Regulation and Safety Fund.
- Allows the Administrator, on receiving a request from the Director, to transfer not more than \$1 million by July 1 or as soon as possible after July 1.
- Requires the Administrator, with the advice and consent of the Bureau of Workers' Compensation Board of Directors, to adopt rules governing the transfer to ensure the solvency of the Coal-Workers Pneumoconiosis Fund.
- Appropriates funds for the Bureau of Workers' Compensation for the biennium ending June 30, 2021.

DETAILED ANALYSIS

Coal-Workers Pneumoconiosis Fund transfer

(R.C. 4131.03)

The act allows the Director of Natural Resources to annually request that the Administrator of Workers' Compensation transfer a portion of the funds from the net position of the Coal-Workers Pneumoconiosis Fund to the Mining Regulation and Safety Fund, for the purposes specified in the Coal Surface Mining Law.¹ (Money from the Mining Regulation and Safety Fund is used generally for reclaiming public or private land affected by mining or

¹ R.C. 1513.30, not in the act.

controlling mine drainage.) If the Administrator receives a request from the Director, the Administrator may transfer up to \$1 million on July 1 or as soon as possible after July 1.

The Administrator, with the advice and consent of the Bureau of Workers' Compensation Board of Directors, must adopt rules in accordance with the Administrative Procedure Act² governing the fund transfers to ensure the solvency of the Coal-Workers Pneumoconiosis Fund. For that purpose, the Administrator may establish tests based on measures of net assets, liabilities, expenses, interest, dividend income, or other factors that the Administrator determines appropriate that may be applied before making a transfer.

Technical correction

(R.C. 4123.038)

The act makes a technical correction to replace an obsolete cross reference with the correct cross reference for the purposes of defining “apprentice” and “apprenticeship agreement” in the Workers’ Compensation Law.

HISTORY

Action	Date
Introduced	02-14-19
Reported, H. Insurance	05-21-19
Re-referred to H. Finance	05-22-19
Reported, H. Finance	06-05-19
Passed House (56-38)	06-05-19
Reported, S. Insurance and Financial Institutions	06-27-19
Passed Senate (33-0)	06-27-19
House refused to concur in Senate amendments (4-88)	06-30-19
Senate requested conference committee	07-01-19
House acceded to request for conference committee	07-16-19
House agreed to conference committee report (78-13)	07-17-19
Senate agreed to conference committee report (22-9)	07-17-19

19-HB80-133/ec

² R.C. Chapter 119.



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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
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Legislative Budget
Office

H.B. 308
133rd General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsor: Rep. Patton

Paul Luzzi, Attorney

SUMMARY

- Makes a peace officer, firefighter, or emergency medical worker who is diagnosed with post-traumatic stress disorder (PTSD) eligible to receive compensation and benefits under Ohio's Workers' Compensation Law for up to one year, regardless of whether the person suffers an accompanying physical injury.
- Prohibits a claimant from receiving compensation or benefits under the Workers' Compensation Law for PTSD with no accompanying physical injury at the same time as the claimant is receiving a disability benefit from a state retirement system for that injury.

DETAILED ANALYSIS

Workers' compensation coverage for PTSD

Under the bill, a peace officer, firefighter, or emergency medical worker who is diagnosed with post-traumatic stress disorder (PTSD), received in the course of and arising out of the person's employment as a peace officer, firefighter, or emergency medical worker, may be eligible to receive compensation and benefits under Ohio's Workers' Compensation Law for up to a year beginning on the date the compensation or benefit payments start, regardless of whether the PTSD is connected to a compensable physical injury.¹ Currently, an employee is not eligible to receive any compensation or benefits under Ohio Workers' Compensation Law for PTSD unless the PTSD arose from a compensable physical injury incurred by the employee.

Under the bill, a claimant is not entitled to compensation or benefits under the Workers' Compensation Law for PTSD as provided under the bill while the claimant receives a

¹ R.C. 4123.01(C) and 4123.87(A), with conforming changes in R.C. 4123.01(A), 4123.026, and 4123.46.

disability benefit or disability retirement, as appropriate, from the Public Employees Retirement System (PERS), the Ohio Police and Fire Pension Fund (OP&F), the School Employees Retirement System (SERS), or the State Highway Patrol Retirement System (SHPRS).²

If a claimant receives compensation or benefits under the Workers' Compensation Law for PTSD without an accompanying physical injury while the claimant receives a disability benefit or disability retirement from a retirement system, the bill allows the Administrator of Workers' Compensation or a self-insuring employer to collect both of the following from the claimant:

1. The amount of compensation or benefits paid to the claimant by the Administrator or the self-insuring employer pursuant to Workers' Compensation Law for the time period the claimant received disability benefits or a disability retirement from the retirement system;
2. Any interest, attorney's fees, and costs the Administrator or the self-insuring employer incurs in collecting that payment.³

On determining that a PERS, OP&F, SERS, or SHPRS member's PTSD without an accompanying physical injury qualifies the member for a disability benefit or disability retirement, the bill requires the appropriate retirement system to notify the Administrator of all of the following: the member's name, that the member's PTSD without accompanying physical injury qualifies the member for a disability benefit or disability retirement, the effective date of the member's disability benefit or disability retirement, and the date on which payments for the disability benefit or disability retirement commence. The bill exempts these reports from current law confidentiality requirements applicable to certain PERS, OP&F, SERS, or SHPRS records.⁴

Background – psychiatric conditions as “injuries”

Other than injuries falling under specific exceptions (self-inflicted injuries or injuries caused by the employee's intoxication), Ohio's Workers' Compensation Law entitles every employee who is injured or contracts an occupational disease to receive compensation, benefits, or both on account of the injury or occupational disease.⁵ Continuing law defines “injury” as any injury received in the course of, and arising out of, the injured employee's employment. Currently, psychiatric conditions generally are excluded from the definition of injury, except where:

1. The employee's psychiatric conditions have arisen from an injury or occupational disease sustained by that employee; or

² R.C. 4123.87(B).

³ R.C. 4123.87(C).

⁴ R.C. 145.364, 742.391, 3309.402, and 5505.182.

⁵ R.C. 4123.54, not in the bill.

2. The employee's psychiatric conditions have arisen from sexual conduct in which the employee was forced to engage or participate by threat of physical harm.⁶

Thus, under current law, an employee is not eligible to receive compensation or benefits under Ohio's Workers' Compensation Law for PTSD unless the PTSD arose from a compensable physical injury incurred by the employee.⁷

Background – PTSD

PTSD is an illness caused by living through or seeing a traumatic event, such as war, a violent crime, or a bad accident. PTSD can cause flashbacks, trouble sleeping, thoughts of hurting oneself or others, angry outbursts, and feelings of worry, guilt, sadness, or loneliness. Signs of PTSD may start soon after a traumatic event or may start or intensify years after the event.⁸

Definitions

Under continuing law, a "peace officer" means any of the following:

1. A sheriff or deputy sheriff;
2. A marshal or deputy marshal;
3. A member of the organized police department of any municipal corporation, including a member of the organized police department of a municipal corporation in an adjoining state serving in Ohio;
4. A member of a police force employed by a metropolitan housing authority;
5. A member of a police force employed by a regional transit authority;
6. A state university law enforcement officer;
7. An enforcement agent of the Department of Public Safety;
8. An employee of the Department of Taxation to whom investigation powers have been delegated under the Cigarette Tax Law;
9. An employee of the Department of Natural Resources who is a natural resources law enforcement staff officer, a forest-fire investigator, a natural resources officer, or a wildlife officer;
10. A person designated to perform law enforcement duties in a park district or conservancy district or by a park commission;
11. A veterans' home police officer;

⁶ R.C. 4123.01(C).

⁷ *Armstrong v. Jurgensen Co.*, 136 Ohio St.3d 58, 2013-Ohio-2237.

⁸ National Institute of Mental Health, *Post-Traumatic Stress Disorder*, <http://www.nimh.nih.gov/health/publications/post-traumatic-stress-disorder-easy-to-read/index.shtml>.

12. A special police officer employed by a port authority;
13. A township police constable;
14. A police officer of a township or joint police district;
15. A special police officer employed by a municipal corporation at a municipal airport or certain other municipal air navigation facilities;
16. The House of Representatives Sergeant at Arms, if the person has arrest authority, or an assistant House of Representatives Sergeant at Arms;
17. The Senate Sergeant at Arms or an assistant Senate Sergeant at Arms;
18. Certain Bureau of Criminal Identification and Investigation employees or officers;
19. A state fire marshal law enforcement officer;
20. The Superintendent and troopers of the State Highway Patrol, for specified purposes.⁹

Under continuing law, an “emergency medical worker” means any of the following persons, whether the person is paid or a volunteer, so long as the person is certified under Ohio law:

- A first responder;
- An emergency medical technician-basic;
- An emergency medical technician-intermediate;
- An emergency medical technician-paramedic.¹⁰

HISTORY

Action	Date
Introduced	06-28-19

H0308-I-133/ts

⁹ R.C. 4123.01(O), by reference to R.C. 2935.01, not in the bill.

¹⁰ R.C. 4123.01(A) and (Q).

Safety & Workers' Compensation

Dinsmore Analyzes Ohio Bill to Allow Mental-Only Workers' Comp Claims **November 8, 2019**

As reported previously, some Ohio lawmakers continue their efforts to expand the state's workers' compensation system to allow for mental-only claims — a move that would lead to significant cost increases for employers. OMA Connections Partner Dinsmore has summarized **House Bill 308**, which would provide PTSD coverage for first responders through the Ohio Bureau of Workers' Compensation. Published in *The National Law Review*, the story spotlights the advocacy efforts of the OMA and its opposition to HB 308. 11/7/2019

Slight Increase in Fatal Chemical Inhalations at Workplace **November 1, 2019**

According to **new information** from the Bureau of Labor Statistics, 41 U.S. workers in 2017 died on the job after a single episode of inhaling chemicals and chemical products. That is seven more fatal injuries than in 2016. The number of fatalities from inhaling chemicals has ranged between 33 and 55 each year from 2011 to 2017. Inhaling carbon monoxide led to the most fatalities during this time period, followed by inhaling hydrogen sulfide. 10/28/2019

House Continues Hearings on PTSD Bill **October 25, 2019**

This week, the **House Insurance Committee** held another hearing on **House Bill 308**, which would provide PTSD coverage for emergency first responders through the Ohio Bureau of Workers' Compensation (BWC). Supporters of the bill included firefighter groups, psychiatrist associations, academics, and doctors. Interestingly, no major police associations provided proponent testimony. The business community remains opposed to a mental/mental expansion of workers compensation but has long offered solutions and coverage opportunities so that first responders could receive treatment outside of the workers' compensation system. 10/23/2019

OSHA Publishes Information on Hearing Protection, Inspections **October 18, 2019**

October is National Protect Your Hearing Month, and OSHA has produced **updated information** to help keep workers safe from occupational noise exposure. The agency has also released a **new video** explaining the OSHA inspection process as it relates to its effort to protect workers from workplace hazards. 10/17/2019

PTSD Bill Returns to Legislature **October 11, 2019**



This week, State Rep. **Tom Patton** (R-Strongsville) provided **sponsor testimony** on **House Bill 308**. This is the latest attempt by Rep. Patton to secure post-traumatic stress disorder (PTSD) treatment benefits within Ohio's workers' compensation system.

The bill would buck the state's long-standing tradition of requiring a physical injury before allowing mental health claims under the workers' compensation system. The bill includes the expansion of workers' comp benefits for first responders who suffer mental or emotional impairment caused by PTSD, even when there is no physical injury.

The OMA and its business allies have opposed this proposed expansion for years — most recently during **this year's budget process**. Instead, the OMA has offered alternatives to ensure that first responders receive proper mental care outside of the workers' compensation system. *10/10/2019*

Data: Manufacturing Fatalities Down 28% Since 2003 **October 11, 2019**

According to the U.S. Bureau of Labor Statistics and its **most recent data**, the number of fatal work injuries in the private manufacturing industry declined 28% from 2003 to 2017, the latest year available. In 2017, the leading causes of fatalities at manufacturing sites were transportation-related incidents, along with contact with objects and equipment.

As a reminder, OMA members can regularly participate in **safety-related webinars** presented by the OMA's Connections Partners. *10/7/2019*

Commissioner Karen Gillmor Visits OMA **October 4, 2019**

The OMA Safety and Workers' Compensation Committee met this week in Columbus. Guest speakers were **Commissioner Karen Gillmor** — a member of the Industrial Commission of Ohio — as well as Dave Sievert, interim director of the Ohio BWC's self-insured department.

In addition to receiving updates on public policy and state legislative activity, members were briefed by OMA Connections Partner Safex on safety-related developments. **OMA Workers' Compensation Services** Managing Director Brian Jackson discussed the latest developments affecting the Ohio workers' compensation system.

Chaired by Larry Holmes of Fort Recovery Industries Inc., the Safety and Workers' Compensation Committee meets three times a year. If you'd like to participate in future meetings — in person or by phone — contact OMA Public Policy Services Director **Rob Brundrett**. *10/2/2019*

BWC Taking Comments on Changes to Vocational Rehab Regulations **October 4, 2019**

The Ohio Bureau of Workers' Compensation is proposing changes to Chapter 4123-18 of the Ohio Administrative Code. The provision covers vocational rehabilitation services provided to injured workers. If you want to **provide feedback on the proposed changes**, you'll need to hurry; comments will be accepted only through this Monday, Oct 7. *10/1/2019*

BWC Safety Grants of Up to \$40K Available **October 4, 2019**

The Ohio Bureau of Workers' Compensation has **published a reminder** about the agency's Safety Grants Program. It provides eligible employers up to \$40,000 in three-to-one matching grants for the purchase of equipment that eliminates or reduces the chance for a workplace injury or illness. **Find out more here**. *10/2/2019*

Check's in the Mail: BWC Rebates Start Going Out
September 27, 2019



In late June, the Bureau of Workers' Compensation (BWC) board of directors approved a \$1.5 billion rebate to Ohio employers covered by the BWC system. BWC started sending checks via the U.S. Postal Service yesterday, Sept. 26 — and the rebates will continue to go out through Thursday, Oct. 24. Be on the lookout for your check! In the meantime, **here's an FAQ** list regarding this year's rebate. 9/25/2019

OSHA Approves New Respirator Fit Testing Protocols
September 27, 2019

OSHA has issued a final rule that provides employers with two new fit testing protocols for ensuring that employees' respirators fit properly. See the agency's **news release** for more details. 9/25/2019

Sorting Out the Confusion Surrounding CBD
September 20, 2019

Confused about Ohio's legalization of products containing hemp-derived cannabidiol (CBD) and what it means for your workplace? Join OMA Connections Partner *Working Partners®* on Tuesday, Sept. 24, from 9:00 – 9:30 a.m. (EDT), for a **30-minute webinar**, *Sorting Out the Confusion Around CBD*. Participants will learn about what CBD is and get answers to questions such as: Is CBD legal? Is it safe? Will CBD show up on a drug test? 9/18/2019

Recorded BWC Webinars Now Available
September 13, 2019

Every month, the Ohio Bureau of Workers' Compensation (BWC) offers employers brief, informative webinars on topics of interest — with subjects ranging from drug testing, to workplace safety tips, to Workers' Compensation deadlines and notices. If you've missed a recent webinar, they have been recorded and are available for playback online. Each lasts approximately 20 minutes. **See them here.** 9/9/2019

BWC's Cleveland Office Has Moved
September 6, 2019

The Bureau of Workers' Compensation (BWC) is reporting that its Cleveland Service Office, located at 615 W. Superior Avenue (Lausche State Office Building), has temporarily moved from the 6th floor to the 7th floor of the Lausche Building. This move is the initial phase of an office consolidation with the Garfield Heights Service office, which will take place in this fall and/or winter. 8/30/2019

BWC Extends Policy Activity Rebate Program
September 6, 2019

The Bureau of Workers' Compensation (BWC) has extended its Policy Activity Rebate (PAR) pilot program for a second year. PAR is an activity-based incentive program that allows employers to choose from among 33 activities to earn a premium rebate. Employers can earn a 50% premium rebate, up to \$2,000, by completing 11 credits during the enrolled policy year.

Private employers can enroll now through Jan. 31, 2020. Visit the BWC's **Policy Activity Rebate web page** for additional information. *8/30/2019*

Ohio Courts Address Light-Duty Assignments for Injured Workers **August 30, 2019**

The “good faith” requirement of a light-duty offer was just examined by the 10th District Court of Appeals and the Supreme Court of Ohio — with a somewhat surprising result. In its **new analysis**, OMA Connections Partner Dinsmore writes that employers must remember that “providing employees with menial tasks or requiring them to watch training videos for the majority of their shifts could fail the ‘good faith’ requirement of a light-duty job offer.” *8/28/2019*

BWC Increases Cash Awards for Safety Innovation Contest **August 30, 2019**

The Ohio Bureau of Workers’ Compensation (BWC) has increased the prize amounts for its 2020 Safety Innovation Awards to encourage participation and creative solutions to enhance workplace safety. BWC has bumped the top award to \$10,000, while second place will receive \$6,000 and third place \$4,000. There’s also a new \$1,500 honorable mention prize.

If your business has developed advanced technologies, creative use of existing equipment, or unique processes and practices to reduce workplace risks, **apply by Sept. 30** for your chance at a cash award. *8/26/2019*

At a Glance: 25 Years of Worker Injury & Fatality Data **August 30, 2019**

The Bureau of Labor Statistics (BLS) has published a **slideshow** analyzing a quarter century of data on work-related injuries and illnesses in America. The findings include:

- From 1992 to 2016, U.S. fatal occupational injuries declined by about 17%.
- Heavy tractor-trailer truck drivers had the most fatal occupational injuries within the manufacturing sector.
- Fatal injuries declined for workers in the 25-34 and 35-44 age groups from 1992 to 2016, but there was an increase for workers in the 55-64 and 65-and-older age groups. (Workers 55-plus made up around 20% of injuries in 1992 and 36% in 2016.)

A BLS **report released earlier this year** said Ohio’s manufacturing sector has seen “a significant decline” in workplace injuries and illnesses. *8/29/2019*

Workers' Compensation Legislation
Prepared by: The Ohio Manufacturers' Association
Report created on November 12, 2019

- HB79** **INDUSTRIAL COMMISSION BUDGET** (OELSLAGER S) To make appropriations for the Industrial Commission for the biennium beginning July 1, 2019, and ending June 30, 2021, and to provide authorization and conditions for the operation of Commission programs.
Current Status: 6/27/2019 - **SIGNED BY GOVERNOR**; eff. 6/27/19
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-79>
- HB80** **BWC BUDGET** (OELSLAGER S) To make appropriations for the Bureau of Workers' Compensation for the biennium beginning July 1, 2019, and ending June 30, 2021, and to provide authorization and conditions for the operation of the bureau's programs.
Current Status: 7/22/2019 - **SIGNED BY GOVERNOR**; Eff. Immediately
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-80>
- HB167** **OCCUPATIONAL LUNG CONDITIONS** (CERA J) To modify workers' compensation benefit amounts for occupational pneumoconiosis claims and to create the Occupational Pneumoconiosis Board to determine medical findings for such claims.
Current Status: 4/2/2019 - Referred to Committee House Commerce and Labor
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-167>
- HB308** **PTSD COVERAGE - FIRST RESPONDERS** (PATTON T) Concerning workers' compensation and disability retirement for peace officers, firefighters, and emergency medical workers diagnosed with posttraumatic stress disorder arising from employment without an accompanying physical injury.
Current Status: 10/22/2019 - House Insurance, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-308>
- HB330** **FIREFIGHTER CANCER CLAIMS** (PATTON T) Regarding charging workers' compensation experience in firefighter cancer claims.
Current Status: 10/22/2019 - House Insurance, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-330>

TO: OMA Government Affairs Committee
FROM: Ryan Augsburger / Rob Brundrett
SUBJECT: Tax Public Policy Report
DATE: November 13, 2019

Overview

The state budget bill was the key tax bill over the first nine months of the General Assembly. True to his word Governor DeWine introduced a bill with minimal tax implications. The House and Senate had different ideas and competing tax proposals were offered. At the end of the day an overall tax cut was agreed to and manufacturers had several provisions included to their benefit. More tax legislations impacting manufacturers is expected this fall.

Tax Legislation

Senate Bill 8 – Ohio Opportunity Zone Tax Credits

The bill would authorize tax credits for investments in an Ohio Opportunity Zone. Federal law allows states to designate economically distressed areas. Once the zone is certified by the Secretary of the Treasury, certain investments made to benefit the zone are eligible for preferential federal tax treatment that meets certain criteria as "opportunity zones." The bill would allow state tax incentives to compliment the federal tax treatment. The CAT is not an included tax credit. The bill shot through the Senate and was passed by the full body earlier this month. The House has held two hearings on the bill. The budget bill included opportunity zone legislation.

House Bill 19 – Pink Tax Exemption

The bill would exempt from sales tax the sale of tampons and other feminine hygiene products associated with menstruation. The bill had four hearings in the House Ways and Means Committee before being amended into Senate Bill 26 which also restored the tax exemption for lawyers and lobbyists.

Senate Bill 26 – Tax Deductions for Teachers and Businesses

The bill became a hodgepodge of tax proposals and used as the vehicle to restore tax provisions which were removed in the budget. The bill authorizes a state income tax deduction for teachers' out-of-pocket expenses for professional development and classroom supplies. The bill also restores the business income deduction for lawyers and lobbyists and exempts feminine hygiene products from sales and use tax (the Pink Tax). The bill passed both the House and Senate last month.

Senate Bill 37 – Motion Picture Tax Credit

The bill makes a variety of changes to the current motion picture tax credit and expands it to allow for more types of entertainment productions. There is no new money tied with this bill, however its sponsor, Senator Schuring has indicated he would like to see the credit more than double to \$100 million. The Senate voted out the bill after six hearings. No new money was included in the bill.

House Bill 60 – Diaper Sales Tax Exemption

The bill exempts from sales and use tax the sale of child and adult diapers. It has had three hearings in the House Ways and Means Committee.

House Bill 62 – Transportation Budget

The transportation budget bill makes appropriations for programs related to transportation and public safety for the biennium beginning July 1, 2019, and ending June 30, 2021.

The Governor, based on the recommendations from a diverse group of experts including OMA members, introduced a budget that would increase the motor vehicle fuel tax by 18 cents and would index the tax beginning in 2020.

The House gutted the Governor's proposal and instead passed a bifurcated tax rate. The House placed a 20 cent increase on diesel and a 10.7 cent increase on gasoline. The House included a new \$200 registration fee for electric vehicles and a \$100 fee for hybrid vehicles.

In better news the House removed the 150-mile radius restriction for travel under the special regional heavy hauling permit, thus allowing vehicles under the permit to travel further distances that exceed standard size and weight restrictions.

The Senate was adamant that the motor fuel tax should be lower. The Senate passed version included a 6 cent increase on the current motor vehicle fuel tax. Senators also lowered the registration fees by \$25 for electric and hybrid vehicles to \$175 and \$75 respectively.

This set up a showdown in conference committee on who would prevail and where the tax increase would be set. After much delay, including missing the statutory deadline, the House and Senate came to an agreement. The final bill version reinserted the bifurcated approach. Diesel fuel will be increased by 19 cents and gasoline by 10.5 cents. Electric vehicles will have a registration fee of \$200 and hybrids \$100.

The heavy haul permit survived, which will make overweight truck hauling less cumbersome in Ohio.

The OMA testified in support of the Governor's original proposals and a reasonable fee on electric vehicles. The OMA was adamantly opposed to any bifurcation of the fuel rates since truck companies simply pass on any fuel tax to business customers. OMA notified the conference committee of these problems along with working with other business groups to amplify the problems of a bifurcated rate.

House Bill 92 – County Sales Tax Voting

The bill would require voter approval of any increase in the rate of a county sales tax. The bill has had one hearing.

Senate Bill 95 – State and Local Tax Inducements

The bill will enhance state and local tax inducements for businesses making substantial fixed asset and employment investments and their suppliers. The bill provides a CAT credit the integrated supply chain to a qualifying project. The OMA submitted a letter with likeminded allies regarding protecting the integrity of the CAT. The Senate passed the bill. The House Ways and Means Committee held their first hearing on the bill at the end of October.

Senate Bill 109 – Workforce Scholarship Program

SB 109 establishes the Workforce Scholarship Program. The bill would terminate the provisions of the Scholarship Program on December 31, 2023 and authorize tax credits for graduates of the Scholarship Program and their employers. The bill includes a CAT credit. It had its second hearing in early October.

House Bill 134 – March Sales Tax Holiday

The bill provides a three-day sales tax "holiday" each March during which sales of qualifying Energy Star products are exempt from sales and use taxes. The bill had its first hearing in October.

Senate Bill 153 – Job Retention Tax Credit Manufacturer Eligibility

This bill was crafted by the OMA Tax Committee working with Chairman Dolan.

The purpose of Ohio's Job Retention Tax Credit ("JRTC"), as its name implies, is to foster job retention through increased capital investment in Ohio. However, over the years, too few Ohio job creators have taken advantage of the JRTC. The qualifying criteria with respect to applicants' minimum workforce size and capital investment threshold are too high and have been a barrier for most companies to apply for the credit.

In order to ensure we are supporting Ohio companies that are competing globally, this new legislation is designed to increase the number of manufacturers and eligible Foreign Trade Zone companies to apply for the JRTC, thereby creating an incentive for Ohio employers to make capital investments that preserve existing jobs.

The bill would:

- Allow companies headquartered in Foreign Trade Zones to be eligible to apply without meeting current payroll and employee count minimums
- Eliminate the minimum payroll size and number of employees required for manufacturers to apply for the JRTC
- Require a minimum capital investment for manufacturers of the lesser of \$50,000,000 or an amount equal to five percent of the tangible personal property at the project site
- Require manufacturers to maintain their FTE count during the term of the credit

While the bill does expand the number of companies and projects eligible to apply for a JRTC, it would not alter the existing cap on the amount of credits that may be awarded annually by the tax credit authority. In 2019, the JRTC is capped at \$130MM. Each year the cap increases by \$13MM until 2024. For 2024, and for each year thereafter, the maximum credits that may be awarded annually will be capped at \$195MM.

The bill had one hearing in the Senate and was included in the state operating budget.

House Bill 162 – Motion Picture Tax Credit

The bill increases the overall cap on the motion picture tax credit from \$40 million per fiscal year to \$100 million per fiscal biennium. The OMA has successfully fought a lonely battle recently against increasing this tax credit. It appears once again the General Assembly will try hard to increase this credit.

The bill has not had a hearing. It would appear that the House does not have much interest in expanding the amount of the credit since the House passed version of the budget bill eliminates the credit in its entirety.

House Bill 166 – State Operating Budget

On March 15th Governor DeWine unveiled his first operating budget. Unlike most recent budgets, this version did not include major tax reforms. Instead the Governor focused on investing in the following:

- Ohio's Workforce and Innovation
- Ohio's Local Communities
- Recovery
- Ohio's Children and Families
- Ohio's Natural Wonders

The final passed version made several major changes to the tax code impacting manufacturers.

Included in the final language were two priorities of the OMA Tax Committee, as well as a provision that was a priority for Ohio's general business community. Thank you to the members who worked on these efforts.

Key tax provisions affecting manufacturers include:

- **EXEMPTION FOR FOOD MANUFACTURERS:** Expands the sales-and-use tax exemption for cleaning equipment and supplies used to clean equipment that produces or processes food. The exemption, which had applied only to dairy food processors, will now be afforded to the makers of any food for human consumption.
- **CREDITS FOR CAPITAL INVESTMENT:** Expands eligibility for the state's Job Retention Tax Credit. Aimed at manufacturers, the provision expands eligibility based on new capital investment, as opposed to payroll or employee count.
- **BUSINESS INCOME TAX DEDUCTION:** Retains the business income tax deduction at the current level of \$250,000 for pass-through entities, as well as the 3% special flat tax rate for income above that threshold. Provides an across-the-board state income tax cut of 4%. The OMA worked with business allies to save the existing deduction, which at times seemed doomed during the process.

House Bill 175 – Tax Exemption on Goods Movement

The bill provides an exemption from sales and use tax for things used primarily to move completed manufactured products or general merchandise. The bill has been referred to the House Ways and Means Committee and has had two hearings this fall.

House Bill 197 – Tax Code Corrections

The bill would enact the Tax Code Streamlining and Correction Act to make technical and corrective changes to the laws governing taxation. Last month the House voted unanimously to pass the bill.

House Bill 378 – Striking Worker Unemployment Benefit

The bill would provide unemployment benefits to striking workers. This adds a new group of workers eligible to receive benefits in Ohio and would put even more stress on the system.

Tax News

Sales Tax Exemption for All Food Manufacturers Now in Effect

Good news for all food manufacturers! During last summer's debate on the state budget (House Bill 166), the OMA led tax changes for food manufacturers as lawmakers approved an expanded sales-and-use tax exemption for equipment and supplies used to clean equipment that produces or processes food for human consumption. (Previously, the exemption applied only to dairy food processors. Now it applies to all Ohio food manufacturers.)

The expanded exemption went into effect Oct. 1, 2019. Make sure you are tracking the necessary information.

Ohio Supreme Court Grants Jurisdiction to Hear Muni Tax Case

Earlier this month, the Ohio Supreme Court granted jurisdiction to hear the municipalities' appeals to the municipal income tax cases. The Court granted the appeal on the Home Rule amendment issue. The Court will now schedule oral arguments. The OMA is joining a group of business associations in filing an amicus brief.

Tax Foundation: Ohio is a Top 10 State for Business Property Taxes, Unemployment Insurance

The Washington, D.C.-based Tax Foundation has released its 2020 State Business Tax Climate Index, with the Buckeye State in the study's top 10 for business property taxes (No. 9) and unemployment insurance taxes (No. 7).

Overall, the index ranked Ohio 38th out of 50 — due in large part to the foundation's philosophical opposition to the state's Commercial Activity Tax (CAT). As reported earlier, the foundation has criticized the CAT even as analysis from other organizations indicates that Ohio is one of the top states in which to do business.

Ohio's broad-based 0.26% flat CAT on business gross receipts in excess of \$1 million was created by a 2005 law with strong support from the OMA. Prior to its enactment, Ohio was at a major disadvantage in attracting new manufacturing due to the machinery and inventory tax.



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

www.bricker.com
info@bricker.com

Justin D. Cook
614.227.4836
jdcCook@bricker.com

MEMORANDUM

TO: Robert A. Brundrett, Esq.
The Ohio Manufacturers' Association

FROM: Justin D. Cook, Esq.
Bricker & Eckler LLP

DATE: June 3, 2019

RE: Job Retention Tax Credit – Summary of S.B. 153

Ohio's Job Retention Tax Credit ("JRTC") is codified under R.C. 122.171. As the name implies, its purpose is to foster job retention through increased capital investment in the State of Ohio. Over the years, very few manufacturers have taken advantage of the JRTC. The enormous minimum workforce size and capital investment thresholds are a significant impediment.

Currently, R.C. 122.171 provides that "eligible businesses" may apply for a JRTC. An eligible business must employ at least 500 full-time equivalent employees or have an annual Ohio employee payroll of at least \$35,000,000. Further, if the taxpayer is a manufacturer, it must make a capital investment of at least \$50 million (in the aggregate) over a three-year period to qualify.

On May 21, 2019, with the support of the Ohio Manufacturers' Association (the "OMA"), Senator Dolan introduced S.B. 153, which would expand the number of manufacturers and projects eligible to apply for the JRTC. These amendments to the JRTC would incentivize Ohio's employers to make additional capital investments that preserve existing jobs. S.B. 153's proposed adjustments to the JRTC are summarized below:

- The minimum payroll size and number of employees required to apply for the JRTC would be eliminated for manufacturers. For businesses engaged in significant corporate administrative functions (as opposed to manufacturing), the minimum payroll size and number of employees requirement is also eliminated, but only if the business is located in a foreign trade zone.
- The minimum capital investment required for manufacturers to apply for the JRTC would be adjusted to the lesser of \$50,000,000 or an amount equal to five percent of the net book value of all tangible personal property used by the manufacturer at the project site as of the end of the three-year investment period.
- Manufacturers would have to maintain a minimum number of full-time employees specified in the tax credit agreement during the entire term of the credit (as opposed to maintaining at least 500 employees or an annual Ohio payroll of \$35,000,000).

While S.B. 153 would expand the number of manufacturers and projects eligible to apply for a JRTC, it would not alter the existing cap on the amount of

Robert A. Brundrett, Esq.
The Ohio Manufacturers' Association
June 3, 2019
Page 2

credits that may be awarded annually by the tax credit authority. In 2019, the JRTC is capped at \$130MM. Each year the cap increases by \$13MM until 2024. For 2024 and each year thereafter, the maximum credits that may be awarded annually will remain \$195MM.



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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
and Drafting

Legislative Budget
Office

S.B. 153
133rd General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsor: Sen. Dolan

Mackenzie Damon, Attorney

SUMMARY

- Modifies the employment and investment requirements that businesses must meet to receive a Job Retention Tax Credit (JRTC).

DETAILED ANALYSIS

Job Retention Tax Credit

The bill modifies the employment and investment requirements that businesses must meet to receive a Job Retention Tax Credit (JRTC).

Current requirements

Continuing law authorizes the JRTC for businesses that agree to make a minimum capital investment in Ohio and to retain a specified number of employees in connection with that capital project. The business must be engaged in either manufacturing or corporate administrative functions. To receive the tax credit, the business applies to the Tax Credit Authority, which reviews the application and offers a tax credit agreement. The credit will equal an agreed-upon percentage of the business' payroll, and can be allowed for up to 15 years.

To receive the credit, currently, a business must employ at least 500 employees or have an annual payroll in Ohio of at least \$35 million. In addition, for manufacturing projects, the business must make a capital investment in Ohio of at least \$50 million over three years. For corporate administrative projects, the investment must equal at least \$20 million.

The bill

The bill makes several changes to these requirements. First, the bill provides that, if a corporate administrative project is located in a foreign trade zone, the business does not have to meet the 500 employee or \$35 million in payroll requirement. The project must still involve an investment of at least \$20 million over three years.

For manufacturing projects, the bill entirely removes the requirement that a business have at least 500 employees or \$35 million in payroll. In addition, the bill modifies the \$50 million capital investment requirement, such that a manufacturer's investment may equal either (a) \$50 million or (b) 5% of the net book value of the tangible personal property located at the project site on the last day of the three-year investment period.¹

HISTORY

Action	Date
Introduced	05-21-19

S0153-I-133/ks

¹ R.C. 122.171.

DEPARTMENT OF TAXATION

Income taxes

- Reduces income tax rates by 4%.
- Eliminates the lowest two income tax brackets, thereby reducing the number of brackets from seven to five.
- Disallows the business income tax deduction and 3% flat rate on business income greater than \$250,000 if the income arises from the practice of law or from lobbying.
- Requires that income excluded under the business income deduction be “added back” when determining a taxpayer’s eligibility for means-tested tax benefits.
- Suspends the annual inflation indexing adjustment of income tax brackets and personal exemption amounts for taxable years beginning in 2019; indexing resumes in 2020.
- Extends, from 60 to 90 days, the time in which an individual must file an amended state return after an adjustment is made to the individual’s federal tax return.
- Establishes reporting and payment procedures for pass-through entity owners whose state tax liability is affected by an IRS partnership-level audit.
- Repeals the income tax credit for contributions to campaigns for state offices.
- Repeals the income tax credit for a pass-through entity investor’s share of the financial institutions tax (FIT).
- Authorizes the Director of Health to award nonrefundable income tax credits for up to \$10,000 in costs incurred to abate lead in an Ohio residence constructed before 1978 and limits the amount of credits to \$5 million per fiscal year.
- Eliminates the Ohio political party fund income tax checkoff.
- Prohibits tax return preparers from engaging in certain conduct and prescribes penalties for preparers that engage in that conduct.
- Requires that, for purposes of school district income taxes that use “earned income” as the tax base, earned income includes business income that a taxpayer deducts under the business income deduction.

Municipal income taxes

- Would have allowed taxpayers up to 24 months to terminate the taxpayer’s initial election to opt-in to the state-administered tax (VETOED).
- Requires a municipal corporation to pay money to the Treasurer of State if the net distribution amount for the municipal corporation’s state-administered municipal income tax accounts is less than zero in any month.
- Allows the Tax Commissioner to recover unpaid amounts by reducing a delinquent municipal corporation’s various state administered tax distributions.

- Creates a separate Municipal Net Profit Tax Fund to receive revenue solely from the state-administered municipal tax on business income.
- Requires that income from any retirement benefit plan, including one that does not qualify for favorable federal tax treatment, be exempt from municipal income tax.

Sales and use taxes

- Modifies the set of activities sufficient to create a presumption that an out-of-state seller has substantial nexus with Ohio, thus requiring the seller to collect and remit use tax.
- Requires persons that own, operate, or control a physical or electronic marketplace through which retail sales are facilitated (“marketplace facilitators”) to register as a seller and collect and remit the use tax due on all transactions facilitated through that marketplace.
- Repeals the sales tax exemption for sales of vehicles, parts, and repair services to a professional motor racing team.
- Repeals the sales tax exemption for sales of investment bullion and coins.
- Exempts from sales and use tax sales of equipment and supplies used to clean equipment that is used to produce or process food for people.
- Specifies that a peer-to-peer car sharing program operator is a vendor for sales and use tax purposes and therefore required to collect taxes for such services.
- Would have specified the manner by which any other technology platform operator’s services are subject to sales and use tax (VETOED).
- Allows counties and transit authorities to levy their local sales and use taxes in increments of 0.05%.

County sales tax

- Authorizes noncharter counties to levy an additional ½% sales and use tax to be used exclusively to construct, acquire, equip, or repair detention facilities, provided the tax is approved by voters.
- Reduces the maximum sales and use tax rate available to an overlapping transit authority commensurately.
- Allows for the extension of an existing county lodging tax that is levied by a county that hosts, or that has an independent agricultural society that hosts, an annual harness horse race with at least 40,000 one-day attendees.
- Allows a convention facilities authority (CFA) created between July and December of 2019 to levy an additional lodging tax of up to 3%.

- Increases from 15% to 25% the maximum amount of lodging tax revenue received by the Muskingum County CFA that may be diverted by the CFA to various county fairground purposes.

Property taxes

- Authorizes the board of trustees of a state community college district to levy a property tax for permanent improvements, or a combination bond issuance and tax levy for that purpose.
- Authorizes the board of education of a school district to propose a tax levy for school safety and security and give some of the revenue to chartered nonpublic schools located in the district to be used for that purpose.
- Modifies the calculation of rental income when determining eligibility for existing tax exemptions for property held or occupied by a fraternal or veterans' organization.
- Authorizes a partial real property tax exemption for child care centers that serve children from households that receive public assistance.
- Excuses community schools from the requirement to file annual applications with the Tax Commissioner as a condition of obtaining a property tax exemption.
- Limits the amount that can be held in the reserve balance account (i.e., rainy day fund) of a county board of developmental disabilities.
- Imposes restrictions on a county budget commission's ability to reduce the amount of taxes that a county levies on behalf of a county board of developmental disabilities.
- Requires certain county websites to display the percentage of property taxes charged by each taxing unit.
- Would have modified information conveyed in and the form of property tax election notices and ballot language (VETOED).
- Extends, by two years, the deadline by which an owner or lessee of a renewable energy facility may apply for existing law's property tax exemption for such facilities.
- Clarifies the calculation of payments-in-lieu-of-taxes (PILOTs) that must be paid by solar energy facilities that receive the renewable energy property tax exemption.
- Exempts from real property taxation convention centers and arenas owned by the Hamilton County CFA and leased to a private enterprise.
- Establishes a temporary procedure by which a municipal corporation may apply for tax exemption and the abatement of unpaid taxes, penalties, and interest due on certain municipal property.
- Would have authorized a property tax reduction for certain property owners whose taxes comprise a relatively high proportion of a school district's operating expenses (VETOED).

- Would have exempted from property tax the value of unimproved land subdivided for residential development in excess of the fair market value of the property from which that land was subdivided, apportioned according to the relative value of each subdivided parcel (VETOED).

Financial institutions tax

- Limits the tax base upon which the financial institutions tax (FIT) is computed for institutions that report total equity capital in excess of 14% of total assets.

Commercial activity tax

- Reduces the percentage of commercial activity tax (CAT) revenue devoted to offset the Department of Taxation's administrative expenses from 0.75% to 0.65% beginning July 1, 2019.
- Extends by two years a provision temporarily authorizing owners of a historic rehabilitation tax credit certificate to claim the credit against the CAT if the owner cannot claim the credit against another tax.

Nicotine vapor products tax

- Levies an excise tax on the distribution, sale, or use of liquid or other consumable vapor products containing nicotine at a rate of 1¢ per 0.1 milliliter or gram of product.
- Applies the new tax at the first point at which the vapor product is received in Ohio.
- Administers the new tax in a similar manner to an existing excise tax on tobacco products other than cigarettes.
- Excludes gross receipts used to pay the new tax from those gross receipts taxable under the commercial activity tax (CAT).
- Requires monthly vapor products tax returns and all existing monthly tobacco products tax returns to be filed by the 23rd of the following month.
- Changes the phrasing of three nexus-related references in current law involving sellers of tobacco products from "nexus in this state" to "substantial nexus with this state."

Other tax provisions

- Extends the authority for townships and municipal corporations to levy a new gross receipts tax (up to 2%) on businesses within a tourism development district (TDD) until December 31, 2020.
- Authorizes townships and municipal corporations to enter into agreements with owners of property located within a TDD to impose a development charge equal to a percentage (up to 2%) of gross receipts derived from sales made at the property.
- Temporarily increases the amount to be credited to the Local Government Fund (LGF) in FYs 2020 and 2021, from 1.66% to 1.68% of the state tax revenue credited to the GRF each month.

- Modifies the formula for making direct payments from the LGF to municipalities.
- Allows the Department of Taxation to disclose to the Department of Education whether students applying for or receiving scholarships under the Educational Choice Scholarship Pilot Program meet income eligibility requirements.
- Modifies the employment and investment requirements that businesses must meet to receive a Job Retention Tax Credit (JRTC).

Tax

State Rep. Carruthers Visits OMA Tax Committee November 8, 2019



This week, the OMA Tax Committee held its third and final scheduled meeting of 2019. The meeting was led by its new chair, Meredith Mullett, manager-tax compliance for the J.M. Smucker Co. The committee examined the state's key financial indicators, as well as recent legislative activity impacting manufacturers.

Phil Hurak of OMA's Connections Partner Clark Schaefer Hackett provided a **detailed presentation** analyzing recent state and local tax developments. The keynote speaker was State Rep. **Sara Carruthers** (R-Hamilton), a member of the House Finance Committee, who discussed efforts to make Ohio manufacturers even more competitive. Other highlights included a report from OMA Tax Counsel Justin Cook of Bricker & Eckler LLP. *11/6/2019*

Steering Clear of Severe Payroll Tax Penalties November 8, 2019

Failure to withhold the right amount of taxes from employee paychecks — and submit those taxes to the federal government on time — can lead to being hit with the Trust Fund Recovery Penalty, also known as the 100% penalty. The penalty applies to both Social Security and income tax withholdings. OMA Connections Partner Clark Schaefer Hackett has analyzed the consequences and **provided tips to ensure compliance**. *11/6/2019*

Tax Increase on Lawyers, Lobbyists Repealed November 8, 2019

In July, state lawmakers inserted a last-minute amendment into the state budget bill, thereby increasing the personal income tax on lawyers and lobbyists by excluding those professions from Ohio's business income deduction. But just over three months later, Gov. Mike DeWine this week signed **Senate Bill 26** to undo this unfair tax change. Ohio attorneys who own their business will now continue to be able to claim this deduction on their state income taxes, just as other business owners can do. The Ohio State Bar Association led the effort. *11/7/2019*

Nov. 12 Webinar to Focus on Year-End Tax Planning November 1, 2019

The end of the year is approaching — it's time to take stock of the current tax year and begin planning for the future. On Nov. 12 at 12 p.m. (EST), OMA Connections Partner Clark Schaefer Hackett will offer a **one-hour webinar** to discuss year-end tax planning for businesses, as well as strategies for 2020 and beyond. *10/31/2019*

Sales Tax Exemption for All Food Manufacturers Now in Effect October 25, 2019

Good news for all food manufacturers! During last summer's debate on the state budget (**House Bill 166**), the OMA led **tax changes for food manufacturers** as lawmakers approved an expanded sales-and-use tax exemption for equipment and supplies used to clean equipment that produces or processes food for human consumption. (Previously, the exemption applied only to dairy food processors. Now it applies to all Ohio food manufacturers.) The expanded exemption went into effect Oct. 1, 2019. Make sure you are tracking the necessary information. *10/23/2019*

Tax Foundation: Ohio is a Top 10 State for Business Property Taxes, Unemployment Insurance October 25, 2019

The Washington, D.C.-based Tax Foundation has released its **2020 State Business Tax Climate Index**, with the Buckeye State in the

study's top 10 for business property taxes (No. 9) and unemployment insurance taxes (No. 7). Overall, the index ranked Ohio 38th out of 50 — due in large part to the foundation's philosophical opposition to the state's Commercial Activity Tax (CAT). **As reported earlier**, the foundation has criticized the CAT even as **analysis** from other organizations indicates that Ohio is one of the top states in which to do business. Ohio's broad-based 0.26% flat CAT on business gross receipts in excess of \$1 million was created by a 2005 law with strong support from the OMA. Prior to its enactment, Ohio was at a major disadvantage in attracting new manufacturing due to the machinery and inventory tax. *10/22/2019*

State Government Ends Q1 with \$71M Surplus **October 18, 2019**

In its **September report**, the Ohio Office of Budget and Management said state revenue for the first quarter of the fiscal year mostly tracked agency estimates, ending Q1 with a \$71 million surplus. However, September spending from the general revenue fund (GRF) exceeded estimates by about 1% due in large part to property tax reimbursements. Personal income tax receipts for September totaled \$930.9 million, which was \$33.1 million (3.7%) above estimates. September non-auto sales and use tax collections were \$729.0 million, which was \$6.9 million (0.9%) below the forecast. Year-to-date, non-auto sales tax revenue has exceeded estimates by \$12.1 million (0.5%). *10/11/2019*

Oct. 23 Webinar Will Explore State, Local Tax Changes **October 18, 2019**

On Wednesday, Oct. 23, OMA Connections Partner RSM will host a **complimentary webinar** to highlight the major state and local tax changes stemming from this year's legislative sessions held across the U.S. Several issues impacting manufacturers will be covered, including the continued implications from the U.S. Supreme Court's Wayfair decision. RSM's state and local tax professionals will help you assess the key issues and the impact on your business. *10/15/2019*

Four Ways to Reduce the Unemployment Tax Burden **October 11, 2019**

The Federal Unemployment Tax (FUTA) is not only a financial burden for employers, it can also be difficult to understand. OMA Connections Partner Clark Schaefer Hackett has published **this handy guide** to better understand the FUTA tax, as well as help control your unemployment tax costs. *10/10/2019*

Bill Advanced to Restore Business Income Tax Deduction for Legal Professionals **October 11, 2019**

In a surprise reversal, the Ohio House this week amended and approved an unrelated tax bill (**Senate Bill 26**) to undo an inequity in Ohio's tax code by restoring the business income tax deduction for lawyers and lobbyists. The amended bill passed on a **91-0 vote**. Last spring, the House-passed budget bill **included a provision** that would have raised business taxes by reducing the deduction for all pass-through entities from \$250,000 to \$100,000. The OMA lobbied successfully to maintain the current deduction for manufacturers. However, the final budget completely excluded lawyers and lobbyists from the deduction. The Ohio Senate must approve SB 26 before it can take effect. *10/10/2019*

Time to Think About 2019 Tax Planning **October 4, 2019**

Just like that, Q4 is here. OMA Connections Partner Clark Schaefer Hackett reports that now is the time to think about 2019 tax planning — before you find yourself in a year-end scramble. Key areas of focus include: Section 199A business income deduction for pass-through businesses; Section 163(j) limits on interest deductions; and Section 179 depreciation incentives for qualifying property. **Learn more here.** *10/1/2019*

A Visual Guide to Cost Segregation **September 20, 2019**

If your manufacturing company is planning to build, purchase, or renovate a building — or has done so in the past several years — a cost segregation study is a powerful tool that may help boost your cash flow, reduce your tax burden, and save your company significant

money. A **new infographic** by OMA Connections Partner Clark Schaefer Hackett sheds light on cost segregation and whether it can benefit your manufacturing business. *9/18/2019*



Ohio Tax Revenues Beat Estimates for First Two Months of Fiscal Year
September 13, 2019

The Office of Budget and Management **reports** that Ohio's state government in August collected 3% more tax revenue than officials had predicted, with the month's total receipts \$62.5 million above the estimate. For the first two months of Ohio's fiscal year — July and August — state tax receipts were up roughly \$92 million compared to the same time in 2018. August's non-auto sales taxes exceeded the forecast by \$28.1 million; auto sales taxes were \$9.8 million higher. Collections from the Commercial Activity Tax exceeded estimates by \$18.2 million, while personal income taxes were \$15 million over projections. *9/9/2019*

JobsOhio Highlights Economic Development, Tax Advantages
August 30, 2019

JobsOhio has published an **infographic** that illustrates the Buckeye State's unique and appealing pro-business assets, which continue to attract new economic development projects. It highlights business-friendly tax provisions, such as the 0% rate for the commercial activity tax on products sold outside of Ohio; no state tax on corporate profits; and no state tax on personal property. The infographic also emphasizes Ohio's strong economic development network, as well as its geographical, infrastructure, and R&D advantages. *8/29/2019*

Ohio Tax Receipts Up Early in New Fiscal Year
August 16, 2019

With the new fiscal year underway, Ohio's state government tax receipts were up nearly \$30 million in July compared to July 2018. The **Management's Monthly Financial Report**, published by the Office of Budget and Management, shows that year-over-year total receipts in the General Revenue Fund were \$2.96 billion — up \$249.9 million (9.2%). Revenue from the commercial activity tax was up \$14.5 million, or 28.3%, versus the previous July. The report also noted that Ohio's employment was higher by 28,800 jobs in June compared to a year earlier, with manufacturing employment growing by a net 5,200 jobs. *8/13/2019*

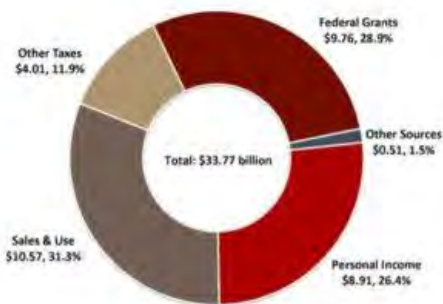
At A Glance: Property Taxes in Every U.S. County
August 9, 2019

Across the United States, property taxes are a significant source of local government revenue — and manufacturers represent a significant portion of property taxpayers. This week, the Tax Foundation published an **interactive map** that allows users to see the median property tax bill paid in every U.S. county during FY 2016, the most recent year available. In Ohio, the highest property tax burden was in Delaware County, with the median bill exceeding \$5,000. In several rural Ohio counties, the figure was less than \$1,000. *8/7/2019*

State Budget's Tax Provisions Summarized **August 2, 2019**

Following the enactment of Ohio's new state budget last month, the OMA published summaries of key **tax-related provisions** impacting manufacturers. Now, OMA Connections Partner and accounting firm Clark Schaefer Hackett has compiled a comprehensive but easy-to-digest summary of the other notable tax provisions in the budget — including an opportunity zone credit and the 4% individual income tax rate reduction. See the **tax summary here**. 7/31/2019

At a Glance: Ohio's State Spending & Tax Collection **August 2, 2019**



Ohio's General Revenue Fund collected \$33.77 billion during FY2019, which ended June 30, 2019. (Source: Ohio Legislative Service Commission)

With the new state budget in place, the Ohio Legislative Service Commission has updated its **infographics** on budget-related topics. One particular graphic provides an **overview** of the General Revenue Fund (GRF), illustrating the state's funding sources and the primary recipients of state tax dollars. In FY 2019, Ohio's Medicaid program consumed 45% of GRF dollars (more than \$15 billion), making the health care program for low-income residents the state's largest spending item. The next largest recipient was K-12 schools, which received about 24% of GRF dollars (more than \$8.1 billion). 7/29/2019

Taxation Legislation
Prepared by: The Ohio Manufacturers' Association
Report created on November 12, 2019

- HB17** **SURVIVING SPOUSES-HOMESTEAD EXEMPTION** (GINTER T) To allow an enhanced homestead exemption for surviving spouses of public safety personnel killed in the line of duty.
Current Status: 11/12/2019 - House Ways and Means, (Fourth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-17>
- HB19** **PINK TAX EXEMPTION** (ANTANI N, KELLY B) To exempt from sales tax the sale of tampons and other feminine hygiene products associated with menstruation.
Current Status: 5/7/2019 - House Ways and Means, (Fourth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-19>
- HB46** **STATE GOVT EXPENDITURE DATABASE** (GREENSPAN D) To require the Treasurer of State to establish the Ohio State Government Expenditure Database.
Current Status: 11/13/2019 - Senate General Government and Agency Review , (Fourth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-46>
- HB47** **TAX COMPLAINTS-LEGAL ASSISTANCE FOUNDATION** (GREENSPAN D) To increase the time within which property tax complaints must be decided.
Current Status: 10/22/2019 - Senate Ways and Means, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-47>
- HB54** **LGF TAX REVENUE INCREASE** (CERA J, ROGERS J) To increase the proportion of state tax revenue allocated to the Local Government Fund from 1.66% to 3.53% beginning July 1, 2019.
Current Status: 2/12/2019 - Referred to Committee House Ways and Means
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-54>
- HB56** **MINE SAFETY EXCISE TAX** (CERA J) To allocate 3.75% of kilowatt-hour excise tax revenue for mine reclamation, mine drainage abatement, and mine safety.
Current Status: 2/26/2019 - House Energy and Natural Resources, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-56>
- HB57** **HEATING SOURCES TAX EXEMPTION** (PATTERSON J, CERA J) To exempt certain heating sources from sales taxation and to hold local governments and libraries harmless from the revenue effect.
Current Status: 2/12/2019 - Referred to Committee House Ways and Means
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-57>

- HB60** **DIAPER SALES TAX EXEMPTION** (ANTANI N, KELLY B) To exempt from sales and use tax the sale of child and adult diapers.
Current Status: 3/19/2019 - House Ways and Means, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-60>
- HB62** **TRANSPORTATION BUDGET** (OELSLAGER S) To increase the rate of and modify the distribution of revenue from motor fuel excise taxes, to make appropriations for programs related to transportation and public safety for the biennium beginning July 1, 2019, and ending June 30, 2021, and to provide authorization and conditions for the operation of those programs.
Current Status: 4/3/2019 - **SIGNED BY GOVERNOR**; eff. 90 days, Taxes eff. 7/1/19
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-62>
- HB75** **PROPERTY VALUE CONTESTS** (MERRIN D) To require local governments that contest property values to formally pass an authorizing resolution for each contest and to notify property owners.
Current Status: 4/9/2019 - **REPORTED OUT**, House Ways and Means, (Fourth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-75>
- HB92** **VOTE ON COUNTY SALES TAX** (ANTANI N, SMITH J) To require voter approval of any increase in the rate of a county sales tax.
Current Status: 3/13/2019 - House State and Local Government, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-92>
- HB109** **SAP EXTRACTION TAX BREAK** (PATTERSON J, LATOURETTE S) To authorize a property tax exemption for land used for commercial maple sap extraction.
Current Status: 3/5/2019 - Referred to Committee House Ways and Means
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-109>
- HB112** **TAX REMITTANCE-BAD DEBTS** (SCHAFFER T) To allow vendors to receive a refund of sales tax remitted for certain bad debts charged off as uncollectible by credit account lenders.
Current Status: 5/14/2019 - House Financial Institutions, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-112>
- HB121** **TAX CREDIT-CLASSROOM MATERIALS** (SCHAFFER T) To allow a credit against the personal income tax for amounts spent by teachers for instructional materials.
Current Status: 3/19/2019 - House Primary and Secondary Education, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-121>

- HB134** **MARCH SALES TAX HOLIDAY** (ANTANI N, WEINSTEIN C) To provide a three-day sales tax "holiday" each March during which sales of qualifying Energy Star products are exempt from sales and use taxes.
Current Status: 10/29/2019 - House Ways and Means, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-134>
- HB135** **SALES TAX HOLIDAY EXPANSION** (ANTANI N) To expand the class of products exempt from sales tax if bought during a sales tax holiday.
Current Status: 11/5/2019 - House Ways and Means, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-135>
- HB162** **MOTION PICTURE TAX CREDIT** (PATTON T) To increase the overall cap on the motion picture tax credit from \$40 million per fiscal year to \$100 million per fiscal biennium.
Current Status: 3/26/2019 - Referred to Committee House Finance
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-162>
- HB166** **OPERATING BUDGET** (OELSLAGER S) To make operating appropriations for the biennium beginning July 1, 2019, and ending June 30, 2021, and to provide authorization and conditions for the operation of state programs.
Current Status: 7/18/2019 - **SIGNED BY GOVERNOR**; Eff. Immediately
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-166>
- HB175** **TAX EXEMPTION-GOODS MOVEMENT** (ANTANI N) To exempt from sales and use tax things used primarily to move completed manufactured products or general merchandise.
Current Status: 10/22/2019 - House Ways and Means, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-175>
- HB183** **TAX CREDIT-BEGINNING FARMERS** (MANCHESTER S, PATTERSON J) To allow income tax credits for beginning farmers who participate in a financial management program and for businesses that sell or rent agricultural land, livestock, facilities, or equipment to beginning farmers.
Current Status: 11/12/2019 - House Agriculture and Rural Development, (Fourth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-183>
- HB187** **TAX ISSUES-AUGUST** (MERRIN D, WIGGAM S) To prohibit local tax-related proposals from appearing on an August special election ballot.
Current Status: 4/10/2019 - Referred to Committee House State and Local Government
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-187>
- HB197** **TAX CODE CORRECTIONS** (POWELL J, MERRIN D) To enact the "Tax Code Streamlining and Correction Act" to make technical and corrective changes to the laws governing taxation.
Current Status: 11/6/2019 - Referred to Committee Senate Ways and Means

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-197>

- HB222** **CDL TRAINING TAX CREDIT (STOLTZFUS R, HOWSE S)** To authorize an income tax credit for an employer's expenses to train a commercial vehicle operator.
Current Status: 11/12/2019 - House Ways and Means, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-222>
- HB245** **PROPERTY TAX EXEMPTION TIMELINES (SMITH J)** To remove the current deadlines by which an owner or lessee of a qualified energy project must apply for a property tax exemption.
Current Status: 5/21/2019 - Referred to Committee House Energy and Natural Resources
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-245>
- HB382** **PROHIBIT INCOME TAX-MUNICIPAL NONRESIDENTS (JORDAN K)** To prohibit municipal corporations from levying an income tax on nonresidents' compensation for personal services or on net profits from a sole proprietorship owned by a nonresident.
Current Status: 11/6/2019 - Referred to Committee House Ways and Means
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-382>
- SB1** **REDUCE REGULATORY RESTRICTIONS (MCCOLLEY R, ROEGNER K)** To require certain agencies to reduce the number of regulatory restrictions and to continue the provision of this act on and after August 18, 2019.
Current Status: 6/12/2019 - House State and Local Government, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-1>
- SB8** **TAX CREDITS-OHIO OPPORTUNITY ZONE (SCHURING K)** To authorize tax credits for investments in an Ohio Opportunity Zone.
Current Status: 5/8/2019 - House Economic and Workforce Development, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-8>
- SB37** **MOTION PICTURE TAX CREDIT (SCHURING K)** To extend eligibility for and make other changes to the motion picture tax credit.
Current Status: 6/30/2019 - Referred to Committee House Finance
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-37>
- SB39** **MIXED USE DEVELOPMENT PROJECTS-TAX CREDIT (SCHURING K)** To authorize an insurance premiums tax credit for capital contributions to transformational mixed use development projects.
Current Status: 11/6/2019 - House Economic and Workforce Development, (Fourth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-39>

- SB95 STATE AND LOCAL TAX INDUCEMENTS** (KUNZE S, PETERSON B) To enhance state and local tax inducements for businesses making substantial fixed asset and employment investments and their suppliers.
Current Status: 10/22/2019 - House Ways and Means, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-95>
- SB109 WORKFORCE SCHOLARSHIP PROGRAM** (SCHURING K) To establish the Workforce Scholarship Program, to terminate the provisions of the Scholarship Program on December 31, 2023, to authorize tax credits for graduates of the Scholarship Program and their employers, and to make an appropriation.
Current Status: 10/8/2019 - Senate Finance, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-109>
- SB125 TAX DEDUCTION-529 PLANS** (HOTTINGER J, BRENNER A) To expand the income tax deduction allowed for contributions to Ohio's 529 education savings plans to include contributions to 529 plans established by other states.
Current Status: 11/5/2019 - Senate Ways and Means, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-125>
- SB132 GAS TAX-LOCAL GOVERNMENT ALLOCATION** (WILLIAMS S) To modify the amount of revenue derived from any increase in the motor fuel tax rate that is allocated to local governments and to change the manner in which that revenue is divided between municipal corporations, counties, and townships.
Current Status: 5/1/2019 - Referred to Committee Senate Transportation, Commerce and Workforce
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-132>
- SB153 JOB RETENTION TAX CREDIT-ALTERNATIVE REQUIREMENTS** (DOLAN M) To permit manufacturers to meet alternative minimum employment and investment requirements to qualify for the Job Retention Tax Credit.
Current Status: 6/4/2019 - Senate Ways and Means, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-153>