

Government Affairs Committee

March 11, 2015

Table of Contents	Page #
Agenda	2
Leadership Documents	
• Counsel's Report	6
• Public Policy "Hot Topics"	16
• 131 st General Assembly Legislative Directory	18
• Leadership News Articles	20
• Legislation Tracker	28
• Safe & Efficient Transportation Act (SETA)	31
Energy Policy Report	33
• Proposed Power Purchase Agreement Riders	42
Environment Policy Report	77
• U.S. EPA Ozone Press Release	81
• OMA/NAM Ozone Regulations Study	83
• Ohio Metro Ozone Attainment	87
• Ohio EPA HB 64 Testimony	88
• Ohio EPA 2016-17 Biennial Budget	95
Human Resources Policy Report	103
Safety & Workers' Compensation Report	110
• Senate Bill 5 Opposition Letter	113
• BWC Budget Proposals	114
Tax Policy Report	122
• OMA Tax Counsel Budget Memo	124
• OMA Executive Summary HB 64	129
• OMA HB 64 Testimony	132

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

Wednesday, March 11
 Wednesday, June 3
 Wednesday, September 2
 Wednesday, December 2

OMA Government Affairs Committee Meeting Sponsor:



OMA Government Affairs Committee

March 11, 2015



AGENDA

Welcome & Introductions

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

National Association Reports

Steve Norton, Director, Corp. Communications and
Govt. Affairs, Steris Corporation, on behalf of the National
Association of Manufacturers (NAM)

OMA Counsel's Report

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

Staff Reports

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

Discussion / Action Items

- Current Action Alerts -- Ozone
- HB 64 State Budget – Tax Reform
- Transportation (SETA, Freight and Maritime Ports)
- Chemical Safety Improvement Act
- Safe & Accurate Food Labeling Act
- 2016 RNC Convention
- 2016 Elections Roundtable

Member Discussion

Guest Presentation:

Governor's Budget Proposal

Timothy Keen, Director, Ohio Office of Budget & Management
and member, Governor's Cabinet

Guest Presentation:

Utility Power Purchase Agreements (PPAs)

Dr. Edward (Ned) Hill, Dean, Cleveland State University,
Maxine Goodman Levin College of Urban Affairs

Lunch – provided by OMA

Our thanks to today's meeting sponsor:





OBM Director

Timothy S. Keen

Timothy S. Keen became Director of the Office of Budget and Management (OBM) on January 10, 2011, bringing more than 25 years of fiscal management and public policy expertise to his responsibilities as Governor John Kasich's chief financial officer. This is the second time he has held this position, leading the cabinet-level agency that provides financial management and policy analysis to help ensure the responsible use of state resources.

From 2007 through 2010, Director Keen was Senior Policy Advisor to Auditor of State Mary Taylor, following his previous service with OBM as Assistant Director and then as Director with the administration of Governor Bob Taft from 1999 through 2006. Earlier he was Deputy Director of Policy Development at OBM, including service as President of the State Controlling Board (1992-1993). His career in public service, beginning in 1986 as a Budget Analyst with the Ohio Legislative Budget Office, also includes senior budget policy positions with both houses of the Ohio General Assembly.

Director Keen received an undergraduate degree in communications from the University of Massachusetts at Amherst and holds a master's degree in public policy from the Eagleton Institute of Politics at Rutgers University.

Maxine Goodman Levin College of Urban Affairs



Title: Dean & Professor
Dean, Maxine Goodman Levin College of Urban Affairs
Dept: College of Urban Affairs, Dean's Office
Office: UR 335
Phone: 216-687-2174
Email: E.HILL@csuohio.edu
Address: 2121 Euclid Ave. UR 335, Cleveland, OH 44115

Research Keywords:

Economic development, Labor markets, Economic development and business strategy

Education:

Ph.D., Economics, Urban and Regional Planning, Massachusetts Institute of Technology, 1981

M.U.P.D.D., City Planning, Massachusetts Institute of Technology, 1976

B.A., Economics & Urban Studies, U of Pennsylvania, 1973

Brief Bio:

Edward W. (Ned) Hill is the Dean of the Maxine Goodman Levin College of Urban Affairs at Cleveland State University. He is also a Nonresident Senior Fellow of the Metropolitan Policy Program at The Brookings Institution and a Nonresident Visiting Fellow of the Institute of Government Studies at the University of California at Berkeley though his membership in the MacArthur Foundation's Research Network on Building Resilient Regions.

Ned chairs the Manufacturing Extension Partnership's National Advisory Board (2007 to present). Ohio's Governor Strickland appointed Hill to Ohio's Auto Industry Support Council in August, 2009, where he chairs its Competitiveness Task Force. In December 2008 Hill was asked to chair a task force that examined HUD's role in economic development for HUD Secretary Donovan.

Ned is a member of the board of directors of MAGNET, the MEP affiliate in Northeast Ohio. He is a member of the Board of Advisers of the Generation Foundation since 2001. He has assisted the United Way of Cleveland with strategic planning since 2005. He is a member of the editorial boards of the Journal of the American Institute of Planning and of Economic Development Quarterly.

Hill was a trustee of the Cleveland Zoological Society, a member of the Board of Directors of JumpStart, NorTech, WIRE-Net, and the Urban Affairs Association where he was the treasurer in 2003 and 2004. Ohio's Governor Taft appointed Hill to Ohio's Urban Revitalization Task Force in 1999. He was a member of Leadership Cleveland's Class of 1997.

Hill was Economic Development Quarterly's second editor (1994 to 2005). He was awarded the

Robertson Prize from Urban Studies in 1994. Ned was awarded Cleveland State University's Distinguished Faculty Award for Research in 1998 and merit award for research in 2002. award for research in 2002.

Hill is author of two books, co-editor of five books, and author of over 90 articles, book chapters, and columns. He was a lead in the Deloitte Consulting-Cleveland State University team that wrote Industry-based Competitive Strategies for Ohio: Managing three portfolios in 2005 and Manufacturing Pennsylvania's Future in 2004. Ohio's Competitive Advantage: Manufacturing Productivity was released in 2001. Ohio's Competitive Advantage has been credited with starting a five-year statewide conversation that resulted in fundamental business tax reform in the state of Ohio. The Cincinnati Enquirer referred to Hill as the "godfather of tax reform" in the summer of 2005.

In 2005 the Russell Sage Foundation published Hill's analysis of the impact of the terrorist attacks of 9/11 on Manhattan and the New York region as a business location; the Journal of the American Planning Association published his study of the competitive position of America's major central cities in the competition for jobs in Autumn 2005. The Fannie Mae Foundation released his most recent work on city-state relations in 2007. His work with Iryna Lendel on the impact of doctoral programs in the bio-life sciences and engineering on regional development appeared in Economic Development Quarterly in August of 2007. Work on the determinants of metropolitan regional growth was published in Urban Studies in March 2009.

Hill began his career at Cleveland State University in the fall of 1985. Ned was named Cleveland State University's first Vice President for Economic Development in May 2005 and he was appointed Interim Dean of the College of Urban Affairs in October 2007. He stepped down from both upon his appointment as Dean in June 2009.

He earned his Ph.D. in both economics and urban and regional planning from the Massachusetts Institute of Technology in 1981 and he is a resident of Lakewood, Ohio.



Bricker & Eckler
ATTORNEYS AT LAW

COLUMBUS | CLEVELAND
CINCINNATI-DAYTON
MARIETTA

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

MEMORANDUM

TO: Ohio Manufacturers' Association Government Affairs
Committee

FROM: Bricker & Eckler LLP

DATE: March 11, 2015

RE: Government Affairs Committee Report

I. 2015 Government Affairs Update - Overview.

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

II. Ohio Constitutional Modernization Commission.

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

The Judicial Branch and Administration of Justice Committee recommended a proposal from Senator Larry Obhof (R-Medina) to remove obsolete court-related provisions – including that which would create conciliatory courts. The proposal, which was before voters in 2011 and failed in part because it also included an increase from 70 to 75 years on the maximum age for judges, was framed as a way to "tighten up" the constitution and remove unnecessary provisions that go unutilized.

Ohio Supreme Court Chief Justice Maureen O'Connor spoke before the Judicial Branch and Administration of Justice Committee to advocate moving judicial elections to off-years. Chief Justice O'Connor argued that doing so would make elections more visible to voters and gain more voter attention. She also suggested requiring that judicial candidates have six years' experience to run for municipal court, eight for common pleas court, twelve years for appellate courts and fifteen years for the Supreme Court. Currently, all courts require six years of experience.

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

III. Redistricting.

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

Ohio Congressional Redistricting: On March 3, 2015, Representatives Kathleen Clyde (D-Kent) and Michael Curtin (D-Columbus) introduced a proposal for redrawing Ohio's congressional districts as H.J.R. 2. The plan resembles H.J.R. 12, and envisions a seven-member panel for drawing new Congressional lines. The proposal would require that maps minimize the number of splits of counties, municipalities, and contiguous townships, with priority given first to large counties. The plan also requires that a map may not be drawn "primarily to favor or disfavor a political party" and that two minority votes are required to approve a map. If there are not two minority votes, the plan would go into effect for only four years.

The Ohio General Assembly considered a similar proposal for congressional redistricting last year, but opted to delay enacting any plan while the U.S. Supreme Court hears a case involving Arizona's process.

IV. Pending Legislation.

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

The bill includes provisions to prohibit the state from entering into contingency fee contracts with private attorneys unless the Attorney General determines that private representation is cost-effective. The bill sets caps on contingency fees that private attorneys may receive and generally prohibits contingency fees from exceeding \$50 million, except in certain circumstances. A provision creating a preference for Ohio attorneys is included as is a requirement for the Attorney General to submit an annual report to the Senate President and Speaker of the House, describing the use of private attorneys during the preceding fiscal year. The bill also includes a new section which describes the intention of the General Assembly with this legislation. Section 9.498 states that provisions in the bill are only to apply to contracts with a private attorney retained on a contingency basis with the state, and not to contingency fee contracts between private parties and contracts not involving the state.

Ohio Manufacturers' Association Government Affairs Committee – Counsel Report
March 3, 2015
Page 3 of 3

House Bill 10 has received one hearing in the House Government Accountability & Oversight Committee and Senate Bill 38 has received one hearing in the Senate Government Oversight & Reform Committee.

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

Ohio Patent Troll Legislation: During the last legislative session we provided analysis of Ohio HB 573, a bill introduced by Representative Kristina Roegner (R-Hudson) to curb the extortionary practices of certain non-practicing patent owners pejoratively referred to as “patent trolls.” Generally speaking, the legislation would attempt to define bad faith assertions of patent infringement by setting forth minimum requirements for demand letters as well as certain minimum requirements prior to sending such letters.

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

An alternative draft bill, prepared Proctor & Gamble and based upon legislation enacted in Illinois, was the focus of the most recent interested party’s meeting on February 11, which was attended by Representatives Roegner and Butler and Senator Seitz. The revised legislation would be more tailored to the problem presented by patent trolls (as opposed to patent owners generally), provide a more objective set of criteria for determining violations, reduce some of the pre-demand obligations on patent owners, and would remove an express private right of action provision but would continue to include language empowering the Ohio Attorney General to investigate and bring enforcement actions against violators.

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

Prior to the meeting on February 11, we also provide OMA with legal analysis to the effect that,

as worded, even the alternative draft language would still be at risk of being interpreted by the courts as providing an inherent private right of action. If OMA's preference remains to prevent a private right of action, our recommendation is to push for inclusion of an express prohibition rather than simply removing language that would have expressly provided the private right of action. This may potentially be achievable given the strong concerns Senator Seitz raised with the ability of Ohio courts to interpret patent-related subject matter and his proposal to further empower the Ohio Attorney General to interpret that statute.

Medical Malpractice and Other Tort Reform: Sub. H.B. 276 was passed by the Ohio House of Representatives during the 130th General Assembly and provided that a health care provider's statements expressing error or fault made to a victim of an unanticipated outcome of medical care, or to a victim's family, are not admissible as evidence of an admission of liability in a civil action brought by the victim. This "I'm sorry" legislation was introduced by former Representative Peter Stautberg (R-Cincinnati) and was supported by the Ohio State Medical Association.

The bill passed the House with a 60-32 vote and was being considered by the Senate Civil Justice Committee when the General Assembly adjourned at the end of 2014. Although the bill has not been reintroduced in the 131st General Assembly, Ohio House Speaker Cliff Rosenberger (R-Clarksville) made statements that tort reform will be part of his agenda as Speaker, so bills similar to H.B. 276 can be expected as the 131st General Assembly continues.

V. 2016 Judicial Elections

More than a year in advance, the 2016 Ohio Supreme Court races are already the subject of conversation, with both Justice Judith Ann Lanzinger and Justice Paul Pfeifer age-limited and unable to run for re-election. First District Court of Appeals Judge Pat DeWine, son of Attorney General Mike DeWine, is reported to be running for one of the open seats, along with Judge Pat Fischer, who also serves on the 1st District Court of Appeals in Hamilton County. In addition, Judge Colleen O'Toole from the Eleventh District Court of Appeals is reported to be running. The Ohio Republican Party is in the process of setting up its Judicial Candidate Screening Committee, and is expected to work on the recommendations process later in 2015. This screening will need to take place this fall, as the Ohio 2016 Presidential Primary is set for March 8, 2016, with candidate petitions due in December.

As was discussed in the lead-up to the 2014 election, the nonpartisan nature of judicial elections in Ohio and the cost of statewide elections can pose significant challenges to Supreme Court candidates. Business interests were successful in electing two candidates to the Court in 2014, but continued education efforts and the expenditure of resources and attention will be needed to ensure the Court maintains the conservative balance we have had now for more than 15 years thereby providing a greater opportunity for a positive business climate in Ohio.

Ohio Manufacturers' Association Government Affairs Committee – Counsel Report
March 3, 2015
Page 5 of 3

VI. Litigation Update

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

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

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

The purpose of the brief is to support current Ohio law which holds that an insurer's duty to defend is broader than its duty to indemnify and to preserve the rights of policyholders to collect and retain amounts due them under the defense coverages of their policies – even in cases where the insurers ultimately are determined not to have a duty to indemnify.

Oral argument has been scheduled for April 28, 2015.



Ohio and Federal Contribution Limits, Campaign Finance Reporting Calendars and Lobbyist Reporting Deadlines

STATE OF OHIO CONTRIBUTION LIMITS

To	An Individual May Give	A State PAC May Give (including a federal PAC registered as an FSL PAC under Ohio law)
Ohio Statewide Candidate, Ohio Senate or House Candidate	\$12,532.34 per election	\$12,532.34 per election
State Party State Candidate Fund	\$37,597.02 per calendar year	\$37,597.02 per calendar year
Legislative Campaign Fund	\$18,798.51 per calendar year	\$18,798.51 per calendar year
County Party State Candidate Fund	\$12,532.34 per calendar year (must be a resident of that county)	Prohibited
State PAC (Ohio)	\$12,532.34 per calendar year	\$12,532.34 per calendar year
Common Pleas or Municipal Court Candidate	\$600.00 per election	\$3,600.00 per election
Local candidates	Check local laws for restrictions	Check local laws for restrictions

2015 STATE OF OHIO CAMPAIGN FINANCE REPORTING CALENDAR

Report Type	Due Date	Reporting Dates/Period
Pre-Primary	April 23, 2015	December 6, 2014 – April 15, 2015
Post-Primary	June 12, 2015	April 16 – June 5, 2015
Semiannual	July 31, 2015	January 1 – June 30, 2015
Pre-General	October 22, 2015	June 6 – October 14, 2015
Post-General	December 11, 2015	October 15 – December 4, 2015
2015 Annual	January 29, 2016	July 1 – December 31, 2015

FEDERAL CONTRIBUTION LIMITS

To	An Individual May Give	A Federal Multicandidate PAC May Give	A Federal Non-Multicandidate PAC May Give
Each candidate or candidate committee	\$2,700 per election	\$5,000 per election	\$2,600 per election
National party committee	\$33,400 per calendar year	\$15,000 per calendar year	\$32,400 per calendar year
State, district or local party committee	\$10,000 per calendar year	\$5,000 per calendar year	\$10,000 per calendar year
Any other political committee	\$5,000 per calendar year	\$5,000 per calendar year	\$5,000 per calendar year

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2015 FEDERAL CAMPAIGN FINANCE REPORTING CALENDAR FOR PACS (QUARTERLY FILERS)

Report Type	Due Date	Reporting Dates/Period
Mid-Year	July 31, 2015	January 1 – June 30, 2015
Year-End 2015	January 31, 2016	July 1 – December 31, 2015

*Additional reports may be due if the PAC makes contributions or expenditures in connection with a special election.

OHIO LOBBYIST/EMPLOYER OF LOBBYISTS REPORTING CALENDAR

Report Type	Due Date	Reporting Dates/Period
January – April 2015	June 1, 2015	January 1 – April 30, 2015
May – August 2015	September 30, 2015	May 1 – August 31, 2015
September – December 2015	February 1, 2016	September 1 – December 31, 2015

2015 LOBBYIST REGISTRATION REQUIREMENTS

December 31, 2015: All EXECUTIVE and RETIREMENT SYSTEM lobbying registrations expire and must be renewed electronically by January 31, 2016.

FEDERAL LOBBYISTS REPORTING DEADLINES

Report Type	Due Date	Reporting Dates/Period
Quarterly Activity Reports	April 20 First Quarter	January 1 – March 31
	July 20 Second Quarter	April 1 – June 30
	October 20 Third Quarter	July 1 – September 30
	January 20 Fourth Quarter	October 1 – December 31
Contribution Reports	July 30 Mid-Year	January 1 – June 30
	January 30 Year-End	July 1 – December 31

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Another resource available to you is our **Corporate Ethics and Compliance Manual**, which includes guidelines, policies and training to help your company comply with ethics, lobbying and campaign finance laws.

For more information, visit www.bricker.com/govtcompliancemanual.

For more information, contact Maria Armstrong at 614.227.8821 or marmstrong@bricker.com, Marjorie Yano at 614.227.8961 or myano@bricker.com, or Katie Reardon at 614.227.2391 or kreardon@bricker.com.



Bricker & Eckler, LLP

Memorandum

To: OMA Government Affairs Committee

From: Bricker & Eckler LLP
Kurt Tunnell and Christopher Slagle

Re: Amending Federal Diversity Jurisdiction Statute

Date: March 10, 2015

The Ask and the Objective

Some OMA members have asked the OMA to support legislation aimed at the federal courts' diversity jurisdiction. The objective of the legislation is to amend the diversity jurisdiction statute (28 U.S.C. 1332) to allow for a significant increase in the number of cases removed from state court to federal court. Additionally, the OMA has been asked to help lead the advocacy effort to familiarize Ohio's Congressional delegation with this issue.

The Problem

Some corporate defendants, including manufacturers, are repeatedly sued in plaintiff-friendly state courts and are unable to remove the cases to federal court because at least one plaintiff and one defendant are from the same state. This is known as the lack of complete diversity, and where there is a lack of complete diversity a case cannot be removed from state court to federal court. As a result, plaintiffs' attorneys often strategically name an in-state defendant in order to preclude removal of the case to federal court. This leaves out-of-state corporate defendants trapped in plaintiff-friendly venues. In essence, the federal courts are closed to many defendants even though they were originally created, in part, to address disputes between citizens of different states.

The Proposed Solution

In short, the proposed solution is to amend 28 U.S.C. 1332, the diversity jurisdiction statute, to make clear that complete diversity is not required.

One of the leading proponents of abolishing the complete diversity requirement is the Honorable Charles Cooper who recently authored an article in the *Harvard Journal of Law and Public Policy*. See Charles J. Cooper and Howard C. Nielson, Jr., "Complete Diversity and the Closing of the Federal Courts," Winter 2014, Vol. 37, No. 1, p. 295.) The article demonstrates that the requirement of complete diversity –between all plaintiffs and all defendants – is not required by the United States Constitution and may very well contravene it. Complete diversity is a judicial doctrine, created by the federal courts to restrict access to federal courts. Because



Bricker & Eckler, LLP

plaintiffs select the forum where suit is filed, this doctrine operates to deny defendants access to federal courts.

Ten years ago, Congress addressed the problem of complete diversity in the class action context by providing for removal of large class actions (many of which had been concentrated in a few state courts, sometimes referred to as “judicial hell holes”) to federal district courts. *See* Class Action Fairness Act of 2005 (“CAFA”). CAFA amended 28 U.S.C. 1332 to “restore the intent of the framers of the United States Constitution by providing for federal court consideration of interstate cases of national importance under diversity jurisdiction.” CAFA, Sec. 2(b)(2).

Many of the reasons that supported amending the statute for class actions also apply to other suits, particularly mass tort suits seeking large damage awards against multiple out-of-state defendants. These cases have “equally significant implications for interstate commerce and national policy and are, therefore, also precisely the type of case for which the federal judiciary was created to provide a neutral forum.” Cooper and Nielsen, pp. 327-328.

The proposed amendment, set forth in the attached “Fairness in Interstate Litigation Act,” addresses the complete diversity problem in subdivision (a)(2). The proposed amendment requires federal district courts to exercise jurisdiction over any civil action in which the amount in controversy exceeds \$75,000 when the controversy is between “any citizens of different states.”

Fairness in Interstate Litigation Act (FILA)

28 USC 1332 shall be amended to provide that:

- (a) District courts shall exercise jurisdiction over any civil action in which the matter in controversy exceeds the sum or value of \$75,000*, exclusive of interest and costs, when the controversy is between:
 - (1) A state and any citizen of another state;
 - (2) Any citizens of different states;
 - (3) Citizens of the same state claiming lands under grants of different states; or
 - (4) A state, or the citizens thereof, and foreign states, citizens or subjects.
- (b) If such a controversy exists between any plaintiff and any defendant, the district court's jurisdiction shall not be defeated by the presence of other parties to the action.
- (c) Nothing in this statute shall be construed to authorize a district court to exercise jurisdiction over a suit against a state absent its consent.

*The amount in controversy is subject to adjustment based on studies of the potential impact of this Act on federal court caseloads.

Public Policy “Hot Topics” March 11, 2015

Overview

The 131st General Assembly has convened concurrent with the beginning of Governor John Kasich’s second term. 2015 is a budget year and budget legislation has been introduced and will dominate state public policy until June. As in past sessions, budget legislation will become the vehicle for hundreds of individual state policy reforms.

General Assembly

Representative [Cliff Rosenberger](#) (R-Wilmington) was elected Speaker of the House following the departure of Speaker William Batchelder. The House stands at 65Rs and 34Ds.

The Ohio Senate remains solidly Republican 23 to 10. Senate [Keith Faber](#) was reelected as Senate resident. He will face legislator term limit in 2016.

Legislative leaders have made committee appointments and hearings are in full swing. Aside from a Spring break, they are [scheduled](#) in session most weeks until July. See attached legislative directory compiled by Hannah News Service listing leadership and committees.

Budget

Among much fanfare in early February, Governor Kasich unveiled his budget proposal(s) dubbed the *Blueprint for a New Ohio*. The Governor has been in sell mode ever since. Budget bills begin in the House of Representatives. The transportation budget (HB 53) has already cleared house passage. The workers’ comp budget (HB 52), and the related industrial commission budget (HB 51), will soon be voted. These budget bills use restricted revenues such as gas tax or federal highway fund dollars or employer premiums, in contrast, to the main operating budget (HB 64) which appropriates the general revenue funds (GRF). The executive budget recommends GRF of \$35.3 billion in FY 2016 (12.5% increase over FY 2015) and \$37.0 billion in FY 2017 (4.8% increase over FY 2016). While HB 64 contains important provisions impacting Medicaid expansion, school funding, and some workforce development, the focus has been on proposed changes to the state tax code.

Tax Policy

The state budget, HB 64 further accomplishes Governor Kasich’s goal of income tax reduction. While personal income tax rates would decrease 23% across the board, they will be wiped out for certain small business owners. Other tax revenues would be enhanced in order to fund the income tax reduction. See Tax Report. Following an extensive member review and engagement process, the OMA will be working to express concern with the current proposal in coming days.

Workforce Development

Speaker Rosenberger made a statement of support for meaningful investment in Ohio’s workforce education and training needs by designating a bill to improve these assets as HB1, reflecting top priority. Representatives Kirk Schuring and Nathan Manning are sponsoring the bill. The OMA is supportive and has forged a working group to evaluate and support the bill.

Civil Justice

The TIPAC bill to impose transparency in certain attorney general contracting was denied passage in the final hours of the 130th General Assembly. The bill has been reintroduced and won Senate passage last week. The OMA supports the bill. See counsel's report.

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

Environment

Federal proposals governing clean power plants under 111(d) of the Clean Air Act and a recent proposal to tighten the National Ambient Air Quality Standards (NAAQS) for ground-level ozone from the current 75 parts per billion have eclipsed traditional state environmental issues. If approved the regulations would be enormously costly. The OMA has been working along with the NAM to model and comment on the proposals for their effect on Ohio. See environment report.

Workers' Comp & Industrial Commission

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

Energy Efficiency Standards / SB 310 Study Committee

After 18 months of wrangling, legislation to revise Ohio's alternative energy standards was signed into law by Governor Kasich in June. See energy report. Since becoming effective, only FirstEnergy has modified their energy efficiency plan. Other utilities have instead chosen to extend plans. A study committee was created by the bill and is holding meetings while the standards are frozen.

Human Resources – unemployment taxes

There is a major concern among employers regarding Ohio's \$1.3 billion dollar debt to the federal government for unemployment insurance. Until the debt is repaid in full Ohio's FUTA tax rate will continue to climb. The state's trust fund is insolvent and there are real worries that it will not be solvent prior to the next major economic downturn. Representative Sears is working on a package of bills to address the situation.

Constitutional Modernization Commission

See counsel's report.

Ohio Senate

Senate Building | Capitol Square | Columbus OH 43215

Republicans (23) - Democrats (10)

President: Keith Faber
 President Pro Tempore: Chris Widener
 Majority Floor Leader: Tom Patton
 Majority Whip: Larry Obhof
 Majority Chief of Staff: Jason Mauk
 Senate Clerk: Vincent Keenan
 Minority Leader: Joe Schiavoni
 Asst. Minority Leader: Charlaeta Tavares
 Minority Whip: Edna Brown
 Minority Chief of Staff: Lou Gentile
 Erin Davis

Bacon, Kevin 614.466.8064
 (R-06) Rm 035 614.890.1285
 3523 Ponderosa Dr., Columbus 43231

Balderson, Troy 614.466.8076
 (R-20) Rm 040 740.819.2580
 2945 Dresden Rd., Zanesville 43701

Beagle, Bill 614.466.6247
 (R-05) Rm 132 937.669.0901
 P.O. Box 342, Tipp City 45371

Brown, Edna 614.466.5204
 (D-11) Rm 051 615.243.5691
 2461 Warren St., Toledo 43620

Burke, Dave 614.466.8049
 (R-26) Rm 034 937.243.4333
 860 Wedgewood Dr., Marysville 43040

Cafaro, Capri 614.466.7182
 (D-32) Rm 048 330.372.2222
 644 Warner Rd., Hubbard 44425

Coley, Bill 614.466.8072
 (R-04) Rm 140 513.874.2747
 2663 Cherry Laurel, West Chester 45044

Eklund, John 614.644.7718
 (R-18) Rm 128 216.622.8211
 12040 Burlington Glen Dr., Chardon 44024

Faber, Keith 614.466.7584
 (R-12) Rm 201 419.586.8686
 7025 Dibble Rd., Celina 45822

Gardner, Randy 614.466.8060
 (R-23) Rm 240 619.551.0487
 209 1/2 Mitchell Rd., Bowling Green 43402

Gentile, Lou 614.466.6508
 (D-30) Rm 050 614.551.6411
 399 Terr Ave., Steubenville 43952

Hite, Cliff 614.466.8150
 (R-01) Rm 142 614.425.4483
 2147 Westmoor Rd., Findlay 45840

Hottinger, Jay 614.466.1896
 (R-31) Rm 038 740.349.7784
 894 Jonathan Ln., Newark 43055

Hughes, Jim 614.466.5981
 (R-16) Rm 125 614.267.0371
 4319 Fair Oaks Dr., Columbus 43214

Jones, Shannon 614.466.9737
 (R-07) Rm 222 937.748.6788
 800 Ashley View Pt., Springboro 45056

Jordan, Kris 614.466.8086
 (R-19) Rm 039 740.548.0946
 265 Sawine Ridge Dr. N., Powell 43066

LaRose, Frank 614.466.4823
 (R-27) Rm 221 330.461.6446
 5533 Royal Crest, Copley 44321

Senate Committees

*Ranking Minority

Agriculture 466-8150
 Hite (R)-Chair; Uecker (R)-Vice-Chair
 (R) Beagle, Burke, Gardner, Manning,
 Peterson
 (D) *Gentile, Cafaro, Skindell

Civil Justice 466-8086
 (R)-Chair; Oelslager (R)-Vice-Chair
 (R) Eklund, Hughes, Jordan, Seltz,
 Patton, Widener
 (D) *Skindell, Brown, Thomas

Criminal Justice 644-7718
 Eklund (R)-Chair; Obhof (R)-Vice-Chair
 (R) Bacon, Hughes, Lehner, Seltz, Uecker
 (D) *Thomas, Skindell, Williams

Education 466-8076
 (R)-Chair; Hite (R)-Vice-Chair
 (R) Balderson, Coley, Gardner, Jordan,
 Manning, Peterson, Widener
 (D) *Sawyer, Thomas, Williams, Yuko

Energy & Natural Resources 614.466.7505
 Balderson (R)-Chair; Jones (R)-Vice-Chair
 (R) Gardner, Hite, Hottinger, Patton, Seltz,
 Uecker
 (D) *Gentile, Cafaro, Williams

Finance 466-0626
 Oelslager (R)-Chair; Coley (R)-Vice-Chair
 (R) Beagle, Burke, Gardner, Hughes, LaRose,
 Patton, Peterson
 (D) *Skindell, Gentile, Sawyer, Tavares

Education Subcommittee 644-8150
 Hite (R)-Chair; Sawyer (D)-Vice Chair
 (R) Balderson, Burke, Coley, Lehner,
 Oelslager, Peterson, Uecker
 (D) *Thomas, Yuko

Corrections Subcommittee 466-8082
 Uecker (R)-Chair; Brown (D)-Vice Chair
 (R) Obhof, Patton, Seltz
 (D) Tavares

General Government Subcommittee 466-8086
 Jordan (R)-Chair; Gentile (D)-Vice Chair
 (R) Eklund, Jones, Peterson
 (D) Skindell

Higher Education Subcommittee 466-8060
 Gardner (R)-Chair; Cafaro (D)-Vice Chair
 (R) Bacon, Hughes, Manning
 (D) Thomas

Workforce Subcommittee 466-6247
 Beagle (R)-Chair; Williams (D)-Vice Chair
 (R) Hottinger, LaRose, Widener
 (D) Yuko

Financial Institutions 466-5981
 Hughes (R)-Chair; Eklund (R)-Vice-Chair
 (R) Bacon, Beagle, Burke, Hottinger, LaRose,
 Obhof
 (D) *Yuko, Gentile, Thomas

Government Oversight and Reform 466-8086
 (R)-Chair; Seltz (R)-Vice-Chair
 (R) Balderson, Burke, Jordan, LaRose, Obhof,
 Patton, Widener
 (D) *Yuko, Brown, Skindell

Health and Human Services 466-9737
 Jones (R)-Chair; Lehner (R)-Vice-Chair
 (R) Beagle, Gardner, Hite, Hottinger,
 Manning, Oelslager
 (D) *Tavares, Brown, Cafaro

Insurance 466-5838
 Hottinger (R)-Chair; Bacon (R)-Vice-Chair
 (R) Balderson, Beagle, Hughes, Jones,
 LaRose, Manning, Peterson
 (D) *Brown, Tavares, Thomas, Williams

Medicaid 466-8049
 Burke (R)-Chair; Manning (R)-Vice-Chair
 (R) Coley, Jones, Jordan, Lehner, Widener
 (D) *Cafaro, Tavares, Williams

Public Utilities 466-8068
 Seltz (R)-Chair; Balderson (R)-Vice-Chair
 (R) Bacon, Eklund, Hite, Patton, Peterson,
 Uecker
 (D) *Williams, Gentile, Sawyer

Rules and Reference 466-7384
 Faber (R)-Chair; Widener (R)-Vice-Chair
 (R) Burke, Coley, Hite, Hughes, Manning,
 Oelslager, Peterson
 (D) *Schiavoni, Brown, Gentile, Tavares

State and Local Government 466-4823
 LaRose (R)-Chair; Hottinger (R)-Vice-Chair
 (R) Hughes, Jones, Jordan, Peterson, Seltz,
 Uecker
 (D) *Thomas, Brown, Yuko

Transportation, Commerce and Labor 464-7617
 Manning (R)-Chair; Patton (R)-Vice-Chair
 (R) Bacon, Eklund, Hottinger, LaRose, Uecker
 (D) *Cafaro, Brown, Gentile, Yuko

Ways and Means 466-8156
 Peterson (R)-Chair; Beagle (R)-Vice-Chair
 (R) Eklund, Hite, Jordan, Obhof, Widener
 (D) *Tavares, Cafaro, Williams

Ohio Supreme Court

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

Chief Justice - Maureen O'Connor

Paul E. Pfeifer
 Terrence O'Donnell
 Judith Ann Lanzinger

Sharon L. Kennedy
 Judith. L. French
 William M. O'Neill

Joint Legislative Committees

State Controlling Board 752.6592
 Rep. Nelson
 Democrats: Rep. Nelson, Smith R., Sens. Coley, Widener
 Rep. Boyce, Sen. Sawyer

Joint Committee on Agency Rule Review (JCARR) 466-4086
 Larry Wolpert - Executive Director
 Rep. Duffrey (R)-Chair
 Sen. Uecker (R)-Vice-Chair
 Republicans: Grossman, Hayes, Sens. Balderson,
 LaRose
 Democrats: Rep. Rosenberger (R)-Vice Chair
 Sen. Faber (R)-Vice-Chair
 Republicans: Rep. Amstutz, Pelanda, Sens. Obhof,
 DeLozier
 Democrats: Reps. Boyce, Celebrezze, Strathom,
 Sens. Cafaro, Gentile, Schiavoni

Joint Legislative Ethics Committee (JLEC) 466.8140
 Rep. Rosenberger (R)-Chair
 Sen. Faber (R)-Vice-Chair
 Republicans: Rep. Amstutz, Pelanda, Sens. Obhof,
 DeLozier
 Democrats: Reps. Boyce, Celebrezze, Strathom,
 Sens. Cafaro, Gentile, Schiavoni

Joint Medicaid Oversight Committee (JMOC) 466-7584
 Susan Ackerman - Executive Director
 Rep. Seigs (R)-Chair
 Sen. Burke (R)-Vice-Chair
 Republicans: Johnson T., Sprague, Sens. Coley,
 Widener
 Democrats: Reps. Antonio, Sykes, Sens. Cafaro, Tavares

Legislative Service Commission (LSC) 466.7584
 Rep. Rosenberger (R)-Chair
 Sen. Faber (R)-Vice-Chair
 Republicans: Rep. Amstutz, Bucby, Dovilla, Rosenberger,
 Seigs; Sens. Hite, Obhof, Patton, Widener
 Democrats: Reps. ; Sens. Brown, Schiavoni

U.S. Senate

Senate Office Building | Washington D.C. | 20515

Brown, Sherrod 202.224.2315
 713 Hart SOB
 District: 202.224.3353
 448 Russell SOB
 District: 614.469.6774
 37 W. Broad St., room 300
 Columbus, OH 43215

U.S. House

House Office Building | Washington D.C. | 20515

Reahy, Joyce 202.225.4231
 133 Cannon HOB
 District: 614.220.0003
 471 E. Broad St., ste 1100
 Columbus, OH 43215

Boehner, John 202.225.6205
 1011 Longworth HOB
 District: 513.779.5400
 7969 Cincinnati-Dayton Rd., ste B
 West Chester, OH 45069

Chabot, Steve 202.225.2216
 2371 Rayburn HOB
 District: 513.684.2723
 441 Vine St., room 3003
 Cincinnati, OH 45202

Fudge, Marcia 202.225.7032
 2344 Rayburn HOB
 District: 216.522.4900
 471 E. Broad St., ste 1100
 Warrensville Heights, OH 44128

Gibbs, Bob 202.225.6265
 329 Cannon HOB
 District: 419.207.0650
 Ashland, OH 44805

Johnson, Bill 202.225.5705
 1710 Longworth HOB
 District: 740.376.0868
 246 Front St.
 Marietta, OH 45750

Jordan, Jim 202.225.2676
 1524 Longworth HOB
 District: 419.999.6455
 471 E. Broad St., ste 1100
 3121 W. Elm Plaza
 Lima, OH 45805

Joyce, David 220.225.5731
 1124 Longworth HOB
 District: 330.425.9291
 10075 Ravenna Rd.
 Twinsburg, OH 44087

Kaptur, Marcy 202.225.4146
 2186 Rayburn HOB
 District: 419.259.7500
 One Maritime Plaza, room 600
 Toledo, OH 43604

Latta, Bob 202.225.6405
 2448 Rayburn HOB
 District: 419.354.8700
 1045 N. Main St., ste 6
 Bowling Green, OH 43402

Ranacci, Jim 202.225.3876
 130 Cannon HOB
 District: 330.334.0061
 1 Park Center Dr., ste 302
 Wadsworth, OH 44281

Ryan, Tim 202.225.5261
 1421 Longworth HOB
 District: 330.740.0193
 241 W. Federal St.
 Youngstown, OH 44503

Schivers, Steve 202.225.2015
 1022 Longworth HOB
 District: 614.771.4968
 3790 Municipal Way
 Hilliard, OH 43026

Tiberti, Pat 202.226.4523
 1023 Longworth HOB
 District: 614.523.2555
 3000 Corporate Exchange Dr., ste 310
 Columbus, OH 43231

Turner, Mike 202.225.6465
 2239 Rayburn HOB
 District: 937.225.2843
 120 W. 3rd St., ste 305
 Dayton, OH 45402

Wenstrup, Brad 202.225.3164
 1318 Longworth HOB
 District: 513.474.7777
 7954 Beechmont Ave., ste 200
 Cincinnati, OH 45255

Hannah NEWS SERVICE

131st General Assembly
 Legislative Directory
 2015-2016



21 W. Broad St., Suite 1000
 Columbus, Ohio 43215

www.hannah.com
 info@hannah.com
 614-227-5820
 614-228-5897 (fax)

Elected State Officials

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

Ohio House of Representatives

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

Republicans (65) - Democrats (34)			
Speaker	Cliff Rosenberger	466.8140	
Speaker Pro Tempore	Ron Amstutz	466.1474	
Majority Floor Leader	Barbara Sears	466.1731	
Assistant Majority Floor Leader	Jim Bucy	466.6344	
Majority Whip	Mike Doviola	466.4895	
Assistant Majority Whip	Dorothy Pelanda	466.8147	
Minority Leader	Fred Strahorn	466.1607	
Assistant Minority Leader	Nicholas Celebrezze	466.3485	
Minority Whip	Kevin Boyce	466.5343	
Assistant Minority Whip	Nickie Antonio	466.5921	
House Clerk	Brad Young	466.3357	
Amstutz, Ron (R-01) 14th Floor 4456 Wood Lake Trail, Wooster 44691	614.466.1474 330.262.7371 419.246.9512	614.466.5343 614.466.43219	
Anielski, Martene (R-06) 12th Floor 17150 Alexander Rd., Walton Hills 44146	614.644.6041 440.786.8008	614.644.5079 216.862.6536	
Antani, Niraj (R-42) 11th Floor 85-45 Tree Top Ct. S., Miamisburg 45342	614.466.6504 937.838.6517	614.644.6711 740.203.9273	
Antonio, Nickie (R-06) 12th Floor 1305 Belle Ave., Lakewood 44107	614.466.5921 216.221.4421	614.644.6591 513.321.6591	
Ashford, Michael (D-44) 10th Floor 2910 Collingwood Ave., Toledo 43610	614.466.1401 419.353.3805	614.466.8104 419.353.3805	
Baker, Nan (R-16) 12th Floor 4477 Wallard Circle, Westlake 44145	614.466.0961 440.892.9101	614.466.6344 937.548.6239	
Barnes Jr., John (D-19) 11th Floor 4460 Lee Rd., Cleveland 44128	614.466.1408 614.650.6683	614.644.5091 419.263.2756	
Becker, John (R-09) 12th Floor 925 Locust Ln., Cincinnati 45245	614.466.8134 13.753.6440	614.644.6008 937.293.4275	
Bischoff, Heather (D-20) 10th Floor 2902 Braden Way, Blacklick 43004	614.644.6002 614.471.4811	614.466.3485 440.842.4530	
Blessing, Jill, Lou (R-29) 13th Floor 3153 McGill Lane, Cincinnati 45251	614.466.9091 513.477.8103	614.644.6014 740.676.7087	
Boose, Terry (D-57) 12th Floor 5054 SR 601., Norwalk 44857	614.466.9628 419.668.6669	614.466.2004 330.527.4595	

Condit, Margaret (R-52) 11th Floor 6959 Rock Springs Rd., Hamilton 45011	614.466.8550 513.779.6508	614.466.1414 216.791.8047	614.466.1308 513.227.0892
Craig, Hearcel (D-26) 10th Floor 1026 Linwood Ave., Columbus 43206	614.466.8010 614.315.5815	614.466.8114 937-667-1877	614.466.1374 419.447.8607
Cupp, Bob (R-04) 13th Floor 8824 ClearView Lake Ct., Powell 43065	614.466.9624 740.203.9273	614.644.6037 330.784.2466	614.466.8030 330.353.0373
Curtin, Mike (D-17) 10th Floor 1370 Cambridge Blvd., Columbus 43212	614.644.6005 614.488.8542	614.466.2124 740.259.3630	614.466.2960 937.839.1366
Derickson, Timothy (R-53) 12th Floor 2700 Oxford Millville Rd., Oxford 45056	614.644.5094 513.523.2026	614.644.6011 419.626.0028	614.466.1177 330.656.1935
Dever, Jonathan (R-28) 11th Floor 5525 Maple Ridge Dr., Cincinnati 45227	614.466.8120 513.342.6872	614.644.6011 419.626.0028	614.466.7251 440.257.4866
DeVitis, Anthony (R-36) 11th Floor 3946 Golden Wood Way, Uniontown 44685	614.466.1790 330.896.4860	614.466.1645 614.466.1645	614.466.5802 419.612.5610
Doviola, Mike (R-07) 14th Floor 62 Hamagy St., Berea 44017	614.466.4895 440.973.7111	614.466.8012 440.859.2998	614.466.3506 937.716.9869
Driehaus, Denise (D-31) 14th Floor 300 Klotter Ave., Cincinnati 45219	614.466.5786 513.921.1423	614.466.1431 330.365.0533	614.466.3350 216.252.0986
Duffey, Mike (R-21) 13th Floor 645 Farmington Dr., Worthington 43085	614.644.6030 614.505.7700	614.644.5088 440.600.4006	614.466.3100 330.376.2922
Fedor, Teresa (D-45) 10th Floor 242 Willard, Toledo 43614	614.644.6017 419.385.8803	614.262.5896 Columbus 43202	614.466.8258 513.574.2574
Gerberry, Ronald (D-59) 14th Floor 2940 Whispering Pines, Canfield 44406	614.466.6107 330.799.2674	614.466.9435 330.746.8091	614.644.8728 740.373.1764
Ginter, Tim (R-05) 13th Floor 748 S. Lincoln Ave., Salem 44460	614.466.8022 614.466.8022	614.644.6023 513.932.4646	614.466.1507 937.834.1961
Gonzales, Anne (R-19) 13th Floor 335 Wildwood Dr., Westerville 43081	614.466.4847 614.354.4034	614.644.5076 440.327.1799	614.644.6074 440.266.0022
Green, Doug (R-66) 13th Floor 708 S. High St., Mt. Orab 45154	614.644.6034 937.444.3306	614.466.3760 419.592.9289	614.466.1731 419.882.2150
Grossman, Cheryl (R-23) 13th Floor 3143 Park St., Grove City 43123	614.466.9690 614.466.9690	614.466.3660 419.592.9289	614.644.6074 440.266.0022
Hackett, Robert (R-74) 11th Floor 2050 Palouse Dr., London 43140	614.466.1470 740.852.0437	614.466.5358 330.372.4363	614.466.5358 466.9628
Hagan, Christina (R-50) 13th Floor 11787 Marlboro Ave., NE Alliance 44601	614.466.9078 330.257.1988	614.466.3488 330.448.6818	614.466.3488 330.448.6818
Hall, Dave (R-70) 11th Floor 358 E. Jackson St., Millersburg 44654	614.466.2994 330.287.3352	614.466.7954 216.681.8393	614.466.7954 216.681.8393
Hambley, Steve (R-69) 10th Floor 2820 Grafton Rd., Brunswick 44212	614.466.8140 330.225.0436	614.466.1405 440.576.9863	614.466.1405 440.576.9863
Hayes, Bill (R-72) 12th Floor 58 Corbin Dr., Granville 43023	614.466.2500 740.927.4285	614.466.8147 937.644.0550	614.466.8147 937.644.0550
Henne, Michael (R-40) 13th Floor 4447 Diamond Mill Rd., Clayton 45315	614.644.8051 937.832.7475	614.644.6020 937.426.2787	614.644.6020 937.426.2787
Hill, Brian (R-17) 11th Floor 2585 AsburyChapelRd., Zanesville 43701	614.466.1464 614.983.6191	614.466.2158 740.592.2008	614.466.2158 740.592.2008
Hood, Ron (D-75) 10th Floor 14553 Walnut Creek Pike, Ashville 43103	614.466.1464 614.983.6191	614.466.1464 614.983.6191	614.466.1464 614.983.6191

Reece, Alicia (D-33) 10th Floor 2081 Seymour Ave., Apt. A, Cind. 45237	614.466.1308 513.227.0892	614.466.1418 419.699.3095	614.466.1418 419.699.3095
Reineke Jr., William (R-88) 13th Floor 5209 S. SR 213, Tiffin 44883	614.466.1374 419.447.8607	614.644.5085 330.665.5445	614.644.5085 330.665.5445
Retherford, Wes (R-51) 13th Floor 350 AshleyBrook Dr., Hamilton 45013	614.644.6721 513.686.0245	614.466.8030 330.353.0373	614.466.8030 330.353.0373
Rezabek, Jeffrey (R-43) 11th Floor 3865 Old Salem Rd., Dayton 45415	614.466.2960 937.839.1366	614.466.5441 216.862.5425	614.466.5441 216.862.5425
Roegner, Kristina (R-37) 11th Floor 2222 E. Streetsboro Rd., Hudson 44236	614.466.1177 330.656.1935	614.466.1366 740.446.3653	614.466.1366 740.446.3653
Rogers, John (D-60) 10th Floor 5428 Pinehill Dr., Mentor-On-The-Lake 44060	614.466.7251 440.257.4866	614.466.3819 419.421.0543	614.466.3819 419.421.0543
Romanchuk, Mark (R-02) 11th Floor 3306 Oakstone Dr., Mansfield 44903	614.466.5802 419.612.5610	614.466.0420 Columbus 43201	614.466.0420 Columbus 43201
Rosenberger, Cliff (R-91) 14th Floor 7027 SR 350 W., Clarksville 45113	614.466.3506 937.716.9869	614.466.3207 Dayton 45405	614.466.3207 Dayton 45405
Ruhl, Margaret Ann (R-68) 11th Floor 3 Swingle Ave., Mt. Vernon 43050	614.466.1431 740.393.1889	614.466.0986 Cleveland 44111	614.466.0986 Cleveland 44111
Ryan, Scott (R-71) 11th Floor 3216 Sharon Valley Rd. NE, Newark 43055	614.466.1482 740.366.3431	614.466.3100 Apt. A, Akron 44308	614.466.3100 Apt. A, Akron 44308
Schaffer, Tim (R-77) 13th Floor 1173 Stone Run Ct., Lancaster 43130	614.466.8100 740.654.0007	614.466.8100 Cincinnati 45247	614.466.8100 Cincinnati 45247
Scherer, Gary (R-92) 13th Floor 19920 Commercial Pt. Rd., Circleville 43113	614.644.7928 740.474.8712	614.644.8728 45750	614.644.8728 45750
Schuring, Kirk (R-48) 11th Floor 1817 Devonshire NW., Canton 44708	614.752.2438 330.478.2900	614.644.6074 440.266.0022	614.644.6074 440.266.0022
Sears, Barbara (R-47) 14th Floor PO Box 409, Sylvania 43560	614.466.1731 419.882.2150	614.644.6027 4607 White Blossom Blvd., Mason 45040	614.644.6027 4607 White Blossom Blvd., Mason 45040

Education	466.2500	466.2500	466.2500
Hayes (R)-Chair; Bremner (R)-Vice-Chair (D-46) 10th Floor	Huffman, KoeHLer, Manning, Roegner, Slaby, Smith R. (R-38) 11th Floor	Johnson T., LaTourrette, Maeg, Schurning, Sears, Sprague (D) *Fedor, Boyd, Patmon, Patterson, Phillips, Ramos, Smith K.	Phillips, Ramos, Smith K.
Energy and Natural Resources	466.8035	466.8035	466.8035
Landis (R)-Chair; Hagan (R)-Vice-Chair (D-08) 10th Floor	(R) Grossman, Hall, Hill, Maag, Slaby, Terhar, Thompson	(D) *O'Brien S., Cera, Howse, Leland	(D) *O'Brien S., Cera, Howse, Leland
Finance	466.1366	466.1366	466.1366
Smith R. (R)-Chair	Schurning (R)-Vice-Chair (R-83) 13th Floor	Doviola, Duffey, Green, Grossman, Manning (R)-Vice-Chair (D-18) 10th Floor	(R) Antani, Condit, Cupp, Dever, McColley, Pelanda, Rezabek, Sprague, Thompson
(D) *Driehaus, Antonio, Boyce, Cera, Clyde, O'Brien M., Patterson, Phillips, Ramos, Reece, Sykes			

Health and Aging	466.4847	466.4847	466.4847
Gonzales (R)-Chair	Huffman (R)-Vice-Chair (R) Brown, Butler, Duffey, Ginter, Johnson T., LaTourrette, Maeg, Schurning, Sears, Sprague (D) *Antonio, Barnes, Bischoff, Celebrezze, Lepore-Hagan, Ramos, Sykes		
Insurance	466.1470	466.1470	466.1470
Hackett (R)-Chair	Henne (R)-Vice-Chair (R) Brinkman, DeVitis, Gonzales, Kunze, LaTourrette, Retherford, Sears (D) *Bischoff, Ashford, Leland, Stinziano		
Judiciary	644.6008	644.6008	644.6008
Butler (R)-Chair	Manning (R)-Vice-Chair (R) Antani, Condit, Cupp, Dever, McColley, Pelanda, Rezabek, Sprague, Thompson		
(D) *Stinziano, Celebrezze, Johnson G., Sykes			

Local Government	644.6041	644.6041	644.6041
Anielski (R)-Chair	Ryan (R)-Vice-Chair (R) Baker, Becker, Boose, Hambley, Rezabek, Ruhl, Vitale (D) *Rogers, Ashford, Boyd, Reece		
Public Utilities	466.8100	466.8100	466.8100
Schaffer (R)-Chair	Roegner (R)-Vice-Chair (R) Amstutz, Brinkman, Budy Condit, Cupp, Doviola, Ginter, Hagan, Hall, Hill, Manning, Romanchuk, Ryan (D) *Ashford, Clyde, O'Brien S., Rogers, Sheehy, Slesnick, Smith K., Stinziano		
Rules and Reference	466.1474	466.1474	466.1474
Rosenberger (R)-Chair	(R) Bremner, Grossman, Hayes, Hood, Pelanda, Kunze (D) *Strahorn, Antonio, Boyce, Celebrezze, Ramos		
State Government	644.6023	644.6023	644.6023
Maag (R)-Chair; Kunze (R)-Vice-Chair (R) Becker, Grossman, Hackett, Hood, Huffman, LaTourrette, Perales (D) *Gerberry, Curtin, Slesnick, Sweeney			

Transportation and Infrastructure	466.9628	466.9628	466.9628
Boose (R)-Chair; Green (R)-Vice-Chair (R) Antani, Becker, Dever, DeVitis, Doviola, Johnson T., Ruhl, Vitale (D) *Sheehy, Howse, Johnson G., Lepore-Hagan, Sweeney			
Ways and Means	644.6265	644.6265	644.6265
McClain (R)-Chair	Scherer (R)-Vice-Chair (R) Amstutz, Baker, Boose, Burkle, Dever, Hambley, Henne, McColley, Reineke, Ryan, Schaffer, Slaby (D) *Clyde, Curtin, Gerberry, Sykes		

Transportation Subcommittees	466.9690	466.9690	466.9690
Grossman (R)-Chair (R) Doviola, Green (D) *Reece, Clyde			
Financial Institutions, Housing, and Urban Development	466.8104	466.8104	466.8104
Terhar (R)-Chair	Hambley (R)-Vice-Chair (R) Bremner, Brown, Doviola, Hackett, Reineke, Scherer, Sprague (D) *Smith K., Bischoff, Craig, Leland		
Government Accountability and Oversight	466.8104	466.8104	466.8104
Boose (R)-Chair	Blessing (R)-Vice-Chair (R) Buchy, Butler, Derickson, Green, McColley, Pelanda, Smith R. (D) *Clyde, Curtin, Gerberry, Leland		

Community and Family Advancement	644.5094	644.5094	644.5094
Derickson (R)-Chair; Ginter (R)-Vice-Chair (R) Antani, Condit, Dever, Hagan, Hayes, Hood, McClain, Young (D) *Howse, Boyce, Boyd, Lepore-Hagan, Patmon			
Community and Family Advancement Subcommittee on Minority Affairs	466.5343	466.5343	466.5343
Boyce (D)-Chair; (R) Antani, Condit, Dever (D) Patmon			
Economic and Workforce Development	466.0961	466.0961	466.0961
Baker (R)-Chair	Romanchuk (R)-Vice-Chair (R) Antani, KoeHLer, Kraus, Perales, Ryan, Young, Zeltwanger (D) *Smith K., Barnes, Craig, Driehaus		

Commerce and Labor	644.6074	644.6074	644.6074
Young (R)-Chair; DeVitis (R)-Vice-Chair (R) Blessing, Brinkman, Duffey, Hood, KoeHLer, Landis, Pelanda, Roegner (D) *Lepore-Hagan, Fedor, Reece, Slesnick, Sweeney			

House Committees			
Agriculture and Rural Development	644.6014	644.6014	644.6014
Hill (R)-Chair; Burkley (R)-Vice-Chair (R) Boose, Budy, Hagan, Kraus, LaTourrette, Retherford, Rezabek, Ruhl, Schaffer, Thompson, Vitale, Zeltwanger (D) *Patterson, Cera, O'Brien M., O'Brien S., Patmon, Phillips, Sheehy			
Armed Services, Veterans Affairs, and Public Safety	466.2124	466.2124	466.2124
Johnson T. (R)-Chair	Perales (R)-Vice-Chair (R) Anielski, Kraus, Landis, Retherford, Terhar, Vitale (D) *Craig, Bischoff, Fedor, Johnson G., O'Brien M., Young, Zeltwanger		
Commerce and Labor	644.6074	644.6074	644.6074
Young (R)-Chair; DeVitis (R)-Vice-Chair (R) Blessing, Brinkman, Duffey, Hood, KoeHLer, Landis, Pelanda, Roegner (D) *Lepore-Hagan, Fedor, Reece, Slesnick, Sweeney			

Leadership

Ohio 2nd in 2014 Site Selection Ranking

For the second year in a row, Ohio finished second in Site Selection magazine's "[Governor's Cup](#)," awarded for the number of new plant projects in the year. Ohio finished second both in the aggregate number of projects and in the per capita category.

Texas led the nation in total projects. Kentucky took the per capita crown. *3/2/2015*

JobsOhio Releases 2014 Annual Report

JobsOhio this week released its [2014 Annual Report and 2015 Strategic Plan](#). The private sector state development agency reported that in 2014 it "assisted 276 companies that committed to create 21,377 new jobs for Ohioans and make \$6.1 billion in new capital investments. These new job and investment commitments represent nearly a 20 percent and a 72 percent increase, respectively, over 2013 year-end metrics."

In 2015, the agency says: "(W)e will launch a Customized Workforce Training Initiative. Using the resources in the state's education system, non-traditional learning, and OhioMeansJobs.com, JobsOhio will work with companies expanding in the state or new employers coming to the state to ensure there is an adequate supply of workers to meet their needs.

The initiative is designed for companies that are working with JobsOhio to identify the type of workers needed to fill the new roles. Once the number and types of workers are identified, JobsOhio will work with state and local agencies to create a pool of talent to fill the roles. JobsOhio will help recruit workers, conduct pre-employment screening, assess available skills and provide training in classrooms, labs or on-site to provide a viable workforce when the client company is ready to begin operations." *3/5/2015*

Bill to Limit Attorney General's Outside Counsel Returns

After narrowly failing during the last day of the 130th General Assembly, the Transparency in Private Attorney Contracts Act (TIPAC) has been reintroduced and may soon be voted. [SB 38](#) imposes transparency and guidelines in certain attorney general outside counsel contracts.

This week, the sponsor, Sen. [Bill Seitz](#) (R-Cincinnati) presented [testimony](#) crediting the bill with, "providing the business community with assurance that private

attorneys representing the state will not be incentivized by their own profit motive to pursue prolonged lawsuits." *3/5/2015*

Update on Transportation Budget Bill

The state transportation & public safety budget bill, HB 53, was revised significantly by the House Finance Committee. Most notable for manufacturers was the removal of the newly proposed Division of Freight, which would serve to improve coordination of the state's multi-modal investments.

It remains to be seen if the freight management proposal will be restored as the bill progresses. The full House is expected to complete action on the bill next week, sending it to the Senate for consideration. *2/26/2015*

Kasich State of State Address Next Tuesday

Governor Kasich will present his State of the State address in Wilmington, the home of Speaker Cliff Rosenberger, next Tuesday, February 24, at 7:00 p.m.

You can watch the speech [here](#) or [here](#). *2/18/2015*

U.S. Advanced Industries: Critical, Losing Ground

Brookings has produced [a report](#) on the advanced industries, which are mostly manufacturing industries, of the U.S. It's conclusion: advanced industries must be the focus of American economic growth, but they are, unfortunately, losing ground to international competitors.

Says Brookings: "(T)he combination of intensive technology investment and highly skilled STEM workers in the advanced industry sector represents a potent source of U.S. prosperity—including for workers without a bachelor's degree. Advanced industries power the national economy and their success is a prerequisite for building an opportunity economy in the United States."

Yet: "The deterioration of the nation's balance of trade in advanced technology products over the last decade raises especially sobering questions, not just about trade policy, but about the long-term vitality of the sector. Likewise, too few regional advanced industry ecosystems now retain the technology inputs, labor pools, and supplier density to generate the synergies that drive global competitiveness. Making matters worse is the gridlock in Washington that

continues to preclude national action to strengthen advanced industries through sensible corporate tax reform or strategic trade liberalization and enforcement.”

Brookings calls for a renewed focus on innovation spurred by more R & D, a recharged skill pipeline, and regional industrial community collaboration. *2/19/2015*

Governor's Operating Budget Introduced

The governor's proposed main operating budget for fiscal years 2016 and 2017, which he unveiled last week, has now been introduced into the General Assembly as [House Bill 64](#). It proposes \$72.3 in expenditures over the two years.

As have been each of the governor's previous budgets, this one is really big (2,783 pages), and includes lots of proposed reforms, small and large. OMA staff and subject matter expert partners are combing the bill for manufacturing impact, and will be preparing analyses of the bill for member discussion and decision-making in the OMA policy committees. Thus, you don't need to read the 2,783 pages yourself. *2/12/2015*

Kasich Protects Lake Erie, and its Shipping

In good news for Ohio manufacturers, Governor Kasich this week issued an [executive order](#) aiming to “protect Lake Erie, its aquatic life and the fishing industry, while ensuring shipping can continue in the Cuyahoga River.”

The order prohibits open lake disposal of dredge material. The state has been in a standoff with the U.S. Army Corps of Engineers on this issue; the Corps has called for open lake disposal.

The governor insists that land-based disposal costs should be borne by the federal government. Says the Ohio EPA: “(B)ecause it is determined to be contaminated and not environmentally suitable for disposal in the lake by both Ohio EPA and ODNR via its federally approved costal management plan, it is Ohio's determination that disposal of all dredge material in a confined disposal facility must be at full federal expense.”

The state will litigate if the feds refuse to cooperate.

Read the [governor's press release](#), and the [release from the Ohio EPA](#). *2/12/2015*

ODOT Proposes State Freight Office

The state transportation budget, now formally introduced as [HB 53](#), contains language to create the Division of Freight within the Ohio Department of Transportation (ODOT). The division would coordinate investment of multi-modal transportation and conduct long-term strategic planning of assets.

Here's a [fact page](#) from ODOT detailing how the Division of Freight would work. *2/12/2015*

State of the State on February 24

Wilmington, Ohio will host Governor Kasich for his annual State of the State address on Tuesday, February 24 at 7:00 p.m. Wilmington was chosen because it is home to Speaker Cliff Rosenberger. The governor's address will be available live [online](#).

Contact [OMA staff](#) if you would like to attend as part of an OMA delegation. The event requires a ticket. *2/12/2015*

Timmons Promotes Manufacturing in Ohio

National Association of Manufacturers (NAM) president Jay Timmons visited his home state of Ohio last Thursday and Friday. He made stops for speeches in Chillicothe, his home town, and Cleveland on his national 2015 State of Manufacturing tour.

Watch his speech at the Cleveland City Club [here](#).

NAM was founded in Ohio in 1895. It's good to have a native son at its helm 120 years later. *2/12/2015*

Manufacturers Call for Better Freight & Infrastructure Policy

The [OMA testified](#) in support of resources for Ohio's maritime infrastructure, particularly Ohio's ports. [ArcelorMittal](#), [Tata Steel](#), [Cargill](#) and [Siemens](#) provided testimony in support of enhanced port funding. The OMA testimony also urged action in support of Ohio EPA's efforts to ensure cost-effective dredging of Ohio's shipping channels into Lake Erie.

In a welcome move for Ohio manufacturers, ODOT Director Jerry Wray [called for](#) the creation of the Division of Freight to replace the Ohio Rail Development Commission. The ODOT director said “(f)inally, we are respectfully requesting to move the Ohio Rail Development Commission into a newly developed division at the Ohio Department of Transportation--called the Division of Freight. This new division would serve Ohio's interests in rail, maritime and highway freight. By combining these

efforts into a truly inter-modal division, we will have the ability to more effectively coordinate projects, technical analysis and freight programs.” 2/5/2015

Legislature and Ohio Secretary of State Aim to Lower Business Fees

Ohio lawmakers are looking at legislation that would lower the fees associated with filing a business in Ohio from \$125 to \$99.

Over a five-year period, taking into account initial and annual fees, the proposed cut would make Ohio the most affordable place to start a limited liability company as compared to the surrounding states of Kentucky, Indiana, Michigan, Pennsylvania and West Virginia.

You can read more about HB 3 [here](#) and [here](#). 2/5/2015

OMA Signs on in Support of Small Business Regulatory Reform

OMA has joined a multi-association effort and signed onto a [letter of support](#) for H.R. 527, the Small Business Regulatory Flexibility Improvements Act of 2015. The letter was sent to each legislative director in the U.S. House. This bipartisan legislation would reform the regulatory process to ensure that all federal agencies appropriately consider the impact of their rules on small businesses across the U.S.

H.R. 527 would improve and modernize the Regulatory Flexibility Act (RFA), a 1980 law that requires federal agencies to transparently account for the impact of regulation on small businesses. However, each agency interprets important terms in the existing statute in widely divergent ways and is able to avoid the RFA’s requirements as Congress intended. This bill would streamline and make uniform those determinations of when the RFA would apply to a rule. 2/5/2015

Congress: Act Swiftly on Trade Promotion Authority

To ensure members of Congress understand how important trade and open markets are for businesses in every state, the OMA has signed onto this [joint letter](#), initiated the National Association of Manufacturers and the U.S. Chamber of Commerce, which are working together to build and demonstrate broad support for swift action on Trade Promotion Authority (TPA). 2/5/2015

Ohio Regulatory Reform Report Issued

Lt. Governor Mary Taylor this week released the [annual report](#) of the Common Sense Initiative (CSI), the administration’s lead entity for regulatory reform.

The mission of CSI is to “independently evaluate the economic impact of state agency regulations on Ohio businesses and to reduce that impact wherever possible.” All rules affecting business are reviewed by CSI, about 5,500 rules since its inception in 2011. 2/5/2015

State of the State Roadshow: This Year, Wilmington

In his [annual letter](#) to the General Assembly requesting a joint session for his State of the State address, Governor Kasich once again [asked legislative leaders](#) to take state government on the road, this time to Wilmington on Tuesday, February 24. 2/5/2015

House and Senate Outline Session Priorities

The Republican caucuses in both the House and the Senate this week outlined their priorities for legislation this session.

Senate President Keith Faber (R – Celina) in a press conference presented priorities of: containing college and university costs for students; addressing the problems of toxic algae blooms; creating a special prison for drug-addicted felons; lowering the cost of Medicaid (but maintaining the governor’s Medicaid expansion); “deregulating” high performing schools; and, better coordinating workforce development for welfare recipients.

In a separate press conference, Speaker Cliff Rosenberger (R – Clarksville) outlined four policy “pillars”: energy, education, competitiveness, and health care. The House Republican leaders are creating a longer-term vision for the state, named “Ohio 2020,” intended to focus legislative work for more than one session.

Read a [House Journal summary](#) of the House priority bills. And, read the [House blog](#) and the [Senate blog](#) about the priorities. 1/29/2015

Which Elected Officials Do You Personally Know?



Is an elected official your friend, neighbor, business colleague or have you worked on his or her campaign? Are you an active voter in the district? Consider becoming an OMA Key Contact!

OMA Key Contacts are OMA members who have a relationship - personal or professional or civic - with members of the Ohio General Assembly, U.S. Congress, or other elected officials.

As a Key Contact you might be called on to contact your elected officials on specific issues to explain and support the manufacturers' position. OMA will provide helpful support materials and advice to Key Contacts.

Key Contact activity is strictly voluntary and there are no commitments. It's the **power of collective action** to protect and grow Ohio manufacturing! [Tell us about your relationships here](#) in the OMA's Manufacturing Advocacy Center. 1/23/2015

Regulatory Reform Coming Up on U.S. House Agenda

Next week, the U.S. House will consider legislation that would reform the regulatory process to ensure that federal agencies consider the impact of their rules on small businesses. The bill, H.R. 527, the [Small Business Regulatory Flexibility Improvements Act of 2015](#), was introduced by Rep. Steve Chabot (R-OH), Chairman of the House Small Business Committee, and Rep. Bob Goodlatte (R-VA), Chairman of the House Judiciary Committee.

The National Association of Manufacturers (NAM) urges support of H.R. 527 because manufacturers face a significant and disproportionate regulatory burden compared to other sectors of the economy. Small manufacturers are hit especially hard when agencies issue inefficient and duplicative rules without consideration of less costly alternatives.

You can find your U.S. Representative and compose an email to him or her at the [OMA Manufacturing Advocacy Center](#). NAM has [more info here](#). 1/29/2015

Call for NE Ohio Manny Award Nominations

Since 1998, the Manny Awards program has recognized more than 100 manufacturers from around Northeast Ohio that have excelled in such areas as product development, green initiatives and workplace environment.

They are considered innovators who reflect the manufacturing strength and future of the region.

Nominate your great company or one you know [here by February 6](#).

House Committee Assignments Announced

Speaker of the House of Representatives Cliff Rosenberger this week announced committee assignments. Hannah News Service has compiled this [list of the members](#) who will serve on the standing House committees.

Senate committee assignments are expected soon. 1/22/2015

NAM President to Make Two Ohio Stops in Early February

National Association of Manufacturers (NAM) President and CEO Jay Timmons will return to his hometown of Chillicothe on February 5 and be in Cleveland on February 6 to deliver his 2015 State of Manufacturing address.

The Chillicothe dinner event is hosted by the Chillicothe Ross Chamber and sponsored by Glatfelter; the Cleveland event includes a luncheon at the City Club of Cleveland.

Timmons will showcase advances in manufacturing in the United States, discuss current policy challenges, and lay out the manufacturing strategy for leadership.

This address is part of the [NAM's 2015 State of Manufacturing Tour](#), a series of speeches and events across the country in February to highlight the importance of manufacturing to America's future.

Get more information and register for the [Chillicothe event here](#), and get details and register for the [Cleveland event here](#). 1/16/2015

RNC Sets 2016 Cleveland Convention Dates

Republican National Committee (RNC) Chairman Reince Priebus announced the party's four-day 2016 convention in Cleveland will start Monday, July 18

and culminate with a presidential nominee on Thursday, July 21, Northeast Ohio Media Group [reports](#). 1/15/2014

Community Connectors: Call for Grant Scorers

Governor Kasich proposed in his 2014 State of the State address the creation of Community Connectors to help students reach their full potential by bringing together parents, schools, communities, faith-based groups, businesses, and students in mentoring programs.

The Ohio Department of Education is seeking individuals to serve as scorers for the Community Connectors grant applications. Each scorer will provide a detailed and objective review of up to six grant applications. These reviews will be used to recommend [applications for funding](#).

The Department of Education is seeking fiscal and programmatic scorers from various backgrounds and professions including but not limited to: business professionals and entrepreneurs, K-12 teachers and administrators, nonprofit managers and administrators, faith-based organization leaders, grant writers and others with education or fiscal expertise.

The most qualified candidates will have expertise in mentor programming for youth, business or nonprofit finance and/or prior experience reviewing or approving grant applications.

[Learn more here](#) and apply [here](#). For questions, [contact Rachel Landerman](#) or (614) 387-2271. 1/20/2015

Tailor your OMA Membership

Tailor your OMA membership experience at [My OMA](#) to make sure you're getting what you need, and nothing more.

Join OMA Management Communities. Choose from Energy, Environment, Government Affairs, Human Resources, Safety & Workers' Compensation or Tax. Receive webinar & event announcements, timely alerts, and policy committee invitations & materials for your areas of interest.

Subscribe to OMA publications at [My OMA](#), too. *Daily News Clips* keeps members up to date on Ohio's business and political news. *Energy INSIGHTS* is a monthly blog with advice on energy procurement and management.

Have questions or need login help? Contact OMA's [Lisa Cummings-Dye](#) or call her at (800) 662-4463 or [see this flier](#). 1/14/2015

A National Championship and an Inauguration

This was one big week for Ohio. We won the national championship and we inaugurated our governor for a second term. On the same day!

Congratulations, Governor Kasich and Coach Meyer.

Read the governor's inaugural speech [here](#). It's a good one. 1/15/2015

Speaker Rosenberger Appoints Committee Chairs

Speaker Cliff Rosenberger this week appointed the chairs, vice chairs and ranking minority members for all the House committees in this 131st Ohio General Assembly. There will be 19 standing committees this session, two more than in last session.

Chairs of committees of particular importance to manufacturers: Finance, Rep. Ryan Smith, (R-Bidwell); Commerce & Labor, Rep. Ron Young, (R-Leroy Township); Economic & Workforce Development, Rep. Nan Baker (R-Westlake); Energy & Natural Resources, Rep. Al Landis, (R-Dover); Insurance, Rep. Robert Hackett, (R-London); Judiciary, Rep. Jim Butler, (R-Oakwood); Public Utilities, Rep. Tim Schaffer, (R-Lancaster); Rules & Reference, Rep. Ron Amstutz, (R-Wooster); Transportation & Infrastructure, Terry Boose, (R-Norwalk); Ways & Means, Rep. Jeff McClain, (R-Upper Sandusky).

Find all the chairs, vice chairs, and ranking members [here](#). 1/12/2015

The 2014 Elections Are Over. What's Next?

Here's an [open letter](#) from Ned Monroe, the senior vice president of external relations for the National Association of Manufacturers.

Ned points to the effective role manufacturers played in the 2014 midterm elections and highlights some of the policy priorities for the new Congress. He can be reached [via email](#) or via twitter [@NedMonroeVA](#). 1/9/2015

Fifth Innovation Hub Announced

A fifth federal manufacturing innovation hub has been announced.

A new Institute for [Advanced Composites Manufacturing Innovation](#) (IACMI) will be located at the University of Tennessee in Knoxville. The IACMI will be divided into five regionally focused institutes with Ohio hosting the compressed gas storage institute at the University of Dayton.

The IACMI project is a \$259 million public-private partnership that is supported by the U.S. Department of Energy's (DOE) Advanced Manufacturing Office.

These institutes are patterned on [legislation](#) sponsored by Ohio Senator Sherrod Brown. 1/12/2015

Grant Funds Still Available for Small Business Exporters

The Ohio International Market Access Grant for Exporters (IMAGE), funded by the state of Ohio and the U.S. Small Business Administration, is designed to increase exports and create jobs.

The IMAGE grant offers financial assistance for small businesses to promote their products and services in international markets. The grant will provide a 50 percent reimbursement up to \$10,000 per fiscal year for qualifying activities. Sixty percent of the grant funding is still available. [Learn more.](#) 1/12/2015

Kasich Moves (Fast) into Next Term

Governor Kasich will be sworn in next Monday, January 12, at 11:30 a.m. He is moving on myriad policy fronts quickly, as always. Get ready for lots of policymaking activity in this new year.

You can watch the swearing in on the [Ohio Channel](#). 1/7/2015

Senate Sworn in - Faber to Lead

On Monday, new and returning members of the Ohio Senate were sworn in to begin the work of the 131st General Assembly. You can watch the video of the ceremony [here](#).

[Sen. Keith Faber](#) (R-Celina) was elected by his peers to lead as Senate President.

President Faber announced that the Senate will spend a good portion of early 2015 focused on passing the state's biannual budget, which will be unveiled in early February.

The 2015 session [calendar](#) was published; a heavy workload is anticipated in May and June. 1/7/2015

Ohio House Convenes under New Leadership

Rep. [Cliff Rosenberger](#) (R – Clarksville) is now Speaker Rosenberger, as he was formally elected Monday.

The new speaker plans to develop a longer-term plan for the body, beyond the two-year session. He called the plan "Ohio 2020" and proposed to set specific goals for education and the economy, establishing accountability for the body to meet the goals.

Speaker Rosenberger said there will be a slight expansion from the current 17 committees in the House with a couple of committees splitting into two.

Education and improving Ohioans' quality of life are the speaker's two top priorities.

His hometown of Clarksville is located in southwest Ohio with a population just north of 500. He's a new uncle; his first nephew was born in December, the day after he visited with the OMA Government Affairs Committee.

Watch video of the opening session [here](#). 1/7/2015

Settled Insurance Dispute Protects Standards

Late last year, manufacturer Lincoln Electric and insurer National Union advised the Supreme Court of Ohio that they had settled their case, and they jointly moved for dismissal of the appeal. On December 24, 2014, the Court granted their motion by filing a judgment entry dismissing the case.

The settlement prevents erosion of Ohio law protecting policyholders. Together with Cliffs Natural Resources, Inc., Eaton Corporation, Nordson Corporation, RPM International, The Goodyear Tire and Rubber Company and others, the OMA filed an [amicus brief](#) in defense of Lincoln Electric to uphold Ohio's favorable case law on settlement credits or set-offs which has been determined by the Ninth District Court of Appeals in the *Goodrich v. Commercial Union* case. The *Goodrich* case continues to be the highest authority on these issues in the Ohio courts.

Congratulations to Lincoln Electric and to amicus participants. Thanks to attorneys Paul Rose and Caroline Marks of the [Brouse McDowell](#) law firm and to OMA appellate counsel [Anne Marie Sferra](#) of Bricker & Eckler LLP. OMA investments in amicus activity help protect Ohio's manufacturers. 1/8/2015

General Assembly Approves Redistricting Reform Compromise

The Ohio House and Ohio Senate engaged for several weeks in bi-partisan negotiations to reform the redistricting process for General Assembly districts with a compromise reached in the early morning of December 12. The Ohio Senate approved the measure 29-1 at just after 4:00 a.m. on December 12.

On December 17, the Ohio House concurred 80-8 with Senate amendments on House Joint Resolution 12, the resolution. OMA counsel, [Christopher Slagle](#), of Bricker & Eckler sums up the agreement [here](#).

H.J.R. 12 does not impact Congressional District maps.

H.J.R. 12 will be voted on by the voters of Ohio during the November 3, 2015 general election. If H.J.R. 12 is approved, the new Ohio legislative redistricting process – the Ohio Redistricting Commission – will become effective January 1, 2021, with new Ohio House and Ohio Senate District maps to be drawn in 2021. 12/18/2014

Brown's Manufacturing Bill Goes to President's Desk

The "[Revitalize American Manufacturing and Innovation Act](#)," sponsored by Ohio Senator Sherrod Brown, was placed into the bipartisan omnibus spending bill that passed the U.S. House and Senate and was sent to the president for signature.

The act will create a national network of manufacturing hubs that aim to accelerate manufacturing innovation in technologies with commercial applications. The act was supported by the National Association of Manufacturers and by the OMA. 12/15/2014

Civil Justice: TiPAC Bill Doesn't Get a Vote

On the final day of the 130th General Assembly, the Transparency in Private Attorney Contracts Act (TiPAC), a bill to impose transparency and guidelines in certain attorney general outside counsel contracts, failed to make it through the legislative process.

The fate of SB 344 (Sen. Seitz R-Cincinnati) was sealed when the [House Rules Committee](#) declined to place the bill on the House calendar without any stated reason.

"TiPAC has been an OMA priority for several years and we will pursue it again in the next General Assembly," said OMA's managing director, Public Policy Services, Ryan Augsburg. 12/18/2014

NAM Releases Advocacy App

From NAM: "Nearly 60 percent of American adults own a smartphone. At the National Association of Manufacturers (NAM), we know that a majority of our potential advocates for good manufacturing policy do not have consistent, daily access to a computer – most are working on the shop floor – but all of us live in an increasingly mobile-enabled world.

As part of our ongoing effort to create a 21st Century advocacy program that is useful and accessible to all manufacturers, the NAM is proud to introduce a new way to connect with Capitol Hill right from the palm of your hand.

[The MFGWorks app is now available through the Apple iTunes Store for iPhone and iPad!](#) This free app gives America's manufacturing employees, families and friends the power to take action in support of manufacturing while they are on the go!

Download it and share it with co-workers, employees, family members, friends and neighbors today." 12/17/2014

An Android app is under development. 12/17/2014

OMA Board Elects New Directors

This week the OMA board of directors elected four new directors. The Nominating & Governance Committee of the board, the body that considers and recommends board nominations, determined that these candidates well represent the breadth and depth of Ohio manufacturing. The OMA board seeks qualified candidates from small, medium, and large companies, in all types of manufacturing, from all parts of Ohio.

The newly elected directors are: [Pamela R. Butcher](#) is the President and COO of Pilot Chemical Company in Cincinnati; [Jeff Fritz](#) is Manager, Government Affairs for DuPont Corporation; [Dean G. Jetter](#) is Chief Operating Officer and part owner of Fort Recovery Industries, Inc., headquartered in Fort Recovery, Ohio; and [Elia Esperanza Lopez](#) is the Plant Manager, Fabric Care Plant, Procter & Gamble, in Lima.

OMA chairman, Bill Sopko, President, Wm. Sopko & Sons Co., Inc., Cleveland said, "The incredible experience of these directors strengthens the OMA to execute its mission which is to protect and grow Ohio manufacturing. We're honored to have these directors join our very talented volunteer board." 12/5/2014

Steel Pipe Monitoring Program Proceeds on Original Timeline

In 2013 the Ohio House passed an important steel pipe monitoring program.

Unfortunately, an amendment attached to HB 490 in the House would have delayed by two years the beginning date by which an owner of a well must file with the Division of Oil and Gas Resources Management a country of origin disclosure form under the law.

In a victory for Ohio manufacturers of oil country tubular goods, HB 490 died in the Senate in the lame duck session. Thus, the monitoring program will be effective March 2015, as originally specified in law.

The steel pipe monitoring program is important to responsible development of the Utica and Marcellus Shale in Ohio. 12/11/2014

Bill to Limit Attorney General Outside Counsel Advances

The Ohio Senate this week approved [SB 344](#), the Transparency in Private Attorney Contracts Act (TiPAC), and sent the bill to the House where it is expected to pass before the General Assembly adjourns sine die next week.

Like its House companion, HB 238, the bill sets caps on contingency fees that a private attorney may receive when working on behalf of the Attorney General and generally limits contingency fees from exceeding \$50 million, except in certain circumstances.

The goal of the legislation is to provide accountability and increased transparency in the Attorney General's office so that the public can better understand when, why, and how public dollars are used to contract with private sector attorneys.

The OMA [supported the legislation](#). 12/11/2014

Schneider Downs Surveys Manufacturers for Economic Study

The Manufacturing Industry Group of OMA Connections Partner, [Schneider Downs](#), invites participation in its [2014 Annual Economic Survey of the Manufacturing Industry](#). This is the fourth year for the survey; its purpose is to provide manufacturers with a snapshot of the industry's performance over the last year.

This survey takes approximately 15 minutes and responses are anonymous. By filling out the survey, you may win one of three VISA gift cards. 12/11/2014

Speaker-elect Rosenberger Visits with OMA Members



Speaker-elect [Cliff Rosenberger](#) (R – Wilmington) visited with members of the OMA Government Affairs Committee Tuesday. The Speaker-elect outlined his vision for policy-making in the upcoming 131st General Assembly.

Rep. Rosenberger is a good friend of manufacturing and of the OMA. His dad supported his family through a career in manufacturing. The Speaker-elect told committee members that manufacturing is the economic backbone of Ohio and the country, and must be supported by good public policy. 12/4/2014

Pictured: Jill Jansen, Procter & Gamble, Government Relations; OMA President Eric Burkland; Speaker of the House-Elect Cliff Rosenberger; and Chris Hess, Manager, Government Affairs, Eaton Corp., and Chair, OMA Government Affairs Committee

Government Affairs Committee Wraps Up 2014



With just over a week until the 130th General Assembly adjourns sine die, manufacturing leaders convened in Columbus this week for the last OMA Government Affairs Committee meeting of 2014

The committee discussed a wide range of matters, including issues under consideration in the lame duck General Assembly, several of which are profiled in the OMA [Manufacturing Advocacy Center](#).

Miscellaneous Legislation of Interest to Manufacturers

Prepared by: The Ohio Manufacturers' Association

Report created on March 9, 2015

- HB3 BUSINESS FILING FEES-JOBS WEBSITE** (DERICKSON T, ROMANCHUK M) To reduce certain business filing fees charged and collected by the Secretary of State and to specify that Ohio-based companies are to have access to appropriate features of the OhioMeansJobs web site.
- Current Status:** 3/11/2015 - House Economic and Workforce Development, (Third Hearing)
- State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-3>
- HB10 ATTORNEY TRANSPARENCY** (BUTLER, JR. J) To provide transparency in contracts between the state and private attorneys.
- Current Status:** 3/10/2015 - House Government Accountability and Oversight, (Second Hearing)
- State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-10>
- HB17 EMERGENCY CIVIL IMMUNITY** (BLESSING III L, LANDIS A) To provide civil immunity for architects, contractors, engineers, surveyors, and tradespersons providing volunteer services during a declared emergency.
- Current Status:** 3/4/2015 - Referred to Committee Senate Civil Justice
- State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-17>
- HB42 LOCAL GOVERNMENT FUND** (GERBERRY R, CERA J) To require that, for fiscal year 2016 and each fiscal year thereafter, the Local Government Fund must receive the same proportion of state tax revenue that the Fund received in fiscal year 2005.
- Current Status:** 2/11/2015 - Referred to Committee House Finance
- State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-42>
- HB46 GOVERNMENT EXPENDITURE DATABASE** (DOVILLA M, DEVER J) To require the Treasurer of State to establish the Ohio State Government Expenditure Database.
- Current Status:** 3/4/2015 - House State Government, (Second Hearing)
- State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-46>
- HB49 AIRLINE-AIR FREIGHT COMMISSION** (BARNES, JR. J) To create the Commercial Airline and Air Freight Commission.
- Current Status:** 3/10/2015 - House Transportation and Infrastructure, (First Hearing)
- State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-49>
- HB53 TRANSPORTATION BUDGET** (GROSSMAN C) To make appropriations for programs related to transportation and public safety for the biennium beginning July 1, 2015, and ending June 30, 2017, and to provide authorization and conditions for the operation of those programs; and to amend the version of section 4507.11 of the Revised Code that is scheduled to take effect January 1, 2017, to continue the provisions of this act on and after that effective date.

Current Status: 3/12/2015 - Senate Transportation, Commerce and Labor, (Sixth Hearing)

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

HB64 OPERATING BUDGET (SMITH R) To make operating appropriations for the biennium beginning July 1, 2015, and ending June 30, 2017, and to provide authorization and conditions for the operation of state programs.

Current Status: 3/12/2015 - House Finance Subcommittee on Primary and Secondary Education, (Eighth Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-64>

HB68 ALCOHOL-BY-VOLUME (RAMOS D) To allow beer manufacturers to manufacture beer containing not more than 21% of alcohol by volume beginning on the effective date of this act, and, beginning one year after the effective date of this act, to allow the sale and distribution of beer containing not more than 21% of alcohol by volume in this state by increasing the legally permitted alcohol content of beer from 12% to 21% and to generally prohibit the inclusion of caffeine or other stimulants in beer containing more than 12% of alcohol by volume.

Current Status: 2/18/2015 - Referred to Committee House Government Accountability and Oversight

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-68>

HB100 VEHICLE WEIGHT LIMITS (SLABY M, PATMON B) To require that a vehicle with a gross vehicle weight rating or an actual gross vehicle weight of more than 10,000 pounds be driven only in either of the two right-hand lanes of a freeway with three lanes of travel in the same direction, except in limited circumstances.

Current Status: 3/4/2015 - Introduced

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

HJR2 REDISTRICTING-CONGRESSIONAL DISTRICTS (CLYDE K, CURTIN M) To revise the redistricting process for congressional districts.

Current Status: 3/3/2015 - Referred to Committee House Government Accountability and Oversight

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

HR25 HONORING THE MIDMARK CORPORATION (BUCHY J) Honoring the Midmark Corporation on its One Hundredth Anniversary.

Current Status: 2/25/2015 - Introduced

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

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

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

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

- SB26 BUSINESS FILING FEES (OBHOF L)** To reduce certain business filing fees charged and collected by the Secretary of State and to specify that Ohio-based companies are to have access to appropriate features of the OhioMeansJobs web site.
Current Status: 3/10/2015 - Senate State and Local Government, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-26>
- SB38 STATE-ATTORNEY CONTRACTS (SEITZ B)** To provide transparency in contracts between the state and private attorneys.
Current Status: 3/11/2015 - Senate Government Oversight and Reform, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-38>
- SB57 TOWNSHIP ROAD REGULATION (EKLUND J)** To authorize counties to adopt resolutions regulating motor vehicle traffic on county and township roads.
Current Status: 3/3/2015 - Senate State and Local Government, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-57>
- SB79 FELONY-JOB APPLICATION (WILLIAMS S)** To prohibit employers from including on an employment application any question concerning whether an applicant has been convicted of or pleaded guilty to a felony.
Current Status: 3/4/2015 - Referred to Committee Senate Transportation, Commerce and Labor
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-79>
- SB87 MINIMUM WAGE (TAVARES C)** to require that domestic workers be paid the minimum wage, as provided in Section 34a of Article II, Ohio Constitution, to require that domestic workers be paid overtime wages, to make certain conduct directed toward a domestic worker an unlawful discriminatory practice, and to require a weekly day of rest for domestic workers.
Current Status: 3/4/2015 - Referred to Committee Senate Transportation, Commerce and Labor
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-87>
- SJR1 PUBLIC OFFICE COMPENSATION COMMISSION (FABER K)** Proposing to amend Sections 4, 20, and 31 of Article II, Section 19 of Article III, and Section 6 of Article IV and to enact Section 20a of Article II of the Constitution of the State of Ohio to establish the Public Office Compensation Commission.
Current Status: 2/17/2015 - Senate Finance, (Third Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SJR-1>



Coalition For Transportation Productivity

Supporting Studies & Research

Why Raise the Vehicle Weight Limit?

America's transportation network is facing significant challenges.

For more than 25 years, the federal vehicle weight limit has been set at 80,000 pounds for five-axle trucks—a regulation that now challenges our safety, economy, environment and infrastructure. Companies that ship heavy goods are currently required to use more vehicles than necessary because their trucks often hit the federal weight limit with significant space remaining in the trailers. At the same time, freight hauled by trucks in the U.S. is expected to double by 2035. As our economy recovers, even more trucks will take to the road to meet the growing demand.

CONGRESS SHOULD ENACT THE SAFE & EFFICIENT TRANSPORTATION ACT (SETA), H.R. 612, TO MODERNIZE TRUCK TRANSPORTATION AND MAKE IT SAFER AND MORE SUSTAINABLE.

- SETA gives states the option to safely raise interstate weight limits, _____without making trucks any larger.
- States would be free to set interstate weight limits of up to 97,000 pounds—but only for vehicles equipped with an additional (sixth) axle. _____
- The required sixth axle would maintain braking capacity and the current distribution of weight per tire without changing the size of the truck.¹
- While the additional axle maintains vehicle safety performance and minimizes pavement wear, the additional user fee for six-axle units would fund bridge repair.



CLEANER ENVIRONMENT

The U.S. DOT estimates that raising the federal weight limit to 97,000 pounds will save 2 billion gallons of diesel fuel each year and cut emissions by 19% per ton mile.



IMPROVED INFRASTRUCTURE

The U.S. DOT estimates that allowing six-axle trucks to carry more weight on interstates will save \$2.4 billion in pavement restoration costs over the next 20 years.



STRONGER ECONOMY

Raising the federal vehicle weight limit will allow American producers to reduce the number of shipments needed to deliver a fixed amount of goods - making them more
_____productive and competitive.



SAFER ROADS

Since the U.K. raised its weight limit to 97,000 pounds for six-axle vehicles in 2001, fatal truck-related accidents have declined by 35%. Properly designed heavier trucks can be used safely in the U.S.

To: OMA Government Affairs Committee
From: Ryan Augsburger
Re: Energy Public Policy Report
Date: March 11, 2015

131st General Assembly Convenes

The two-year session of the General Assembly began in early January 2015. New faces will have impact on energy laws as Representative Tim Schaffer (R-Lancaster) becomes chair of the House Public Utilities Committee. Several other new faces join this committee (see attachment). There are fewer changes to report in the Ohio Senate Public Utilities Committee which will continue to be chaired by Senator Bill Seitz (R-Cincinnati). So far legislative activity has been eclipsed by the state budget which will be the focus until later in June.

Governor Kasich Appoints Porter

Following inaugural activities in early January, Governor John Kasich in February appointed Andre Porter to a seat on the Public Utilities Commission. Porter had been Director of the state department of commerce, a cabinet agency, fueling speculation that he may be elevated to Chair the PUCO at some time. Porter a former PUCO commissioner and utility law lawyer, takes the place of Steven Lesser.

Electricity Rates and Regulation

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

Federal Greenhouse Gas Regulations GHG and 111(d)

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

Ohio EPA and the PUCO filed comment on behalf of the state as did the Ohio attorney general. The gist of the testimony: as proposed, 111(d) revisions are unworkable.

Natural Gas Infrastructure

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

Capacity Prices

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

As a result of the "polar vortex" of January 2014, PJM proposed revisions to their processes. This issue was discussed throughout 2014 within the OMA energy committee and the OMA filed comment with PJM early autumn, 2014.

Energy Efficiency Legislation

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

SB 310 froze the alternative energy standards for two years and created a legislative study committee to assess the impacts of the standards. The study committee met twice already in 2015 and had some substitutions. The committee is co-chaired by Senator Troy Balderson and Representative Kristina Roegner. Co-Chair Balderson indicated the committee would rely on testimony from utilities and regulators. PJM is also slated for a presentation.

Manufactured Gas Plant Remediation Costs

For nearly two years, a few influential lawmakers have advanced a legislative proposal to revise a standard in utility law that would require customers to pay cost-recovery to utilities for remediation of obsolete manufactured gas plants.

OMA members were on guard against the proposal throughout 2014. It did not surface during the lame duck session but could be brought up at any time. Aside from a possible law change, a request for cost-recovery by Duke has been approved by the PUCO, even though the request seems to violate a state standard.

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

Polar Vortex *Pass-Through* Charges

Generation customers of First Energy Solutions (FES) were notified by the provider that they would be billed for a regulatory event associated with the polar vortex power shortages in January 2015. The one-time charge is outside the terms of the contract. If allowed by regulators, the charges would result in an unfavorable precedent for all customers. Several OMA members are working collectively to contest the charges. Contact staff to learn more.

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

Late last year, House Bill 319 (Cheryl Grossman, R-Grove City) was enacted and would permit a natural gas company to establish a rider to fund gas infrastructure development. The OMA worked to maintain a balance between funding meaningful economic development and protecting customers from new costs.



Rep. Tim Schaffer To Chair House Public Utilities Committee

January 13, 2015

COLUMBUS -

Speaker of the Ohio House of Representatives Clifford A. Rosenberger (R-Clarksville) appointed Rep. Tim Schaffer (R-Lancaster) to serve as Chairman of the House Public Utilities Committee.

“I am humbled that Speaker Rosenberger has approached me to serve in this capacity,” Schaffer said. “This is an exciting new opportunity to serve my constituents by working on public utilities issues, which is a subject area that greatly impacts all Ohioans. I look forward to working with Vice-Chair Kristina Daley Roegner, Ranking Member Mike Ashford, and the rest of our committee to craft strong public utility policy in order to make Ohio a better place to live, build a business, and raise a family.”

Schaffer was sworn in to the Ohio House last week, after serving in the Ohio Senate for eight years, where he most recently served as the Chairman of the Senate Committee on Ways and Means. He previously served in the Ohio House from 2001 to 2006.

Schaffer represents the 77th District in Fairfield County, including Pickerington, Lancaster, Baltimore, Millersport, Pleasantville, Thurston, Rushville and West Rushville.

OHIO HOUSE OF REPRESENTATIVES

PUBLIC UTILITIES COMMITTEE

MEMBERS

 <p>Tim Schaffer (R) Chair</p>	 <p>Kristina Roegner (R) Vice Chair</p>	 <p>Mike Ashford (D) Ranking Member</p>
 <p>Ron Amstutz (R)</p>	 <p>Thomas E. Brinkman, Jr. (R)</p>	 <p>Jim Buchy (R)</p>
 <p>Kathleen Clyde (D)</p>	 <p>Margaret Conditt (R)</p>	 <p>Robert R. Cupp (R)</p>
 <p>Mike Dovilla (R)</p>	 <p>Timothy E. Ginter (R)</p>	 <p>Christina Hagan (R)</p>



David Hall (R)



Brian Hill (R)



Nathan H. Manning
(R)



Sean O'Brien (D)



John M. Rogers (D)



Mark J. Romanchuk
(R)



Scott Ryan (R)



Michael Sheehy (D)



Stephen Slesnick (D)



Kent Smith (D)



Energy

PUCO Anticipates Net Increase in Ohio Generation

Despite the announced shuttering of six coal-fired generating units in Ohio, the Public Utilities Commission of Ohio (PUCO) told the House Public Utilities Committee that it expects new natural gas plants to make up for the generation, and then some.

The PUCO said that the following coal plants will go offline by this summer: NRG Power in Lakeshore, FirstEnergy in East Lake and Ashtabula, AEP Ohio in Muskingum County and Pickaway County, and Dayton Light & Power in Hutchings. These plants generate about 3,400 megawatts (MW) of electricity.

Various project developers will have six new natural gas plants coming online over the next five years, located in Oregon, Middletown, Rolling Hills, Meigs County, Carroll County and Lordstown. They are expected to generate 4,300 MW of power.

The PUCO noted that the regional grid operator, PJM, has responsibility for assuring adequate power capacity in Ohio and the entire 13 state region. *3/5/2015*

Join OMA Energy Efficiency Peer Network

The OMA Energy-Efficiency Peer Network (EENP), formerly the OMA CHP/WER/EE Work Group, 2015 calendar is set. The EENP is a peer-sharing, learning group for facility and energy managers charged with managing energy consumption and peak demand in their facilities.

The service was improved for 2015 based on input from manufacturers to include: plant tours hosted by Honda and Crown Battery; peer-learning webinars on efficiency projects; do-it-yourself tools; professional consulting and technical assistance for your energy-efficiency projects.

You can learn more about and join the network [here](#). There is no charge for members.

The upcoming EENP meeting will address demand response and peak-load contribution (PLC) management via webinar on March 25th from 10:00 - 11:00 a.m. [Register here](#). *3/5/2015*

PUCO Rejects AEP Plant Subsidies, But...

In good news, for now, for AEP electricity consumers, the Public Utilities Commission of Ohio (PUCO) this week [declined to adopt](#) the company's proposed purchase power agreement as it relates to the company's interests in the Ohio Valley Electric Corporation (OVEC)."

OVEC operates two power plants (one in Ohio) and is co-owned by a number of utilities. AEP has sought to place the financial risk of operating the OVEC plant onto customers, rather than shareholders. In a separate filing, AEP proposes the same risk shifting for other plants. And, in yet another filing, FirstEnergy seeks the same types of customer subsidies for several of its plants.

However, the commission left the door open for considering power purchase agreements in the other cases: "Although the Commission found that the proposed power agreement was permitted under Ohio law, after weighing the evidence of record, the Commission was not persuaded that the proposal would benefit ratepayers."

The [OMA Energy Group](#) opposes these utility proposals in each of the cases pending at the PUCO. *2/25/2015*

OMA Member Views on Energy Studied

Last fall, OMA members were surveyed by the George Mason University to assess their views on their energy needs, renewable energy, and their preferences for energy policies at the state and national level. A total of 120 people responded to the survey, from 100 companies.

Among the key findings:

- A large majority of respondents say that uncertainty about energy costs makes planning difficult for their companies. They say their companies are very concerned about volatility in their energy costs and price increases.
- Two-thirds of respondents' companies have made changes over the past five years to reduce energy risks; over half made energy efficiency improvements (57%) and 40 percent signed long-term energy contracts.
- Ninety-five percent of the companies represented in the survey are likely to make efficiency improvements over the coming five years.
- Close to two-thirds of respondents (63%) say that energy investments must have a positive return in two years or less. Over a quarter (27%) are willing to wait three years for positive returns, but only five percent are willing to wait longer than that.

- Forty percent of respondents say their company has an energy conservation goal. The primary motivation for this goal is to reduce the company's energy costs, but environmental benefits are also an important motivation.

The survey results are used to develop OMA energy services and public policy positions. Here is the survey report: [Energy and Ohio's Manufacturers: Risks, Opportunities & Policy Preferences](#) and a [brief summary of key findings](#). 2/25/2015

GM Presents to OMA Energy Committee

Rob Threlkeld, Global Manager – Renewable Energy, General Motors, this week made a [presentation](#) to the OMA Energy Committee on GM's principles of waste reduction, energy efficiency, resource preservation and greener vehicles.

Threlkeld discussed with committee members the execution of a large solar project at the company's Lordstown assembly plant. The 2.2 MW project cost about \$4.4 M. 2/26/2015

Energy Market Trends for Manufacturers

Each quarter, one of the OMA Energy Committee meeting features that members rate most favorably are the electricity and natural gas market trend reports.

Energy Standards Study Continues

The Energy Mandates Study Committee, a legislative body created by SB 310 last session, last week heard testimony from [Ohio EPA](#) and the [PUCO](#), primarily about state analyses of federal proposals to regulate power plant emissions.

The committee is charged with making recommendations by September 30. 2/12/2015

A Perspective on Ohio's Energy Future

Michael Zimmer, Executive in Residence with the Voinovich School for Leadership and Public Affairs at Ohio University, [shared perspectives](#) on energy with the Governing Board of the Ohio Consumers' Counsel recently. Zimmer described how policy changes are stunting Ohio's transition to a competitive electricity marketplace and slowing technological advancement. 2/12/2015

FirstEnergy Rate Case Delayed

At the request of staff of the Public Utilities Commission of Ohio (PUCO), a hearing officer extended the time for analysis and review of the pending FirstEnergy rate case by 37 days. Staff had asked for 45 days; FirstEnergy objected, and asked for

This week Richard Ricks, Manager - Large Customer Relations, of Columbia Gas of Ohio presented [natural gas market trends](#), while Susanne Buckley, Managing Partner, Scioto Energy analyzed [electricity markets and pricing](#) for Ohio consumers. 2/26/2015

FERC Filing Announced for Rover Pipeline

This week the Federal Energy Regulatory Commission (FERC) posted the official application from the Rover Pipeline project. This is the next step toward the future construction of the project. In response, Ryan Augsburger of the OMA said in a statement:

"Manufacturers in Ohio and nationwide rely upon reliable access to affordable energy – especially natural gas – to stay competitive and create jobs. Investing in new infrastructure like the Rover Pipeline will allow for further economic expansion in the manufacturing sector. We look forward to FERC's timely review of the Rover Pipeline." 2/26/2015

Porter Returns to PUCO

Governor Kasich has appointed his commerce department director, Andre T. Porter, as a commissioner at the Public Utility Commission of Ohio (PUCO).

Porter previously served at the commission, prior to his appointment to the commerce department. Porter takes the seat previously held by Steve Lesser. 2/26/2015

no more than 30 days; the hearing officer [split the difference](#).

Hearings on the case are to begin April 13. In the case FirstEnergy asks the PUCO to require customers to take on the financial risk of operation of two generating units that are, according to the company, "uneconomical" in the market. 2/5/2015

A Shale-Based Manufacturing Renaissance

The American Shale & Manufacturing Partnership (ASMP), an informal group of organizations, held workshops across the country in 2013 and 2014 to examine the impact of abundant natural gas and oil due to shale development on U.S. manufacturing and to explore how to enhance the nation's global competitiveness.

The ASMP supports the premise of an "American manufacturing renaissance through responsible shale development." The resulting report, "[Ideas to Empower America's Emerging Shale-Based Manufacturing Renaissance](#)," suggests steps toward achieving the goal of a manufacturing renaissance. 2/5/2015

Energy Legislation

Prepared by: The Ohio Manufacturers' Association
Report created on March 9, 2015

- HB8 OIL-GAS LAW** (HAGAN C, GINTER T) To revise provisions in the Oil and Gas Law governing unit operation, including requiring unit operation of land for which the Department of Transportation owns the mineral rights, and to specify that the discounted cash flow formula used to value certain producing oil and gas reserves for property tax purposes is the only method for valuing all oil and gas reserves.
Current Status: 3/10/2015 - House Energy and Natural Resources, (Fourth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-8>
- HB23 OIL-GAS LEASE INCOME** (AMSTUTZ R) To use one-half of any income from oil and gas leases on state land to fund temporary income tax reductions, to modify the law governing the use of new Ohio use tax collections from remote sellers for income tax reductions, and to require the Director of Budget and Management to recommend whether or not income tax rates should be permanently reduced after the Director certifies a temporary rate reduction resulting from the accrual of money in the Income Tax Reduction Fund.
Current Status: 2/17/2015 - House Ways and Means, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-23>
- HB64 OPERATING BUDGET** (SMITH R) To make operating appropriations for the biennium beginning July 1, 2015, and ending June 30, 2017, and to provide authorization and conditions for the operation of state programs.
Current Status: 3/12/2015 - House Finance Subcommittee on Primary and Secondary Education, (Eighth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-64>
- HB72 ENERGY IMPROVEMENT DISTRICTS** (CONDITT M) To authorize port authorities to create energy special improvement districts for the purpose of developing and implementing plans for special energy improvement projects and to alter the law governing such districts that are governed by a nonprofit corporation.
Current Status: 3/11/2015 - House Public Utilities, (Second Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-72>
- HCR7 SUSTAINABLE ENERGY PLAN** (BAKER N, BOOSE T) To establish a sustainable energy-abundance plan for Ohio to meet future Ohio energy needs with affordable, abundant, and environmentally friendly energy.
Current Status: 3/4/2015 - Referred to Committee House Local Government
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HCR-7>
- SB46 LAKE ERIE DRILLING BAN** (SKINDELL M) To ban the taking or removal of oil or natural gas from and under the bed of Lake Erie.
Current Status: 2/18/2015 - Referred to Committee Senate Energy and Natural Resources
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-46>

- SB47** **DEEP WELL BRINE INJECTION PROHIBITION** (SKINDELL M) To prohibit land application and deep well injection of brine, to prohibit the conversion of wells, and to eliminate the injection fee that is levied under the Oil and Gas Law.
Current Status: 2/18/2015 - Referred to Committee Senate Energy and Natural Resources
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-47>
- SB58** **CONDITIONAL SEWAGE CONNECTION** (PETERSON B) To authorize a property owner whose property is served by a household sewage treatment system to elect not to connect to a private sewerage system, a county sewer, or a regional sewerage system under specified conditions.
Current Status: 3/4/2015 - Referred to Committee Senate Energy and Natural Resources
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-58>
- SB100** **SALES TAX HOLIDAY-ENERGY STAR** (BROWN E) To provide a three-day sales tax "holiday" each April during which sales of qualifying Energy Star products are exempt from sales and use taxes.
Current Status: 3/4/2015 - Referred to Committee Senate Ways and Means
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-100>



Ohio Electric Utilities' Proposed Power Purchase Agreement Riders

EXECUTIVE BRIEFING

American Electric Power (AEP), Duke Energy (Duke) and FirstEnergy (FE) have recently filed applications for Electric Security Plans (ESPs) with the Public Utilities Commission of Ohio (PUCO). Among other provisions, the ESPs seek to establish generation service rates for the utilities' respective Standard Service Offers (SSOs), distribution-related charges, and nonbypassable riders that all customers would be required to pay to subsidize certain generating facilities owned partially or wholly by the utilities or their unregulated competitive generation affiliates. Specifically:

- AEP initially proposed a three-year power purchase agreement (PPA) rider (Rider PPA) to monetize the utility's entitlement share of the Ohio Valley Electric Corporation (OVEC) generating plants with the opportunity for expansion. AEP recently filed an application to expand the rider to also include costs associated with a life-of-unit PPA with its unregulated competitive affiliate, AEP Generation Resources, for generation from nine specified coal-fired generating units.
 - Projected Impact: Over the term of the ESP (June 2015 through May 2018), customers could be exposed to between \$82 million and \$116 million for the OVEC assets alone. As projected by AEP, the additional expansion proposal could cost customers an additional \$1.1 billion over nine-and-a-half years.¹
- Duke's ESP contains a proposed rider (Rider PSR) similar to AEP's initial rider proposal in that it seeks to monetize Duke's entitlement share in the OVEC generating units. The major difference is that Duke is asking the PUCO to approve the rider for as long as Duke owns the entitlement to OVEC, which is currently projected to be through 2040.
 - Projected Impact: Duke has projected that the cost to customers would be \$22 million for the OVEC assets over the term of the ESP (June 2015 through May 2018), and a cost of \$633,000 over a 10-year period (2015-2024).² Other parties have projected much higher costs.
- FirstEnergy's ESP contains a proposed rider (Rider RRS) that will allow the utility to collect costs associated with a PPA with its unregulated competitive generation affiliate, FirstEnergy Solutions (FES), for power from FES's Sammis coal-fired generating plant, Davis-Besse nuclear generating plant, and its share of OVEC. FirstEnergy seeks approval of its proposed rider for a 15-year period (June 2016 through May 2031).

¹ AEP's estimate based on a 5 percent lower load forecast. Collectively, AEP's projections range from a cost of \$1.1 billion to consumers to a benefit of \$1.5 billion. See Pearce Testimony at Exhibit KDP-2, Case No. 14-1693-EL-RDR.

² See OCC Ex. 4, Case No. 14-841-EL-SSO.

- Projected Impact: FirstEnergy has projected that the cost to customers would be \$419.4 million over the term of the ESP (June 2016 through May 2019).³ The FirstEnergy rider includes customer subsidization of an 11.15 percent return on equity for FES.

FirstEnergy's proposed rider is for costs associated with approximately 3,244 MW of generation and AEP's is for costs associated with approximately 6,263 MW. Both are substantially larger than Duke's proposal.

How the PPAs and Proposed Riders Would Work

The utilities are seeking regulatory approval to sell into the PJM wholesale market all of the generation output they are entitled to from their existing OVEC generation agreements and/or the proposed PPAs with their affiliates at rates that may be higher – or lower – than the price the utilities pay for the OVEC/PPA generation. If the PUCO approves the PPAs, the difference between the PJM market price and the OVEC/PPA contract price, whether it is a net cost or a net benefit, would be passed on to customers. So, if the PJM market price is higher than the price the utility pays for generation through its contracts, the resulting net increase in revenue would be reflected as a credit on customers' bills; alternatively, if the market price is lower than the price the utility pays, customers would pay the net additional generation cost in the form of a surcharge. The utilities are always made whole and guaranteed recovery of the cost of the generation under the contracts.

The proposed PPA riders are nonbypassable. They would be paid by all customers in the utility's service territory – regardless of whether the customer purchases its generation service from the utility or a competitive generation supplier.

What the Utilities Say:

A hedge against market price volatility

The utilities characterize the proposed PPAs as a useful "hedge" or insurance policy against market volatility, which they claim will protect consumers over the long term. The utilities argue that a shortage of generation in Ohio and throughout PJM may cause increases in both energy and capacity prices. The utilities have intimated that the affiliate-owned generation units may not be economical and may be required to shut down if the utilities' PPA proposals to have customers pay the costs to run those units are rejected by the PUCO. They contend the PPAs will help ensure that coal-fired and nuclear power plants continue to operate so Ohio will have adequate supplies of generation.

What Concerned Stakeholders Say:

A subsidized bailout for utilities' business decisions

Opponents of the proposed PPAs regard the proposals as nothing more than a large-scale government and consumer bailout of utilities (including their affiliates) that already have received billions of dollars in stranded cost recovery from their customers as part of Ohio's transition to a competitive retail electricity marketplace. Opponents believe the utilities are

³ FirstEnergy projects a benefit to customers over the 15-year period in the amount of \$2.1 billion. See Ruberto Testimony at Exhibit JAR-1, Case No. 14-1297-EL-SSO.

seeking relief from financial pressures caused in part by the combination of an aging and increasingly uneconomical generation fleet; new supplies of natural gas driving down the price of power; and increased growth of energy efficiency, demand response programs and renewable energy – but also by the regulated utilities’ and their competitive generation affiliates’ own business decisions.

The proposed PPAs, opponents say, are a play by utilities to secure, through regulatory intervention and customer subsidies, guaranteed profits and cost recovery from selected generation assets regardless of the market value of the power produced by those assets and regardless of their operational, maintenance and environmental compliance costs. Opponents believe the PPAs represent an unwarranted shifting of costs and risk from utility shareholders to utility customers – a reversal that is inconsistent with the intent of Ohio’s electric restructuring law. In competitive markets, investors – not consumers – bear the risk of bad business decisions.

Opponents of the utilities’ PPA proposals note that the generating plants at issue do not directly serve Ohio customers, but are dispatched into the region through PJM. The generation owners have no control over whether the power will serve Ohio customers or a neighboring state. Opponents also rely on PJM’s estimates of the amount of new generation scheduled to come online and its estimated reserve margins in the 20 percent range for the foreseeable future to dispel the notion that there is a shortage of generation.

Potential Impact on Electricity Customers

PUCO approval of the utilities’ proposed PPAs would impact consumers in many ways:

- **Customers will pay higher prices, with no new benefits.** The proposed PPAs will force all customers to pay a generation surcharge for which they will receive no certain or guaranteed benefits. The only “guarantee” is for the utilities and/or their affiliates – they get a guaranteed rate of return and guaranteed full cost recovery.
- **Customers will be forced to pay twice for generation service.** If the PPAs are allowed, customers will pay twice for electricity – first, for the power they purchase from their incumbent utility or their alternative supplier, and then additionally via a PPA surcharge.
- **Customers will lose access to lowest available market prices.** The proposed PPAs will deny customers the ability to purchase electricity at the lowest price available in the competitive marketplace, putting Ohio businesses at a disadvantage *vis a vis* competitors in surrounding states who do not face similar nonbypassable generation charges.
- **Customers will have fewer choices.** By providing utilities and/or their affiliates with what essentially is a “guaranteed rate of return” for generating plants owned by competitive suppliers, the proposed PPAs are inconsistent with Ohio’s transition to a competitive marketplace for electricity. This anti-competitive step backward will thwart supplier participation in the Ohio market – participation that is helping to drive innovation and keep electricity prices low.

- **Ohio will suffer economic harm from the resulting disincentive to invest in new generation.** New sources of generation (e.g., natural gas) will not have the benefit of the PPA “subsidies” that have been proposed for power produced by certain inefficient and uneconomic generation plants in utility territories. This competitive disadvantage will serve as a disincentive to new generation investment in our state and region, which ultimately will drive prices upward and undermine economic development and job creation.

Summary of the Potential Cost Impact on Electricity Customers

All three distribution utilities acknowledge that the proposed riders will result in higher costs for customers in the short term but claim the locked-in PPA prices will produce benefits in the long run. Numerous interveners in the ESP cases contend, however, that the riders will result in a net cost for customers over the long run.

Following is a summary of the projected cost to customers based on the utilities’ own numbers, as noted throughout this document:

- AEP customers could pay increased costs totaling between \$82 million and \$116 million for AEP’s OVEC assets, plus an additional \$1.1 billion if the utility’s expanded PPA application is approved.
- Duke customers could pay \$22 million for Duke’s OVEC assets over the term of the ESP (June 2015 through May 2018), plus \$633,00 from 2015-2024.
- FirstEnergy customers could pay \$419.4 million over the term of the ESP (June 2016 through May 2019).

Collectively, based on the utilities’ own numbers, customers across Ohio could pay in excess of \$1.647 billion if the utilities’ PPA rider proposals are approved.

Where Things Stand Today

Hearings for AEP’s original ESP filing are completed and AEP is waiting for a schedule on its expanded PPA plan. Hearings for Duke’s ESP began in October 2014, with hearings for FE’s ESP scheduled to follow in January 2015. To date, PUCO staff has strongly recommended that Commissioners reject AEP’s and Duke’s proposed riders.

#

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Ohio)
Edison Company, The Cleveland Electric)
Illuminating Company, and The Toledo)
Edison Company for Authority to) Case No. 14-1297-EL-SSO
Provide for a Standard Service Offer)
Pursuant to R.C. 4928.143 in the Form of)
an Electric Security Plan)

**DIRECT TESTIMONY OF
EDWARD W. HILL
ON BEHALF OF THE
OHIO MANUFACTURERS' ASSOCIATION ENERGY GROUP**

December 22, 2014

1 **Introduction, Purpose, and Summary of Conclusions**

2 **Q. Please state your name, title, and business address.**

3 A. My name is Edward W. Hill. I am the Dean of the Maxine Goodman Levin
4 College of Urban Affairs at Cleveland State University and Professor of
5 Economic Development. My business address is The Levin College of Urban
6 Affairs, Cleveland State University, 2121 Euclid Avenue, UR 335, Cleveland,
7 Ohio 44115.

8

9 **Q. Please describe your educational background, professional qualifications,
10 and employment experience.**

11 A. I graduated from the University of Pennsylvania with a bachelor's degree in
12 economics and urban studies. I then attended the Massachusetts Institute of
13 Technology where I earned a master's degree in City and Regional Planning and a
14 Ph.D. in Economics and Regional Planning. My doctoral field examinations in
15 economics were in industrial organization and regulation, labor economics, and
16 urban and regional economics. In the Department of Urban Studies and Planning
17 my examinations were in regional economic development.

18

19 I have been a member of the Cleveland State University faculty since 1985. In
20 addition, I am a Non-resident Senior Fellow at the Brookings Institution's
21 Metropolitan Policy Program and Adjunct Professor in Public Administration at
22 South China University of Technology. Previously, I was a Non-resident Visiting

1 Fellow at the Institute of Government Studies at the University of California at
2 Berkeley.

3 I was appointed Cleveland State University's first Vice President of Economic
4 Development in 2005. I relinquished that title in 2009 when I was appointed
5 Dean of the Levin College.

6
7 I was the inaugural chair of the National Institute of Standards and Technology's
8 Manufacturing Extension Partnership's National Advisory Board. I served in that
9 capacity from 2007 until 2010. I continued to serve on that Board until my term
10 expired in 2014. Board members' terms are limited by statute.

11
12 I have also served on Ohio's Urban Revitalization Task Force (appointed by
13 Governor Taft), Auto Industry Support Council (appointed by Governor
14 Strickland), Cooperative Education Advisory Commission (appointed by Speaker
15 Batchelder), and the Manufacturing Task Force (appointed by Director Schmenk).

16
17 My research focuses on the areas of urban and regional economic development
18 policy, the operation of regional labor markets, and industry studies with an
19 emphasis on manufacturing. My research has a particular emphasis on issues that
20 are important to the state of Ohio's economy.

21
22 I have written one book and am completing my second. I have edited five books,
23 written eight book-length reports, and have authored over 90 articles, book

1 chapters, and columns. I was the editor of *Economic Development Quarterly*
2 from 1994 to 2005. *Economic Development Quarterly* publishes peer-reviewed
3 research that is relevant to the development and renewal of the American
4 economy.

5
6 I participate in much of the energy research conducted at the Levin College either
7 as an advisor or as an investigator. I lead the research and writing of the ongoing
8 publication titled *Ohio Utica Shale Gas Monitor* and was one of the authors of *An*
9 *Analysis of the Economic Potential for Shale Gas Formations in Ohio* (February
10 2012).¹ I also advised the research team that produced the reports on the
11 electricity market that are referenced in this submittal.

12
13 **Q. What is the purpose of your testimony?**

14 A. I am testifying on behalf of the Ohio Manufacturers' Association Energy Group.
15 My testimony addresses the strategy proposed by Ohio Edison Company, The
16 Cleveland Electric Illuminating Company, and The Toledo Edison Company
17 (collectively, FirstEnergy or the Companies) in their fourth Electric Security Plan
18 as it relates to the proposed Economic Stability Program (Program) and power
19 purchase agreement. I will explain why I think that FirstEnergy's Program is
20 misguided, and why I believe that the PUCO should reject it.

21

¹ See, e.g., Edward W. Hill, et al., "Ohio Utica Shale Gas Monitor" (January 10, 2014) at http://engagedscholarship.csuohio.edu/urban_facpub/1143/; Thomas, Andrew R., Iryna Lendel, Edward Hill, Douglas Southgate, and Robert Chase, "An Analysis of the Economic Potential for Shale Gas Formations in Ohio" (February 2012) at http://engagedscholarship.csuohio.edu/urban_facpub/453/.

1 **Q. Please briefly summarize your conclusions.**

2 A. FirstEnergy's Program and strategy to utilize a power purchase agreement seek a
3 massive subsidy from state ratepayers to fund FirstEnergy's non-regulated
4 subsidiary's aging and inefficient electric generating units.² Such a Program, if
5 implemented, would fundamentally distort the electricity wholesale energy
6 markets. It would shift the risk of market failure from FirstEnergy's generation
7 affiliate to FirstEnergy's distribution consumers – undermining the intent of the
8 Ohio General Assembly when it restructured Ohio's electricity markets in 1999
9 with the passage of Am. Sub. S.B. 3.

10

11 Research conducted at the Levin College shows that in 2010, Ohio had the highest
12 level of manufacturing activity among the Midwestern states.³ Ohio's energy-
13 intensive industries are prominent parts of the state's economic base; these include
14 primary metals, petroleum and coal products, chemicals, food processing,
15 nonmetallic mineral production, paper manufacturing, and wood products.
16 FirstEnergy's Program would have significant negative effects on the
17 manufacturing productivity of firms throughout these sectors.

18

² See Sanzillo, T. and C. Kunkel, "FirstEnergy: A Major Utility Seeks a Subsidized Turnaround," Institute for Energy Economics and Financial Analysis (October 2014) at [http://www.ieefa.org/wp-content/uploads/2014/10/First-Energy -A-Major-Utility-Seeks-a-Subsidized-Turnaround-OCT20141.pdf](http://www.ieefa.org/wp-content/uploads/2014/10/First-Energy-A-Major-Utility-Seeks-a-Subsidized-Turnaround-OCT20141.pdf) (attached as Exhibit EWH-1).

³ Lendel, I, S. Park and A. Thomas, "Moving Ohio Manufacturing Forward: Competitive Electricity Pricing" (2013) at 4-7. *Urban Publications*, Paper 679 at http://engagedscholarship.csuohio.edu/urban_facpub/679 (attached as Attachment EWH-2).

1 The Program would also undermine competition among retail electricity
2 customers in Ohio. And it would have a chilling effect on future investments into
3 Ohio markets by Competitive Retail Electric Service (CRES) providers.

4
5 The Program will also extend and exacerbate the ongoing threat to Ohio's
6 economy and environment. It is designed to shore up coal-based electricity
7 generation at a time when it is becoming increasingly uneconomical due to both
8 the age of the plants and the introduction of large supplies of methane as an
9 alternative fuel source. At the same time, regulations designed to reduce the
10 amount of carbon released into the atmosphere from coal-fired power plants are
11 on the horizon. All of these factors will further increase the relative cost of
12 generating electric power from coal. The proposal is also being made at a time
13 when oil prices are plunging and as global energy markets are shifting toward
14 methane—natural gas.

15
16 The Program will reinforce another economic development challenge for the
17 urbanized portions of the state of Ohio; the impact of existing levels of air
18 pollution on the attraction, retention, and expansion of businesses in the state's
19 metropolitan areas. Facilities that desire to locate or expand in areas that are
20 considered to be either new major stationary sources of air pollution or
21 modifications to existing major sources of air pollution are subject to
22 nonattainment New Source Review (NSR).⁴ A major source is one that emits

⁴ See Ohio EPA Fact Sheet, Division of Air Pollution Control, "What Businesses Need to Know About National Ambient Air Quality Standards and Nonattainment" (February 2014) at

1 more than 100 tons of air pollutants per year. The threshold for a major source
2 modification can be 40, 25, 15 or 10 tons per year. Ohio's Environmental
3 Protection Agency cautions:

4 *For major sources that are subject to nonattainment New Source*
5 *Review, the basic requirements related to this are:*

- 6 • *The new/expanding company must obtain emission credits*
7 *(called offset credits) from existing sources located in the*
8 *vicinity of a proposed source which (1) offset the emissions*
9 *increase from the new source or modification and (2)*
10 *provide a net air quality benefit.*
- 11 • *The new/expanding company must obtain a nonattainment*
12 *air permit from Ohio EPA which includes installing*
13 *pollution control equipment that demonstrates the company*
14 *is achieving the lowest achievable emission rate (LAER).*

15 *For every one ton of pollutants the company will emit, it must*
16 *obtain more than one ton of emissions credits from a company that*
17 *has reduced its emissions or is no longer operating. Credits must*
18 *be obtained from a company that is in the same nonattainment*
19 *area.*

20 The Ohio EPA notes that the pollutants of concern in Ohio are lead, nitrogen
21 dioxide, fine particulate matter, ozone and sulfur dioxide.

<http://www.epa.ohio.gov/Portals/27/sip/NAAQS%20and%20Nonattainment%20-%20What%20Businesses%20Need%20to%20Know.pdf>.

Figure EWH-1

Ohio PM-2.5 Nonattainment Areas (2006 Standard)

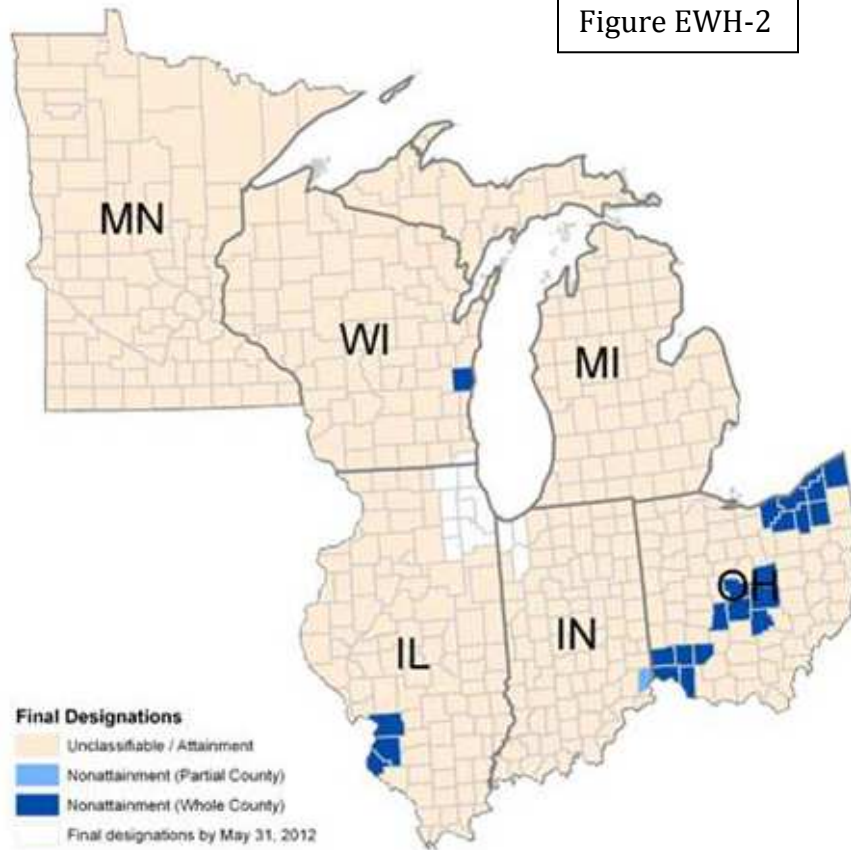


Ohio Nonattainment Counties_Small Fine Particulates map
Image 1 of 9

8 The
9 Cleveland-Akron-Canton Consolidated Statistical Area (CSA) and the Steubenville
10 Metropolitan Statistical Area (MSA) are defined by the U.S. Environmental Protection
11 Agency as nonattainment areas for fine particulate emissions (PM-2.5). The Columbus
12 MSA and the Cincinnati CSA join the Cleveland-Akron-Canton CSA in nonattainment in
13 terms of ground level ozone levels.⁵ (See Figures EWH-1 and EWH-2). The challenge is
14 that firms have an incentive to locate outside of these metropolitan areas and their labor
15 markets.

⁵ Northeast Ohio Sustainable Communities Consortium, “Most Northeast Ohio counties fail to meet National Ambient Air Quality Standards for ground-level ozone and fine particulates” (2014) at <http://cat.neoscc.org/findings/continuing-challenges/most-northeast-ohio-counties-fail-to-meet-national-ambient-air-quality-standards-for-ground-level-ozone-and-fine-particulates/>.

Figure EWH-2



Great Lakes Nonattainment Counties_Ground Level Ozone
Image 2 of 9

1 Asking ratepayers to subsidize a strategy for maintaining uneconomic generation
2 is a genuinely bad idea. Regulation needs to encourage an energy market that is
3 not being distorted, does not reward market power, and moves the state of Ohio
4 toward economic efficiency. FirstEnergy’s proposal is not the right strategy to
5 meet these goals.

6 **Effects of the Economic Stability Program on Manufacturing**

7 **Q. What role do energy prices play in economic development?**

8 A. We have long known that electricity prices play a significant role in economic
9 development. For instance, there is evidence that the best manufacturing jobs are
10 usually found in energy-intensive industries, which tend to require higher-skilled

1 workers.⁶ Similarly, it has been documented that energy costs are an important
2 site selection criteria for manufacturers; along with the location of customers,
3 suppliers, and labor supply.⁷

4

5 **Q. How do you define energy intensive industries?**

6 A. Energy intensive industries are those that spend relatively large amounts of
7 money on energy in the course of their operations compared to other
8 expenditures. The research conducted at the Urban Research Centers by Lendel,
9 et al., at the Levin College specifically examined intense users of electricity. The
10 team used two indicators to identify electricity-intensive industries: the ratio of
11 the industry's expenditure on electricity to the industry's total expenditure on its
12 operations, and the industry's total expenditure on electricity.

13

14 The team demonstrated that natural break points occurred in both data series. The
15 breaks resulted in three groups of industries: high electricity-intensive, moderate
16 electricity-intensive and non-electricity intensive.⁸ The results are consistent with
17 the categories established by the Energy Information Agency for energy intensive
18 manufacturing.⁹

⁶ L. Lord and J. Ruble, "A Case for Coordinating Economic Development Planning with Energy Planning," *7.2 South Carolina Journal of International Law and Business* 165, 173 (2011).

⁷ Id. at 165; see also D. Buelow & J. Trkulja, "Factoring Energy into a Location Decision," *Area Development Magazine* (April/May 2009) at <http://www.areadevelopment.com/corpSurveyResults/Apr09/energy-availability-costs-location-decision001.shtml> (survey determining energy costs are the third most important factor in manufacturing site selection).

⁸ See Attachment EWH-2 at 4-7.

⁹ Sendich, E. "The Importance of Natural Gas in the Industrial Sector with a Focus on Energy-Intensive Industries," Working Paper Series, U.S. Energy Information Agency (February 28, 2014) at http://www.eia.gov/workingpapers/pdf/natgas_indussector.pdf.

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In Ohio, ten industries are considered to be electricity intensive (spending roughly 2 to 6% of every dollar on industry operations). Atop this list are metals, chemicals, foundries, food processing, paper manufacturing, glass manufacturing, and nonmetallic mineral product manufacturing.¹⁰

Q: What role do these industries play in Ohio’s economy?

A. These industries are a critical part of Ohio's economic base. Our research shows that many of these industries export their products from Ohio in return for dollars that are brought into the state, resulting in job creation.¹¹

Steel manufacturing, for instance, is about three times more important in Ohio than it is nationally, foundries and glass manufacturing about 2.5 times, and chemicals nearly twice.¹² All are related to the automotive and truck assembly and aircraft supply chains, which are especially important industrial clusters in the state of Ohio. These and similar industries are a major part of our export base, and they stand to be hurt the most by FirstEnergy’s proposal.

Q. Are these industries important in FirstEnergy’s service territories?

A. All economic indicators suggest that FirstEnergy’s service territories have the highest proportion of electricity-intensive manufacturing in Ohio. This includes the highest density of employment (Cuyahoga, Stark, Trumbull and Lucas

¹⁰ EWH-2 at 4.
¹¹ This is a result that is replicated in many studies conducted on Ohio’s economy at the Center for Economic Development at the Levin College of Urban Affairs.
¹² EWH-2 at 10.

1 Counties); the highest generated Gross State Product (Cuyahoga, Lorain, Lake
2 and Lucas Counties); and the highest number of establishments (Cuyahoga,
3 Summit and Stark Counties).¹³

4

5 **Q. Have you considered what likely effects the FirstEnergy Program may have**
6 **on manufacturing?**

7 A. Yes. The study conducted in 2013 by Lendel, et al., examined the gross state
8 product created per employee and measured how it changed with the cost of
9 electricity between 1990 and 2010. This gave an indication of the effects of
10 electricity price on productivity. Our results showed that higher electricity prices
11 have had a statistically significant negative effect on manufacturing productivity
12 in Ohio, as well as in four neighboring states.¹⁴

13

14 **Q. Did you measure the size of this effect?**

15 A. Yes. Our studies showed that an increase of 1 cent per kilowatt-hour correlated to
16 a decrease in gross product generated of about \$2,527 per employee, a total of
17 2.2%.¹⁵ In economic terms, this is a price elasticity of negative 2.2%. This will be
18 felt most keenly within the electricity-intensive industries.

19

20 **Effects of FirstEnergy's Economic Stability Program on Electricity Markets**

21 **Q. Did you also look at the effects of deregulation on manufacturing?**

¹³ Id. at 19-24.

¹⁴ Id. at 30-31.

¹⁵ Id.

1 A. Yes. We looked at industrial power prices for five states for the period of 1990-
2 2010, two of which had not restructured their power generation markets (Indiana
3 and Kentucky) and three of which had (Ohio, Michigan and Pennsylvania).

4
5 **Q. What did you find?**

6 A. Manufacturing productivity grew faster in the restructured states than it did in the
7 regulated states. Manufacturing gross product grew by \$120,000/employee over
8 the twenty-year period for the deregulated states, but only by \$113,000/employee
9 in the regulated states. [All figures are in inflation-adjusted terms.] In the three
10 deregulated states, we found that the average industrial price of electricity
11 dropped after deregulation and the average total productivity per employee
12 increased.¹⁶

13
14 **Q. What does this mean to you?**

15 A. It means that, at least in part, the 2001 restructuring of electricity regulation that
16 was designed to introduce competition in the electricity markets has been working
17 to reduce costs to Ohio consumers, and to make Ohio manufacturing more
18 competitive.

19
20 The market restructuring may be flawed in places, and it requires constant
21 vigilance on the part of state and federal regulators to ensure that big utilities do
22 not enjoy too much market power in the energy markets. But the evidence, at
23 least in Ohio and the surrounding states, is that a competitive electric market has

¹⁶ Id. at 31-32.

1 helped to reduce industrial costs of electricity. This in turn has helped energy
2 intensive industries in Ohio to be more competitive.

3

4 **Q. How is this relevant to FirstEnergy's proposed Economic Stability Program**
5 **and strategy to utilize a power purchase agreement?**

6 A. FirstEnergy's Program strategy essentially provides FirstEnergy, and its affiliate,
7 with a guaranteed return on its generating assets. The strategy directly
8 undermines the competitive nature of the retail market for electricity in Ohio. It
9 does this by introducing subsidized generation into both the energy and the
10 capacity markets, thereby distorting those markets, and potentially driving lower
11 cost generation out of the market.

12

13 The effectiveness of a competitive marketplace relies upon the assumption that it
14 is free of monopolistic practices by the participants. The strategy proposed by
15 FirstEnergy, to reintroduce certain aspects of traditional utility accounting
16 practices into the energy and capacity markets, is fundamentally incompatible
17 with a free marketplace.

18

19 It also sends the wrong message to CRES providers, national providers that have
20 over the years established a major presence in Ohio. The message it sends is that
21 the moment that they begin to out-compete Ohio's incumbent utility providers
22 and to establish market share in this state, the State will step in and shore up the

1 incumbent providers to the CRES provider's detriment. This will have a chilling
2 effect on future CRES provider investment into Ohio.

3

4 Subsidizing a generation owner that is affiliated with an electric distribution
5 utility will destabilize the structure of the electricity markets in Ohio. Prior to any
6 attempts to re-regulate, the state needs definitive proof that deregulation is not
7 working. After such proof, if the state decides to reregulate, it should regulate the
8 entire industry in the process, not just piecemeal generation based upon its
9 inefficiencies or threats of closure. The evidence to date indicates that market
10 restructuring is working, and changing the rules without a clear and convincing
11 demonstration otherwise will send a signal that will strongly discourage
12 investment in the state.

13

14

1 **The Effects of FirstEnergy’s Program on Ohio’s Economy in General**

2 **Q. Do you see any other problems with FirstEnergy’s proposed power purchase**
3 **agreement?**

4 A. Yes. First of all, the Program, in part, subsidizes coal-fired power plants. In so
5 doing, it ignores a fundamental problem facing Ohio in the coming years: carbon
6 regulation. The U.S. Environmental Protection Agency has set forth goals for
7 each state to meet. Under the proposed rules, upon its 2005 emissions, Ohio will
8 have to reduce carbon dioxide emissions by 30% by the year 2030. Ohio must
9 have a plan in place to do so by 2016, and must make progress toward meaningful
10 reductions by 2020.¹⁷

11
12 If Ohio fails to submit a plan by 2016, the federal government may impose a
13 solution.¹⁸ The federally mandated plan will likely either be a cap and trade
14 strategy or a carbon tax.

15
16 Since electricity generation in Ohio is heavily reliant upon coal generation, either
17 plan would likely lead to a redistribution of economic activity away from Ohio to
18 other states. What will make this redistribution especially painful is that what will
19 likely move are the keystones of our most important industrial clusters in the

¹⁷ U.S. EPA, Carbon Pollution Standards, “Fact Sheet: Clean Power Plan Framework, National Framework for States Setting State Goals to Cut Carbon Pollution,” United States Environmental Protection Agency (June 13, 2014) at <http://www2.epa.gov/carbon-pollution-standards/fact-sheet-clean-power-plan-framework>.

¹⁸ The EPA allows for a two-step process for submitting final plans if more time is needed. See “EPA Proposes First Guidelines to Cut Carbon Pollution from Existing Power Plants,” United States Environmental Protection Agency News Release (June 2, 2014) at <http://yosemite.epa.gov/opa/advpress.nsf/bd4379a92ceceac8525735900400c27/5bb6d20668b9a18485257ceb00490c98!OpenDocument>.

1 transportation industries—automotive, truck, aerospace, and locomotive—and our
2 paint and chemical industries.

3

4 While some larger operations may pick up and leave, small and mid-sized
5 companies will lose business to out-of-state competitors and go out of business. It
6 is better for Ohio to develop a plan that meets the EPA requirements, yet at the
7 same time protects jobs in this state.

8

9 Ohio has already placed itself in jeopardy of noncompliance by freezing its
10 energy efficiency and renewable portfolio mandates. Ohio is currently in the
11 process of re-evaluating those mandates. Now is the worst possible time for
12 ratepayers to subsidize inefficient, old coal plants. While Ohio’s policymakers
13 may consider the role of nuclear power in meeting carbon emission reduction in
14 the future as suggested by FirstEnergy, such consideration should be part of a
15 thorough, systematic, and impartial bigger picture cost-benefit analysis of the way
16 to react to impending carbon regulations, together with a review of the energy
17 efficiency and renewable portfolio mandates. These analyses should be
18 undertaken in 2015-2016 while policymakers consider strategies for Ohio to
19 navigate both carbon emissions reduction and the aging coal-based power
20 generation in Ohio.

21

22

1 **Q. What other problems do you see?**

2 A. In general, bailing out old, failing legacy industries is counterproductive. We
3 should be very careful when we do so, and we should apply what has been learned
4 in other industry bailouts over the past several decades. There must be a clear
5 reason to expect that subsidies will turn around a company, not just revert to the
6 *status quo*.

7
8 Ratepayers in American Electric Power Company's Ohio service territory paid
9 over \$150 million in subsidized electricity costs for Ormet Corporation's plant in
10 Hannibal, Ohio, only to have Ormet file for bankruptcy. For the good of the
11 regional economy, it is usually better to find a humane and promising strategy for
12 change than to prop up old, failing legacy industries.

13
14 **Q. But bailouts worked for the automobile and steel industries, did they not?**

15 A. Yes, but the devil is in the details. We have to apply lessons learned in previous
16 publicly-supported industry restructurings.

17
18 There never should be a simple bailout; that is, a return to the *status quo* after
19 either providing an operating subsidy or in just restructuring debt. Subsidizing
20 operating costs will eventually fail, as it did in Ormet's case.

21

1 Cleveland's steel mills had to experience bankruptcy and reorganizations to get
2 their operating costs right.¹⁹ Among the painful changes felt by one steel mill
3 were major rewriting of shop floor work rules and staffing levels, accompanied by
4 dumping pension obligations to the federal government, and changing wage
5 levels. All of this was after corporate bankruptcies. After the last bankruptcy, the
6 new owner of the steel mill invested heavily in new capital equipment and
7 processes improvements taking advantage of modern work rules and lower
8 operating costs, resulting in an extremely efficient operation.

9

10 Lessons from the bankruptcy of the domestically headquartered automotive
11 assembly industry are similar. The restructuring was national, and its initial costs
12 were borne by the national economy, not one state. Second, the companies were
13 allowed to shed their legacy assets, outdated and abandoned assembly and parts
14 plants, and to restructure their work rules, operating agreements, and labor costs.
15 And, in the case of two companies, there were corporate bankruptcies.

16

17 Whenever companies are bailed out without requiring major behavioral change,
18 an act of corporate lemon socialism has been committed. And, the most likely
19 outcome is the recreation of the failed business model that created the necessity
20 for bailout in the first place. This is what happened with Ormet, this is what
21 happened to LTV's properties, this is the history of the Detroit-headquartered
22 automotive companies, and this is exactly what FirstEnergy is asking for now.

¹⁹ See "Steel in Cleveland," *Plain Dealer* archives at <http://blog.cleveland.com/pdgraphics/2009/03/07FGSTEEL.pdf>.

1 In this instance, FirstEnergy is asking the PUCO to return to a business model for
2 one aspect of the business that not only previously failed, but to return to a model
3 for which Ohio ratepayers have already paid FirstEnergy nearly \$7 billion dollars
4 to change.²⁰ Ohio ratepayers paid this fee as compensation for "stranded assets"
5 that FirstEnergy incurred as a result of restructuring of the electric market. Those
6 stranded assets included generation facilities that were divested to an affiliate.
7 Now FirstEnergy wants to put old wine into new bottles and incur the
8 inefficiencies of "cost plus" accounting for generation assets after previously
9 collecting \$7 billion to change its behavior.

10 It is important to note that I am not stating that power purchase agreements of this
11 nature should *never* be allowed, or that social issues can *never* be a consideration
12 for imposing riders on customers' electric distribution bills. For instance, power
13 purchase agreements can, in principle, for instance, be very useful in helping
14 distributed generation get off the ground in Ohio, as long as they are for a limited
15 duration and are treated as industrial-scale feasibility experiments. Distributed
16 generation promises to affect all aspects of electricity production and
17 consumption: generation, transmission, distribution, capacity and environmental.
18 So in some cases it might make sense for ratepayers to fund a long-term
19 arrangement in order to finance distributed generation and test its purported

²⁰ See, e.g. "Electricity: Ohio Restructuring Active," U.S. Energy Information Agency (September 2010) at <http://www.eia.gov/electricity/policies/restructuring/ohio.html>; J.L. Migden-Ostrander, "A History of Deregulation, Senate Bill 3 and Current Situation," at 2 (November 14, 2007) at <http://www.occ.ohio.gov/lservices/testimony/2007-11-14.pdf> (noting that the generation portion of stranded costs were designed to permit the utility to recover its uneconomic investments in power plants); and Attachment EWH-1 at 29.

1 efficiencies. However, such projects are the opposite of what is proposed by
2 FirstEnergy.

3

4 **Q. Will throwing away the costs sunk into old generation disrupt Ohio's**
5 **economy by requiring investment into expensive new generation?**

6 A. No. First of all, we cannot be certain that FirstEnergy's affiliate, FirstEnergy
7 Solutions (FES), will discard its generation asset by retiring the units. If either
8 FirstEnergy or FES believes, as claimed, that market prices will eventually rise
9 above the costs set forth in a power purchase arrangement, FES will do what it
10 can to keep these plants operational, even if at reduced capacity.

11

12 Second, in a restructured market, we need to remember that Ohio is part of the
13 PJM region when it comes to generation, and that PJM Interconnection LLC
14 (PJM) is the region's grid operator and reliability coordinator. In this regard,
15 there is ample generation in the PJM region to meet Ohio's generation
16 requirements for the near term.

17

18 Third, perhaps most importantly, we cannot allow sunk costs to confuse us about
19 the value proposition of keeping old plants functioning when they are no longer
20 profitable. Indeed, this is a critical reason for not subsidizing aging, inefficient
21 generation: it discourages the building of new, cleaner, more efficient generation
22 that will cost less in both the short and long run.

23

1 **Q: What are the relevant submarkets that exist in the generation and**
2 **consumption of electricity?**

3 A: The state of Ohio and PJM have the overall structure of the electric power
4 production and consumption markets right. There is a market for base load power
5 generation; a series of spot markets for the allocation of electricity during peak
6 demand periods; and then regulated transmission and distribution systems.

7
8 The electrical generation components are treated as competitive markets due to
9 changes in technology and lower barriers to entry. Additionally, the discovery of
10 extremely large deposits of methane, or natural gas, in Ohio, West Virginia,
11 Pennsylvania, New York, and the province of Ontario will further lower barriers
12 to entry in the generation market and continue to disrupt existing models for base
13 load generation.

14
15 Additional technologies and practices should be encouraged to continue to
16 diversify the supply of electricity generation capacity and regulatory barriers to
17 their entry should be removed. This is especially true for cogeneration, the entry
18 of power from outside the state of Ohio, and for alternative sources of power that
19 have proven to be cost competitive, such as solar.

20
21 At this point in time, the transmission and distribution of electric power is a
22 natural monopoly and should be regulated as such. However, in the future,
23 competition may be feasible in the transmission portion of the industry as

1 technologies change. Nonetheless, the distribution network will always be
2 operated by either a monopoly or a duopoly and will always have to be regulated.
3 The distribution system can transform from a monopoly system to a duopoly
4 when natural gas utilities provide gas to households and commercial buildings
5 that contain fuel cells and then bring surplus power back into the distribution
6 system. However, fuel cells are not yet cost competitive for this particular market
7 disruption.

8
9 Professor Jean Tirole was awarded the Nobel Prize in economics for his work on
10 market power and regulation and has addressed the issues surrounding a
11 monopolized distribution network.²¹ His work demonstrates that having
12 competitive markets in the generation of electricity coupled with regulated
13 distribution networks is the optimal way to organize these markets. In other
14 words, treat them as separate markets and regulate the portion where market
15 power can be exerted.

16
17 Restricting the purchase of power to a limited number of sources owned by one
18 company is antithetical to the competitive operation of the market. Locking out
19 other forms of generating capacity and new technologies will result in higher
20 costs to consumers.

21
22

²¹ Tirole’s work is summarized in the technical brief to the Nobel Prize committee: “Jean Tirole: Market Power and Regulation” (October 13, 2014) at http://www.nobelprize.org/nobel_prizes/economic-sciences/laureates/2014/advanced-economicsciences2014.pdf.

1 **Q: What are the implications for the case before us?**

2 A: The FirstEnergy Program will thwart the separation of these distinct product
3 markets and will result in the judgment of regulators being substituted for market
4 forces. This is after nearly 15 years of evidence that market forces work well in
5 the allocation of generating capacity and at a time when new sources of
6 generating capacity can enter the market.

7

8 Expanding the definition of capacity is called for; removing barriers for
9 cogenerated power from entering the transmission system need to be lowered;
10 artificial barriers to accessing power generated outside of the state should be
11 removed; and industrial-scale feasibility experiments in carbon-free and lower
12 carbon sources of energy production should be encouraged.

13 The power market is heading toward a distributed system of generation with
14 sources of power coming from technologies that are currently being perfected.

15 The implication is that the distribution system will be critical to Ohio's energy
16 future because that future will be one of distributed generation tied into a smart
17 transmission grid.

18

19 **Q: What is the implication for the generation companies and for public policy?**

20 A: First, the future of the current electric distribution utilities lies in their
21 transmission and distribution networks not in their legacy generation capacity.

22 Second, the financial implications of the future of legacy generation plants will
23 dominate the business strategies and behaviors of the electric distribution

1 companies. And this will be to the detriment of the future of Ohio’s economy. If
2 these companies are crippled financially by their legacy costs they will
3 aggressively use politics and regulation to defend their interests. They will
4 behave like a frightened dog that is backed into a corner.

5
6 The solution to this eventuality lies in broadening the scope of regulation and
7 changing the solution. We have to recognize that stranded electric generating
8 assets are not Ohio’s problem, Pennsylvania’s problem, or West Virginia’s
9 problem. It is a regionally concentrated national problem brought on by changes
10 in technology and resource costs that have disrupted the traditional way that
11 electricity is generated in the United States. If the states that produce the power
12 try to resolve the legacy cost problem on their own, power costs will escalate in
13 ways that will be detrimental to their economic futures and resistance to the
14 resolution will delay its implementation.

15
16 Those who benefited are those who both produced and consumed the electricity.
17 To deal with the problem of production states, the footprint for the solution can be
18 best approximated by the territory of PJM. This is the territory of those who
19 benefited from both the production and consumption of power. (The same
20 argument can and should be made for the other interconnects.)

21
22 The orderly resolution of legacy power plants should rest with an organization
23 that acts in much the same way as a “bad bank” did in the resolution of the

1 savings and loan crisis, the financial meltdown associated with the Great
2 Recession, and the legacy costs of the Detroit-headquartered automobile assembly
3 companies. The assets should be transferred into the bad bank and the costs of the
4 resolution be borne by ratepayers across the entire footprint.

5
6 The design of this solution is evolving and the Levin College's energy team will
7 be instrumental in its development.

8

9 **Q. As a major employer in Ohio, especially Northeast Ohio, should the health of**
10 **FirstEnergy also be a consideration in subsidizing these plants through a**
11 **power purchase agreement?**

12 A. Possibly, but the electric distribution utility's health has not been raised as an
13 issue in these proceedings. If FirstEnergy needs a bailout because it is having
14 financial problems, it should present its case to the State of Ohio through other
15 means than piecemeal, targeted, backdoor subsidies, such as the power purchase
16 agreement strategy at issue in these proceedings. Only when the state can
17 consider a complete strategy for repositioning the company and its role in the
18 marketplace can the policymakers act.

19

20

1 **Conclusion**

2 **Q. What is your overall recommendation for the PUCO with regard to**
3 **FirstEnergy’s “Powering Ohio’s Progress” Plan and its strategy, set forth in**
4 **its Fourth Electric Security Plan, as it relates to the Economic Stability**
5 **Program and power purchase agreement proposed therein?**

6 **A. I recommend that the PUCO reject FirstEnergy’s request for a power purchase**
7 **agreement with its affiliate to subsidize FES’ aging, inefficient power plants.**

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing document was served on December 22, 2014 by electronic mail upon the persons listed below.

/s/ Rebecca L. Hussey

Rebecca L. Hussey

Thomas.mcnamee@puc.state.oh.us
Thomas.lindgren@puc.state.oh.us
Ryan.orourke@puc.state.oh.us
mkurtz@BKLawfirm.com
kboehm@BKLawfirm.com
jkylercohn@BKLawfirm.com
stnourse@aep.com
mjsatterwhite@aep.com
yalami@aep.com
joseph.clark@directenergy.com
ghull@eckertseamans.com
myurick@taftlaw.com
Schmidt@sppgrp.com
ricks@ohanet.org
tobrien@bricker.com
mkl@bbrslaw.com
gas@bbrslaw.com
ojk@bbrslaw.com
wttpmlc@aol.com
jscheaf@mcdonaldhopkins.com
gkrassen@bricker.com
dstinson@bricker.com
dborchers@bricker.com
drinebolt@ohiopartners.org
meissnerjoseph@yahoo.com
LeslieKovacik@toledo.oh.gov
finnigan@edf.org
Marilyn@wflawfirm.com
todonnell@dickinsonwright.com
matt@matthewcoxlaw.com
mfleisher@elpc.org
mitch.dutton@fpl.com
selisar@mwncmh.com
ccunningham@akronohio.gov
asonderman@keglerbrown.com

trhayslaw@gmail.com
Jeffrey.mayes@monitoringanalytics.com
mhpetricoff@vorys.com
mjsettineri@vorys.com
glpetrucci@vorys.com
msoules@earthjustice.org
sfisk@earthjustice.org
lhawrot@spilmanlaw.com
dwilliamson@spilmanlaw.com
burkj@firstenergycorp.com
cdunn@firstenergycorp.com
jlang@calfee.com
talexander@calfee.com
dakutik@jonesday.com
sam@mwncmh.com
fdarr@mwncmh.com
mpritchard@mwncmh.com
cmooney@ohiopartners.org
callwein@wamenergylaw.com
mswhite@igsenergy.com
joliker@igsenergy.com
barthroyer@aol.com
athompson@taftlaw.com
Christopher.miller@icemiller.com
Gregory.dunn@icemiller.com
Jeremy.grayem@icemiller.com
tdougherty@theOEC.org
sechler@carpenterlipps.com
gpoulos@enernoc.com
toddm@wamenergylaw.com
Larry.sauer@occ.ohio.gov
Michael.schuler@occ.ohio.gov

Ohio electric utilities seek to push risk to customers

Benjamin Lanka 5 a.m. EST February 7, 2015

Should Ohio's electric customers essentially also serve as investors, with the potential gains and losses to follow?

That is one of the main questions in front of the Public Utilities Commission of Ohio as it decides whether to allow three of the state's largest electric utilities to assess riders to help finance failing power plants.

American Electric Power, FirstEnergy and Duke Energy have all asked the state for the ability to charge the rider, which the utilities argue will help stabilize prices and provide a constant source of power for customers. Opponents, however, say the plan is essentially a bailout for the companies looking to maximize profits while avoiding risk in an unregulated electricity market.

Some of the utilities' power plants are losing money, including the AEP operation in Conesville and FirstEnergy's Davis-Besse Nuclear Power Station along Lake Erie, as a result of falling energy prices driven by a boom in the natural gas supply. To keep the plants operating, the companies would attach a rider to consumers' bills that would fluctuate based on the profitability of the power plants. As power prices, and theoretically profits, increase, the rider could actually serve as a credit on the bill.

Having consumers play roles as investors would be the first of its kind in Ohio, which is likely the reason the state commission is taking its time in rendering a decision. AEP filed the first request in December 2013.

Michael Zimmer, executive in residence for the Voinovich School of Leadership and Public Affairs at Ohio University, said the shift of putting risk more to customers instead of shareholders is unusual and not one broadly seen nationwide. He said the decision by the commission will set the precedent for such requests into the future.

"It is really making ratepayers function as a shareholder, as an investor," he said.

The commission is expected to announce its decision on AEP's initial request any day.



American Electric Power says it costs more to produce energy at the Conesville power plant than the utility can recoup on the market. The company is seeking to charge customers a rider to ensure the plant's viability. (Photo: Chris Crook/ Gannett Ohio)

Sharing risk, rewards

The riders would cost utility customers initially. AEP estimated it would cost \$2 per month at first and FirstEnergy said it would be an additional \$3.50 per month during the first year.

Where it goes from there is up for considerable debate. AEP officials estimate the plan would save its customers \$224 million over a decade, and FirstEnergy said its plan would save customers \$2 billion over 15 years.

Opponents, however, said those estimates are grossly misleading. A consultant for the Ohio Consumers' Counsel, for example, estimated the FirstEnergy plan would cost customers \$3.1 billion to \$3.2 billion over that same span. Opponents argue the AEP plan will cost customers \$240 million.

The companies say the fees are needed to generate revenue for power plants that are struggling to compete in a competitive energy marketplace. Donald Moul, vice president of commodity operations at FirstEnergy, testified the Davis-Besse nuclear plant and the W.H. Sammis coal plant along the Ohio River were losing money.

"The economic viability of the plants is in doubt," he said.

Customers have long financially supported power plants, according to AEP spokeswoman Terri Flora, but the difference in those plans is that they present an opportunity for those customers to recoup some of the profits.

"In reality, if we had the (plan) in 2014, AEP would have given back approximately \$90 million in profits to customers from the first quarter alone," she said.

She previously said the cost to produce power at Conesville far exceeds the money the company can sell that power for in the open market.

Projecting profits and losses based on energy prices a decade out is highly speculative, Zimmer said, and a business would typically want to keep such profits for themselves versus sharing them with its customers.

"The fact that they aren't is telling you something," he said.

Opponents largely question why such profitable businesses can't simply finance the short-term losses themselves. AEP reported 2014 profit of \$1.6 billion, up from \$1.5 billion in the prior year. FirstEnergy's profits for the first nine months of 2014 were \$605 million, a jump from \$250 million for the first nine months of the previous year.

Bigger benefits

The utility plans, however, go beyond just whether customers will pay more or less. The utilities say keeping the power plants open will help provide a constant source of energy to Ohioans and provide price stability should natural gas or other fuel costs spike.

Moul testified that during the 2014 polar vortex, natural gas resources were highly constrained and having coal and nuclear generation — whose fuel is available on the plant's site — is essential to prevent dramatic spikes in costs and reduce power outages. He said plants fired by natural gas accounted for more than 45 percent of the outages in the system at the peak of the cold weather last winter.

But America's Natural Gas Alliance rebuffed that criticism in a letter to the commission. Amy Farrell,

vice president of market development for the group, wrote there was "a lot of misleading rhetoric about natural gas" to support nuclear and coal energy. She said all streams were interrupted by the extreme cold causing equipment breakdowns, and she said the availability of natural gas was not a major issue.

"The reliability of natural gas in Ohio is well established and will only improve with the ongoing investment in the delivery system," she wrote.

AEP's Flora said opponents often ignore the economic development benefit the proposal would bring by stabilizing electric prices and jobs.

For example, Ottawa County Commissioner Steve Arndt said he has heard from many larger industrial facilities that have had to reduce manufacturing operations because of a lack of power. During the polar vortex, the county was notified there would be rolling brownouts. Eliminating more plants and making power less stable would not bode well for the area's ability to attract new manufacturing facilities, he said.

The Ohio Manufacturers' Association, however, opposes the plan because it could mean higher electricity rates for manufacturers. Edward Hill testified for the organization against the FirstEnergy proposal, saying it would essentially be a "massive subsidy" from customers to the company. He said the fact some plants could close is not a concern to his businesses.

"There is ample generation in the ... region to meet Ohio's generation requirements for the near term," he testified.

Local losses

Whether the closure of power plants would hurt the state is in question, but there is no doubt such closures would be damaging to the local communities where they reside.

The Conesville Plant in Coshocton County employs about 260 people plus 150 contractors, bringing in \$18.5 million in combined income to the rural county, according to a letter from its commissioners.

"The Appalachian region of Ohio has seen significant plant closures over the past several years," they wrote the state commission. "Our community cannot continue to endure these types of potential losses."

The plant generates millions of dollars in property taxes, of which the largest beneficiary is the River View Local Schools. But more importantly, Superintendent Dalton Summers, said, the plant provides many good jobs for the community, allowing residents to own homes and pay property taxes to the district and others.

The Davis-Besse plant in Ottawa County employes about 700 people with an annual payroll of roughly \$65 million. Commissioner Arndt said the loss would hurt the community, but he said the overall loss of power and its effect on manufacturing would be more damaging.

The utilities haven't flatly said they will close the plants if their plans are rejected, but they have stressed that the plants simply aren't making money. Shutting them temporarily also isn't an option, FirstEnergy's Maul said.

"Once these plants are retired, they are very costly and difficult (if not impossible) to restart. They likely would be gone forever," he testified.

Since 2006, 25 electric generation sites have been closed in Ohio, according to the state commission. That includes three of the generators at Conesville.

Scott Miller, Consortium for Energy, Economics and the Environment director at the Voinovich School, said plant closings are difficult decisions with potential pain for communities. But the utilities are businesses and the question before the commission is whether all customers should have to pay more to prop up a currently failing enterprise.

"Are you going to have those costs passed along hyper-locally (through plant closures), or are we going to spread those costs over the entire rate base?" he said.

blanka@gannett.com

Twitter: @BenLanka

TO: OMA Government Affairs Committee
FROM: Ryan Augsburger / Rob Brundrett
RE: Environment Public Policy Report
DATE: March 11, 2015

Overview

The 131st General Assembly was seated in January. The House made several committee changes including dividing the old Agriculture, Environment and Natural Resources Committee. Environmental issues will be handled in both Agricultural and Rural Development Chaired By Brian Hill and Energy and Natural Resources Chaired by Al Landis.

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

General Assembly News and Legislation

Senate Bill 1 – Great Lakes – Harmful Algae

Senate Bill 1 is the Senate's number one priority bill. The bill originally transferred the administration and enforcement of the Agricultural Pollution Abatement Program from the Department of Natural Resources to the Department of Agriculture, required applicators of fertilizer or manure to comply with specified requirements, created the Office of Harmful Algae Management and Response in the Environmental Protection Agency, established requirements governing dredged material, nutrient loading, phosphorous testing by publicly owned treatment works, and household sewage treatment systems. Before passing the bill, the Senate removed the provisions creating the Office of Harmful Algae. It passed the Senate and had its first hearing on March 11, in the House.

House Bill 61 – Lake Erie Fertilizer – Dredging

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

House Bill 64 – State Budget Bill

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

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

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

House Bill 592 Review

Ohio EPA continues its internal work on a rewrite of the old House Bill 592. While no official bill has been introduced, Director Butler while answering questions testifying on the state budget, mentioned he plans to roll out a smaller package regarding solid waste.

Regulations

Ozone – U.S. EPA

The EPA plans to tighten the National Ambient Air Quality Standards (NAAQS) for ground-level ozone from the current 75 parts per billion (ppb) to between 65 and 70 ppb, or even lower. This will have a major impact on Ohio. A new proposal was released in December.

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

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

U.S. EPA 111(d)

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

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

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

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

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

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

Beneficial Use

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

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

Universal Waste

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

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

Water Nutrient Work Group

Ohio EPA has been working on reducing the amount of nutrients that enter Ohio’s waterways. The OMA has two members on the working group Ohio EPA created to review the issue. The group is meeting monthly to determine what is the best way to implement the state’s water nutrient strategy. This group remains focused on the water nutrient implementation process it was created to help implement. Ohio EPA is feeling pressure to act in light of last year’s Toledo incident.

Other Notes

Bottle Bill Amendment

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

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

Unlike previous so-called bottle bills, where the goal was to encourage recycling and increase reusable feedstock, 80% of the refunded deposits are directed to be used to reduce health and car insurances costs of Ohio residents. There are no specific details of how this would be accomplished.

OMA Signs onto National GHG Advocacy Effort

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

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

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

Ohio EPA Staff Rotation Changing

The Ohio Environmental Protection Agency recently announced a new policy that would rotate personnel within its districts and divisions. The new policy applies to inspectors and staff.

In a letter to stakeholders, Director Craig Butler said, "We believe staff rotation will enhance the uniformity of our inspections while also providing new perspectives and ideas – greatly improving the effectiveness of our efforts. And while some of our staff will be rotating, management in each division and district should remain the same so you should always have someone familiar with whom to discuss issue if they arise."

The Division of Air Pollution Control has announced that in the permitting area, the permit writer will be responsible for no more than one permit cycle for a five-year period for Title V sources. To improve continuity, the existing permit writer will hand off or assist the new permit writer with the renewal permit.

The OMA and several other groups met with Director Butler and put together some FAQs that the agency is planning on publishing to help companies through any transitions.

EPA Proposes Smog Standards to Safeguard Americans from Air Pollution

Release Date: 11/26/2014

Contact Information: Enesta Jones, Jones.enesta@epa.gov, 202-564-7873, 202-564-4355; En español: Lina Younes, younes.lina@epa.gov, 202-564-9924, 202-564-4355

WASHINGTON-- Based on extensive recent scientific evidence about the harmful effects of ground-level ozone, or smog, EPA is proposing to strengthen air quality standards to within a range of 65 to 70 parts per billion (ppb) to better protect Americans' health and the environment, while taking comment on a level as low as 60 ppb. The Clean Air Act requires EPA to review the standards every five years by following a set of open, transparent steps and considering the advice of a panel of independent experts. EPA last updated these standards in 2008, setting them at 75 ppb.

"Bringing ozone pollution standards in line with the latest science will clean up our air, improve access to crucial air quality information, and protect those most at-risk. It empowers the American people with updated air quality information to protect our loved ones - because whether we work or play outdoors - we deserve to know the air we breathe is safe," said EPA Administrator Gina McCarthy. "Fulfilling the promise of the Clean Air Act has always been EPA's responsibility. Our health protections have endured because they're engineered to evolve, so that's why we're using the latest science to update air quality standards - to fulfill the law's promise, and defend each and every person's right to clean air."

EPA scientists examined numerous scientific studies in its most recent review of the ozone standards, including more than 1,000 new studies published since the last update. Studies indicate that exposure to ozone at levels below 75 ppb -- the level of the current standard -- can pose serious threats to public health, harm the respiratory system, cause or aggravate asthma and other lung diseases, and is linked to premature death from respiratory and cardiovascular causes. Ground-level ozone forms in the atmosphere when emissions of nitrogen oxides and volatile organic compounds "cook" in the sun from sources like cars, trucks, buses, industries, power plants and certain fumes from fuels, solvents and paints. People most at risk from breathing air containing ozone include people with asthma, children, older adults, and those who are active or work outside. Stronger ozone standards will also provide an added measure of protection for low income and minority families who are more likely to suffer from asthma or to live in communities that are overburdened by pollution. Nationally, 1 in 10 children has been diagnosed with asthma.

According to EPA's analysis, strengthening the standard to a range of 65 to 70 ppb will provide significantly better protection for children, preventing from 320,000 to 960,000 asthma attacks and from 330,000 to 1 million missed school days. Strengthening the standard to a range of 70 to 65 ppb would better protect both children and adults by preventing more than 710 to 4,300 premature deaths; 1,400 to 4,300 asthma-related emergency room visits; and 65,000 to 180,000 missed workdays.

EPA estimates that the benefits of meeting the proposed standards will significantly outweigh the costs. If the standards are finalized, every dollar we invest to meet them will return up to three dollars in health

benefits. These large health benefits will be gained from avoiding asthma attacks, heart attacks, missed school days and premature deaths, among other health effects valued at \$6.4 to \$13 billion annually in 2025 for a standard of 70 ppb, and \$19 to \$38 billion annually in 2025 for a standard of 65 ppb. Annual costs are estimated at \$3.9 billion in 2025 for a standard of 70 ppb, and \$15 billion for a standard at 65 ppb.

A combination of recently finalized or proposed air pollution rules – including “Tier 3” clean vehicle and fuels standards – will significantly cut smog-forming emissions from industry and transportation, helping states meet the proposed standards. EPA’s analysis of federal programs that reduce air pollution from fuels, vehicles and engines of all sizes, power plants and other industries shows that the vast majority of U.S. counties with monitors would meet the more protective standards by 2025 just with the rules and programs now in place or underway. Local communities, states, and the federal government have made substantial progress in reducing ground-level ozone. Nationally, from 1980 to 2013, average ozone levels have fallen 33 percent. EPA projects that this progress will continue.

The Clean Air Act provides states with time to meet the standards. Depending on the severity of their ozone problem, areas would have between 2020 and 2037 to meet the standards. To ensure that people are alerted when ozone reaches unhealthy levels, EPA is proposing to extend the ozone monitoring season for 33 states. This is particularly important for at-risk groups, including children and people with asthma because it will provide information so families can take steps to protect their health on smoggy days.

The agency is also proposing to strengthen the “secondary” ozone standard to a level within 65 to 70 ppb to protect plants, trees and ecosystems from damaging levels of ground-level ozone. New studies add to the evidence showing that repeated exposure to ozone stunts the growth of trees, damages plants, and reduces crop yield. The proposed level corresponds to levels of seasonal ozone exposure scientists have determined would be more protective.

EPA will seek public comment on the proposal for 90 days following publication in the Federal Register, and the agency plans to hold three public hearings. EPA will issue final ozone standards by [October 1, 2015](#).

To view the proposal: <http://www.epa.gov/glo/>



What Could New Ozone Regulations Cost Ohio?

\$22 Billion Gross State Product Loss from 2017 to 2040

22,914 Lost Jobs or Job Equivalents¹ per Year

\$840 Million in Total Compliance Costs

\$440 Drop in Average Household Consumption per Year

¹ Total job equivalents equal total labor income change divided by the average annual income per job.

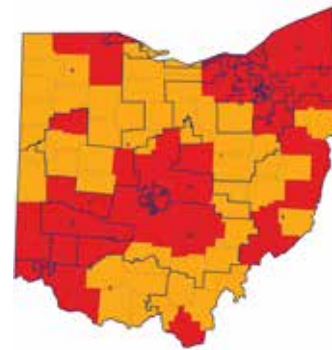
Expensive New Ozone Regulation Will Put the Squeeze on Ohio

The Environmental Protection Agency's (EPA) new ozone regulation could be the most expensive ever issued on the American public, costing the nation \$140 billion annually,² according to a new analysis by NERA Economic Consulting. This regulation will make it harder to get the necessary permits to manufacture goods and build critical infrastructure like roads and highways in Ohio, while increasing the cost of energy for every business and household in the state. The picture gets even worse for the counties in the red and orange in the maps in figure 1. In these areas, manufacturers won't be able to expand without a reduction of emissions or shutdown of operations from other plants in the area. Plans for new plants and expansion at existing plants will be shelved. Federal highway funds could freeze and economic growth could grind to a halt.

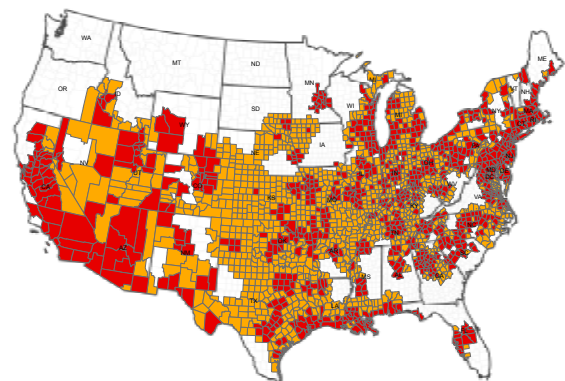
² This estimate only accounts for the costs and related economic impacts of bringing the country into attainment with a 65 ppb ozone standard. It does not account for any additional costs incurred by businesses complying with "maintenance" requirements for attainment areas. This estimate also does not account for any potential curtailment of energy production in nonattainment areas. In NERA's July 2014 report measuring a 60 ppb ozone standard, they found that a significant curtailment of natural gas production in nonattainment areas could further reduce GDP by \$90 billion per year and cost an additional 1.4 million job-equivalents per year.

Figure 1: Projected Nonattainment with a 65 Parts Per Billion (ppb) Ozone Standard

- Areas with monitors
- Unmonitored but likely to exceed 65 ppb



Projected Nonattainment in Ohio (65 ppb)



Projected Nonattainment in the United States (65 ppb)

Source: URS

Ozone Levels: Counties in Ohio

County	Ozone Levels (ppb)
Brown County	81
Butler County	81
Clermont County	81
Hamilton County	81
Warren County	81
Cuyahoga County	80
Delaware County	80
Fairfield County	80
Franklin County	80
Geauga County	80
Hocking County	80
Lake County	80
Licking County	80
Lorain County	80
Madison County	80
Medina County	80
Morrow County	80
Perry County	80
Pickaway County	80
Union County	80
Clinton County	78
Mahoning County	77
Trumbull County	77
Carroll County	76
Greene County	76
Highland County*	76
Miami County	76
Montgomery County	76
Stark County	76
Ashtabula County	75
Clark County	75

Table Key:

Highlighted Counties = Nonattainment at 65ppb

* = Based on Interpolation

Source: URS, July 3, 2014. Based on 3-year period, 2011-2013

Ozone Levels: Counties in Ohio

County	Ozone Levels (ppb)
Tuscarawas County*	75
Champaign County*	74
Adams County*	73
Allen County	73
Auglaize County*	73
Coshocton County*	73
Darke County*	73
Fulton County	73
Holmes County*	73
Knox County	73
Logan County*	73
Lucas County	73
Ottawa County*	73
Ross County*	73
Shelby County*	73
Williams County*	73
Wood County	73
Crawford County*	72
Fayette County	72
Hardin County*	72
Jefferson County	72
Marion County*	72
Mercer County*	72
Preble County	72
Putnam County*	72
Richland County*	72
Ashland County*	71
Columbiana County*	71
Erie County*	71
Hancock County*	71
Henry County*	71

Table Key:

Highlighted Counties = Nonattainment at 65ppb

* = Based on Interpolation

Source: URS, July 3, 2014. Based on 3-year period, 2011-2013

Ozone Levels: Counties in Ohio

County	Ozone Levels (ppb)
Muskingum County*	71
Sandusky County*	71
Seneca County*	71
Wayne County*	71
Wyandot County*	71
Belmont County	70
Defiance County*	70
Harrison County*	70
Huron County*	70
Pike County*	70
Van Wert County*	70
Lawrence County	69
Paulding County*	69
Vinton County*	69
Washington County	69
Athens County*	68
Gallia County*	68
Jackson County*	68
Meigs County*	68
Morgan County*	68
Portage County	68
Scioto County*	68
Summit County	68
Monroe County*	67
Guernsey County*	66
Noble County	66

Table Key:

Highlighted Counties = Nonattainment at 65ppb

* = Based on Interpolation

Source: URS, July 3, 2014. Based on 3-year period, 2011-2013

Revised Ozone Standard						
City	2010-2012 Data	2011-2013 Data	2012-2014 Data	% above standard (2012-2014)		
				at 70 ppb	at 65 ppb	at 60 ppb
Canton	78	76	70	0.0%	7.7%	16.7%
Cleveland	83	80	78	11.4%	20.0%	30.0%
Columbus	82	80	75	7.1%	15.4%	25.0%
Cincinnati	85	81	75	7.1%	15.4%	25.0%
Dayton	78	76	72	2.9%	10.8%	20.0%
Lima	74	73	71	1.4%	9.2%	18.3%
Toledo	77	74	71	1.4%	9.2%	18.3%
Youngstown- Warren	79	76	72	2.9%	10.3%	20.0%



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

**Director Craig W. Butler H.B. 64 Testimony
House Finance Subcommittee on Agriculture, Development
and Natural Resources
March 3, 2015**

Good evening, Chairman Thompson, Ranking Member O'Brien and members of the House Finance Subcommittee on Agriculture, Development and Natural Resources committee. I am Craig Butler, Director of Ohio EPA, and I appreciate the opportunity to provide testimony on House Bill 64, Governor Kasich's budget proposal.

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

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

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

How does Ohio EPA fit in with this?

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

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

quality. Ohio EPA also supports economic development by awarding \$375 million per year in federal and state funded low-interest loans to local communities for wastewater and drinking water infrastructure projects.

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

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

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

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

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

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

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

We are asking to use our drinking water protection fund as state matching funding for federal grants, continue conducting the successful Diesel Emission Reduction Grant program (DERG) and increase spending authority to update the surface water permitting/tracking computer program. Again, these changes will help leverage federal dollars and provide more

funds for drinking water upgrades, as well as supporting the DERG program that is helpful to municipalities and others to reduce harmful diesel emissions from school busses and protect our children's health.

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

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

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

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

We believe this will work because it has already worked in Ohio. The brownfields VAP serves as a good model as it's proven its effectiveness over the past 18 years. It has provided a streamlined and environmentally sound path to clean up contaminated property and has a proven track record of making sure that this work is done professionally and within the requirements of the law.

Ohio EPA, ODNR and interested parties worked together on a provision dealing with right-to-know reporting for oil and gas producers. Since 2001 oil and gas producers have used ODNR's production reports to meet the federal Right-to-Know chemical inventory provisions. Recently that practice was challenged and it was determined that the reports needed to be updated to capture regulatory changes. Our budget language will provide a mechanism for oil and gas producers to resume use of production reports in 2016 to meet state chemical inventory disclosure requirements while ensuring those reports are statutorily up-to-date and available to emergency response professionals in case of an emergency. This will eliminate a

duplication of effort because the companies will not be required to provide the same information to two government agencies.

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

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

Governor Kasich has called Lake Erie the crown jewel of Ohio. I agree with him. Since the implementation of the Clean Water Act in 1972 Lake Erie has made a remarkable recovery. Unfortunately, for reasons that are not entirely clear, and as evidenced by recent increases in algal blooms, we appear to be back-sliding. Two provisions in our budget proposal will help us, in addition to those at ODNR and ODA, to continue addressing algal blooms, especially in the Lake Erie watershed.

The first provision would require certain wastewater treatment plants to monitor their discharge for phosphorus and require plants that don't have current phosphorus limits to conduct a study to determine the feasibility of such a limit on their systems. Given the issues with nutrient and phosphorus loading in Ohio's waters, including inland lakes and Lake Erie, it is important to have accurate data on the amount of phosphorus discharged into our waters. This amendment will provide a framework for future targeted efforts and be very valuable when determining how to allocate resources to best address the algae problem.

Dealing with dredge material is another important piece of our budget proposal. While dredging our harbors is vital to Ohio's economy, placing dredged material in Lake Erie worsens the environmental problems in the lake. It is simply not beneficial to place this material back in Lake Erie and I am concerned about the potential impact on water quality of continuing this practice.

In the Cleveland harbor, one of our eight federal navigation channels that must be dredged by the U.S. Army Corps of Engineers to keep commerce moving, the material still contains PCBs and other legacy contaminants. As you have certainly heard recently, Ohio strongly opposes the Army Corps proposal to dispose of this PCB-laden material in Lake Erie.

This material needs to be placed in a landfill to keep it from impacting our drinking water and fisheries.

In Toledo and other harbors, there is concern that the phosphorous and nutrient-laden dredge material can contribute to algal blooms that jeopardize drinking water and potentially impact tourism and fishing. While finding other uses for this material is a huge challenge, there are, or we must find, ways to beneficially reuse this clean material so that it can be a marketable commodity, not a liability. This amendment will all but eliminate the practice of open lake disposal by 2020 and incentivize other options for the dredge materials. With the environmental impacts of dumping this material in the lake evident, it is time to rethink this and find ways to reuse and recycle this material.

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

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

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

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

In this not so unique instance, one of two pump stations flooded, causing loss of both pumps in that station. Approximately half of the water system served by that station, including two storage tanks, emptied before one of pumps could be restarted. Because of the system’s inadequate pumping capacity, lack of a backup and a large amount of unaccounted-for water loss (reported to be nearly 70%), it has taken more than a week to fill the system. Because the water system’s lack of a competent operator, coupled with having no staff with technical,

financial or managerial capability, or complete knowledge of the infrastructure components, this was a failure waiting to happen, and it did. Ohio EPA staff, with support of the general manager of the nearby HECLA Water Association, had to operate the system to restore service. Several other nearby water systems also provided support, as did the local and Ohio EMA. This is an all-to-familiar reason why this proposal is needed. Understanding and managing critical water infrastructure is critical. Millions of Ohioans depends on it.

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

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

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

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

As you can see, we are committed to working with fewer staff in the next biennium and exploring creative ways to protect the environment while encouraging economic growth. We are looking for opportunities to assist businesses with technical and financial resources without needing statutory changes, and we are doing this by combining our compliance assistance and funding programs into one office to provide a "one stop shop" for communities and businesses

to come for help at Ohio EPA. This effort is just getting started, but through 2016 I will be talking more about how we are building this new free, confidential service program to help Ohio businesses and communities.

As director of Ohio EPA, I share the Governor's vision for jobs growth and new opportunities to find success in our state and at the same time make certain all Ohioans have a safe environment in which to live and work. I appreciate the opportunity to speak with you today and I hope you are as proud as I am of Ohio's progress and vision for a prosperous future. I would be happy to answer any questions you have.



Ohio EPA 2016-17 Biennial Budget

The following items were included in HB 490 from the 130th General Assembly and are included in the budget:

- **Division of Air Pollution Control Technical Change** – This is a technical change to ORC 3704.05 to correct an overlooked cross-reference from earlier legislation.
- **Lead Free Definition** – This change is necessary in order to be consistent with federal law. The federal “Reduction of Lead in Drinking Water Act of 2011” amended a portion of the Safe Drinking Water Act. The amendment will reduce the allowable lead content of plumbing and fixtures from 8% to 0.25%. Ohio EPA’s authority only extends to requirements for public drinking water systems. Other changes related to plumbers and building code were already made by the Department of Commerce and are in place now.
- **Changes to 6111.99 (Water Pollution Control)** – This creates a knowing and purposely standard for violations of ORC 6111.99. Currently, all criminal violations of Ohio’s water pollution laws are misdemeanors, regardless of their severity. This change also allows Ohio EPA to recoup actual response costs if a person is convicted of or pleads guilty to a violation of the Water Pollution Control Law. These changes should be made to ensure Ohio does not have to rely on the federal government to respond to violations that occur in the state.
- **Monitoring of Phosphorus Discharges & Optimization Study**– This proposal will require Ohio EPA to modify existing (and any new) major POTW’s (Publically Owned Treatment Works) NPDES (National Pollutant Discharge Elimination Systems) permits to monitor phosphorus discharges into waters of the state. There will be a staggered schedule to allow POTW’s time to comply. It will also require plants that do not have a current phosphorus discharge limit to conduct a study on the effects such a limit will have on their operations.
- **Banning Open Lake Disposal of Dredge Materials** – Reducing the sediment dumped in Lake Erie will help reduce chemical and nutrient loading, which likely contributes to algal blooms, and will improve water quality and protect fish and wildlife habitats. There are other more environmentally beneficial methods of handling dredge material. The legislative change would require that all dredge material be diverted from open-lake disposal by 2020.
- **Oil and Gas Producers Right-to-Know Reporting** – Ohio EPA, ODNR and interested parties have worked together on this provision. Since 2001 oil and gas producers have used ODNR’s production reports to meet the federal Right-to-Know provisions. Recently that practice was challenged to U.S. EPA and it was determined that the reports needed to be updated to capture regulatory changes. This language will provide a mechanism for oil and gas producers to resume use of production reports in 2016 to meet SERC requirements while ensuring those reports are statutorily up-to-date and available to emergency response professionals. (In 2015 traditional SERC reporting will be needed while ODNR updates the database).

The following items are new initiatives in the 2016-17 Budget:

- **Asset Management** – Ensure the long-term sustainability of public water systems by requiring them to develop and implement an asset management plan. Only public water systems that demonstrate technical, managerial or financial distress will be required to submit an asset management plan for approval. By requiring asset management for public water systems, deficiencies can be addressed before there are significant public health risks and non-compliance.

Ohio EPA 2016-17 Biennial Budget

- **Escrow Account for Deficient Small Privately Owned Water Systems** – Current law requires that homeowners associations, when developing a new drinking water system or modifying an existing system, maintain some type of financial assurance to address serious problems that may arise affecting the ability to provide a safe, reliable source of drinking water. Ohio EPA is proposing a similar legislative change that would require manufactured housing communities, apartments and nursing homes that have their own public water systems to also maintain emergency funds to fix major problems. Negligent owners have caused lengthy interruptions of service and public health risks due to financial inability or unwillingness to make timely repairs. This legislation addresses the financial gap by requiring deficient owners to establish an escrow account and systems, in general, to demonstrate financial assurance.
- **Certified Water Quality Professional** – Increase options for entities seeking permitting through our wetlands (401) unit. This amendment creates a “certified water quality professional” (CWQP) program to allow a prequalified, 3rd party private-sector evaluation and assessment of wetlands and streams for water quality certification and Isolated Wetland Permit applications. This proposal will be mirrored after many of the successful certified professional provisions of the Voluntary Action Program (VAP).
- **Chemical Disclosure** – Provide Ohio EPA emergency responders with the authority to request chemical information that may include confidential trade secret information in the event of an emergency. It will allow Ohio EPA to share that information with others, such as water treatment plant operators downstream who have an immediate public health or safety interest to protect. The language would protect the confidentiality of trade secret information provided to an emergency responder, and extend that confidentiality to others, such as water plant operators, who receive the information for purposes of reacting to a release. This will provide protection for the environment in the event of an emergency, while also protecting confidential business information.
- **WRRDA Updates** – Update state law regarding the Water Pollution Control Loan Fund (WPCLF) to be consistent with federal law changes from 2014. Among the federal changes are an extension of loan repayment terms for counties and municipalities from 20-30 years and updating the user charge system to make it more practical.

Others

- Extend existing fees for our Air, Surface Water, Drinking Water and Materials and Waste Management divisions.
- Reallocate existing Division of Materials and Waste Management funding to support our increased focus on compliance assistance and pollution prevention.
- Combine two separate, but similar, advisory councils related to solid waste and recycling. Achieve efficiencies by combining existing funds for our Materials and Waste Management into one line item while maintaining reporting and tracking of fund uses.
- Continue the federally required E-Check program in seven northeast Ohio counties.
- Allow the use of the drinking water protection fund as state match funding for federal grants.
- Increase spending authority to update the surface water permitting/tracking computer program.
- Continue funding the successful Diesel Emission Reduction Grant program.

Environment

Director Butler Testifies on State Budget Bill

This week, Ohio EPA Director [Craig Butler](#) gave the agency's [testimony](#) on [House Bill 64](#), the state budget bill. Ohio EPA's budget does not include any fee increases; however, the agency is asking to extend existing fees for its air, surface water, drinking water and materials and waste management divisions, and to reallocate materials and waste management funding to support its focus on business assistance, compliance assistance and pollution prevention.

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

The agency is also asking for the authority to request chemical information that may include confidential trade secret information in the event of an emergency. Ohio EPA emergency response staff responds 24/7, 365 to environmental spills and disasters and coordinates mitigation and cleanup efforts with local, state and federal partners. The proposal allows Ohio EPA to ask for information from companies during an emergency and share that information with others, such as water treatment plant operators who have an immediate public health or safety interest to protect. 3/5/2015

Great Lakes Brewery on Tap for OMA Environment Committee

Well, not exactly, but we didn't discourage our guest presenter on sustainability from bringing samples to our [March 12](#) OMA Environment Committee meeting.

Other potent presentations include:

- Remarks by guest speaker, Michael Fraizer, Assistant Policy Director - Environment, Energy, Agriculture, for the Kasich Administration.
- Updates on Ohio water quality, beneficial use rules and universal waste.
- A briefing on the proposed state budget and its impacts on environmental policies.
- Updates on proposed federal rules including U.S. EPA's ground-level ozone reduction proposal.

- And, Ohio EPA staff will brief members on its recycling data initiative.

[Register here](#) for in-person or call-in participation. Committee meetings are held in the [OMA offices](#) in Columbus and we always serve a nice lunch. 3/4/2015

Time to Act Against Federal Ground-Level Ozone Proposal

OMA is calling on members to ask their federal elected officials to halt the U.S. EPA's economy-destroying ground-level ozone proposal by using the quick and easy communication tools at OMA's [Manufacturing Advocacy Center](#).

U.S. EPA announced its intention to tighten the ozone air quality standards from the current 75 ppb (parts per billion) to within a range of 65 to 70 ppb.

The Clean Air Act requires EPA to review the standards every five years. EPA last updated these standards in 2008, setting them at 75 ppb.

According to new data from NERA Economic Consulting (NERA), commissioned by the National Association of Manufacturers (NAM), [no Ohio county](#) is projected to be in attainment at 65 ppb.

The [NERA newly updated study](#) on the potential cost of compliance: "This study evaluates the potential compliance costs and impacts on the U.S. economy if the U.S. Environmental Protection Agency (EPA) were to set a National Ambient Air Quality Standard (NAAQS) for ozone of 65 parts per billion (ppb). Employing our integrated energy-economic macroeconomic model (NewERA), we estimate that the potential emissions control costs could reduce U.S. Gross Domestic Product (GDP) by about \$140 billion per year on average over the period from 2017 through 2040 and by about \$1.7 trillion over that period in present value terms. The potential labor market impacts represent an average annual loss employment income equivalent to 1.4 million jobs (i.e., job-equivalents)."

Interested parties have until March 17, 2015 to comment. The final rule is scheduled to be released October 1, 2015.

Here is [more information from NAM](#) and more about the proposed rule on U.S. EPA's [ozone informational page](#). 2/25/2015

Partnership Aims for Improved Recycling Data

Ohio EPA indicates that collecting accurate information about Ohio recycling activities is a challenge. As a result the OMA and other business associations are [collaborating with EPA](#) to encourage businesses to submit their recycling data.

Each year, Ohio's 52 local solid waste management districts survey businesses in their districts about the amounts and types of materials being recycled. This provides a statewide picture of recycling activities, trends and opportunities.

Complete the [survey online](#) or when you receive your survey in the mail.

Voluntary participation in the survey benefits businesses by connecting them to the local solid waste management districts that serve their region. Solid waste districts can help businesses figure out what waste materials may be recycled and identify markets for these materials.

In addition, Ohio EPA offers grants, technical assistance and recognition to businesses who want to increase recycling or develop markets for recycled products.

"Industry is an enormous consumer of recycled materials, such as metals, glass, paper and plastics; thus, manufacturers are strong advocates for recycling systems in Ohio. Measuring and reporting recycling efforts is valuable for all of Ohio's audiences," said OMA's Rob Brundrett. *2/25/2015*

Ohio EPA Offers Free Webinar on E3 Program

On Wednesday, March 18, 2015, 10:00 - 11:00 a.m., Ohio EPA's Office of Compliance Assistance and Pollution Prevention (OCAPP) offers a no-charge webinar about Ohio EPA's Encouraging Environmental Excellence Program.

A brief overview of the Encouraging Environmental Excellence Program will be followed by a description of the pollution prevention and sustainability efforts of three Ohio businesses that have been recognized at the Bronze, Silver and Gold Levels.

Click [here](#) for additional information and [here](#) to register. *2/26/2015*

Ohio EPA Budget Focuses on Water

The proposed budget for the Ohio Environmental Protection Agency (EPA) for the coming biennium is heavy with water issues. And, the budget would

extend, not raise, existing fees for Air, Surface Water, Drinking Water and Materials and Waste Management divisions.

Read an [EPA summary of the budget](#) here. *2/19/2015*

Obama Administration to Take Aim at Methane Next

OMA Connections Partner, Jones Day, reported that on January 14, 2015, the Obama Administration and the U.S. EPA announced a plan to propose standards to control methane emissions from new and modified oil and natural gas production sources.

The future regulation, which represents part of the Administration's Climate Action Plan Strategy to Reduce Methane Emissions will be proposed under § 111(b) of the Clean Air Act and is projected to reduce methane emissions by up to 45% by 2025, as compared to 2012 levels. The EPA plans to issue the proposed regulations this summer, with the rule to be finalized by 2016.

After proposing the Clean Power Plan to limit carbon emissions from existing electric generating units, the EPA intends for this new methane standard to serve as the next step in reducing overall greenhouse gas (GHG) emissions.

The EPA estimates that methane emissions accounted for nearly 10% of GHG emissions in the U.S. in 2012, while noting that methane possesses 25 times the heat-trapping potential of carbon dioxide over a 100-year period. Without new measures to control methane emissions, the Administration projects that methane emissions will increase by more than 25 percent by 2025. [Read more from Jones Day](#). *2/12/2015*

New Federal Ozone Proposal Would Choke Ohio Economy

With the federal government's push to [tighten](#) the ground-level ozone air quality standards from the current 75 ppb (parts per billion) to a range between 65 to 70 ppb, Ohio may potentially move from being almost completely in attainment to being completely out of attainment.

As Ohio EPA continues to study the impacts of the newly proposed ozone rule, [data](#) shows that currently all the major urban areas of Ohio are inside 75 ppb except for Cleveland. However, if the standard is lowered to under 70 ppb, the entire state would be out of attainment. Non-attainment essentially prevents the economy from growing, any.

Interested parties have until March 17 to submit comments to U.S. EPA. The [OMA strongly urges](#) U.S. EPA to maintain the current standard. 1/29/2015

Ohio EPA Reminds Businesses Annual Reports are Due

Ohio EPA Air Services reminds Ohio businesses that certain annual reports are due soon. [Here is a summary](#) of reports due and filing tips. 1/29/2015

Financing Help for Small Manufacturers to Meet Clean Air Rules

For small Ohio manufacturers that are subject to federal and state clean air regulations, there is a long-standing state program that offers lower-cost financing to help pay for projects that mitigate air pollution. The Clean Air Resource Center (CARC) – a program of the Ohio Air Quality Development Authority – provides lower-cost grants and loans for air quality projects.

CARC offers grants equal to 30 percent of equipment costs. Grants are capped at a maximum of \$30,000. Specifically, these grants help cover closing costs as well as principal payments on the equipment after it has been installed and operational for at least six months.

CARC also provides tax-incentivized loans to help finance pollution control or prevention projects. Qualifying businesses will have 100 or fewer employees and emit less than 75 tons of all regulated air pollutants or 50 or fewer tons of any such pollutant.

Find out more by calling 800-225-5051 or 614-728-3540 and visiting the [CARC web page](#). 1/15/2015

OMA Announces 2015 Environment Committee Dates

The 2015 OMA Environment Committee calendar is set. Meetings provide members an opportunity to work with peers and meet with state leaders on important environmental issues. Meetings are held in-person in Columbus and a call-in option is available.

Many of the proposed federal rules - including new ozone standards and the "Clean Power Plan" - will dominate 2015 and could have major implications for Ohio manufacturers. The committee provides the information and analyses you need to follow and help shape the legislative & regulatory environment.

The 2015 meetings are scheduled for: (click to add to your calendar) [Thursday March 12](#), [Tuesday June 16](#), and [Thursday October 22](#).

[Register here](#). For questions please contact OMA's [Rob Brundrett](#) who staffs the committee. 1/15/2015

Ozone Rule Comment Period Begins

U.S. EPA's proposed rule for National Ambient Air Quality Standards for Ozone was officially published in the [Federal Register](#) on December 17, 2014. This began the clock for interested parties to submit comments on the proposed rule. The deadline to file comments is March 17, 2015.

The EPA is proposing to revise the primary standard from 0.075 to within the range of 0.065 to 0.070 parts per million (ppm), and to revise the secondary standard to within the range of 0.065 to 0.070 ppm.

Read more about the proposed rule on U.S. EPA's [ozone informational page](#). The OMA in conjunction with the National Association of Manufacturers released this [study](#) which estimates that this regulation could be the most costly in history; the organizations will be coordinating advocacy on behalf of manufacturing. 1/7/2015

"Technically Flawed, Not Legal and Unworkable"

In filing [Ohio EPA comments](#) to the federal government's "Carbon Pollution Emission Guidelines for Existing Stationary Sources" (also called the "Clean Power Plan"), Ohio EPA director Craig Butler called the plan "technically flawed, not legal and unworkable."

Among its comments:

"U.S. EPA failed to understand and recognize the unique circumstances of Ohio as a deregulated energy marketplace. Within the proposal U.S. EPA compares vertically integrated and deregulated marketplaces, however nowhere does U.S. EPA take these differences into consideration in establishing the best system of emission reduction."

"Currently, it is PJM Interconnection, LLC (PJM), as delegated by the Federal Energy Regulatory Commission (FERC) through the Federal Power Act, whom determines dispatch order by utilizing the least expensive resource first to meet energy demand. Nowhere is U.S. EPA delegated authority for states to usurp the Federal Power Act and mandate generation dispatch based on CO2 emissions rather than cost."

“U.S. EPA disregarded specific and detailed concerns from entities responsible for guaranteeing grid stability.”

“U.S. EPA’s cost analysis is flawed and radically underestimates the projected cost of electricity from this proposal.”

Read the Ohio EPA [talking points](#).

Staff of the Ohio EPA and the Ohio Public Utilities Commission (which participated in the rule analysis) are to be commended for the thorough technical and legal analysis conducted on behalf of our state. *12/2/2014*

Environment Legislation
Prepared by: The Ohio Manufacturers' Association
Report created on March 9, 2015

- HB61** **LAKE ERIE FERTILIZER-DREDGING** (BUCHY J, HALL D) To generally prohibit the application of fertilizer or manure in Lake Erie's western basin on frozen ground or saturated soil and during certain weather conditions, to require publicly owned treatment works either to monitor monthly total and dissolved phosphorous or to prepare optimization studies that evaluate their ability to reduce phosphorous, and to prohibit a person, beginning July 1, 2020, from depositing dredged material in Ohio's portion of Lake Erie and its direct tributaries that resulted from harbor or navigation maintenance activities unless authorized to do so by the director of environmental protection.
Current Status: 3/4/2015 - Bills for Third Consideration
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-61>
- HB64** **OPERATING BUDGET** (SMITH R) To make operating appropriations for the biennium beginning July 1, 2015, and ending June 30, 2017, and to provide authorization and conditions for the operation of state programs.
Current Status: 3/12/2015 - House Finance Subcommittee on Primary and Secondary Education, (Eighth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-64>
- HB101** **HAB MITIGATION** (HALL D) To establish requirements governing the training of employees of publicly owned treatment works and public water systems to monitor and test for harmful algae, the development of emergency plans by certain public water systems to respond to harmful algal blooms, and the development of an early warning system for harmful algal blooms, and to require the Director of Natural Resources to study the impact of certain species on Lake Erie.
Current Status: 3/4/2015 - Introduced
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-101>
- SB1** **GREAT LAKES-HARMFUL ALGAE** (GARDNER R, PETERSON B) To transfer the administration and enforcement of the Agricultural Pollution Abatement Program from the Department of Natural Resources to the Department of Agriculture, to require applicators of fertilizer or manure to comply with specified requirements, to create the Office of Harmful Algae Management and Response in the Environmental Protection Agency, to establish requirements governing dredged material, nutrient loading, phosphorous testing by publicly owned treatment works, and household sewage treatment systems, and to declare an emergency.
Current Status: 3/11/2015 - House Agriculture and Rural Development, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-1>
- SB16** **WATERSHEDS-FERTILIZER APPLICATION** (BROWN E) To require applicators of fertilizer or manure to comply with specified requirements and to authorize the Director of Environmental Protection to study and calculate nutrient loading to Ohio watersheds from point and nonpoint sources.
Current Status: 2/10/2015 - Senate Agriculture, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-16>

- SB46** **LAKE ERIE DRILLING BAN** (SKINDELL M) To ban the taking or removal of oil or natural gas from and under the bed of Lake Erie.
Current Status: 2/18/2015 - Referred to Committee Senate Energy and Natural Resources
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-46>
- SB47** **DEEP WELL BRINE INJECTION PROHIBITION** (SKINDELL M) To prohibit land application and deep well injection of brine, to prohibit the conversion of wells, and to eliminate the injection fee that is levied under the Oil and Gas Law.
Current Status: 2/18/2015 - Referred to Committee Senate Energy and Natural Resources
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-47>
- SB114** **MICROCYSTIN LEVELS-PUBLIC WATER** (SKINDELL M) To establish requirements and procedures pertaining to levels of microcystin in public water systems.
Current Status: 3/4/2015 - Introduced
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-114>

To: OMA Government Affairs Committee
From: Ryan Augsburger / Rob Brundrett
Re: Human Resources Public Policy Report
Date: March 11, 2015

Overview

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

General Assembly News and Legislation

Unemployment Compensation and Debt Study Committee

Last year Speaker Batchelder (R-Medina) announced a new summer legislative study committee that traveled the state to hold hearings about eliminating Ohio's nearly \$1.3 billion debt to the federal unemployment loan fund.

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

There is a concern what another recession could do to the solvency of Ohio's unemployment compensation fund. A recent report from the federal government on the solvency of state funds, shows that Ohio is dire shape with its current fund. While Ohio still owes more than \$1.3 billion to the federal government because of the last recession, an even larger catastrophe could take place if a second recession hits, before Ohio has built its fund back to solvent status.

Representative Sears announced she is working on a package of bills to address the problem. Nothing has been released at this time. Representatives Romanchuk and Hall continued to be leaders inside the caucus on this issue.

Human Resources

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

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

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

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

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

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

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

FMLA Rights Extended to Employees in Legal Same-Sex Marriage

OMA Connections Partner, Dinsmore, reported that this week, the Department of Labor's Wage and Hour Division announced that it is revising the Family and Medical Leave Act's (FMLA) definition of "spouse" to include employees in legal same-sex marriages, regardless of where they live.

Among other things, this change in the definition of "spouse" enables eligible employees in legal same-sex marriages to take FMLA leave to care for a spouse with a serious medical condition. The final rule is effective March 27, 2015. [Read more from Dinsmore](#). *2/24/2015*

OMA Urges Workforce Development Investment

Three members of OMA's Work Group on Manufacturing Career Pathways this week presented proponent testimony on [House Bill 1](#), a bill designed to stimulate alignment of business, education and students around "in demand jobs."

Rick Pfeifer, recently retired from Lima's American Trim, [told the committee](#): "The problem facing American Trim as well as many other medium to small manufactures is significant today but we see the gap magnified going forward due to the increased aging of our current skilled trades base. We could see over 40% of these skilled associates eligible to retire within the next 3-8 years."

Brian Benyo of Youngstown's Brilex Industries, Inc., founder of the Mahoning Valley Manufacturers Coalition, [said](#): "I believe workforce development is the single most important issue facing Ohio businesses today, particularly manufacturing, and will be key to our continued economic growth. We appreciate your effort to better align the workforce and education system in Ohio to industry demands."

Kelley Wallace from the Career and Technology Education Centers of Licking County, better known as C-TEC, [testified](#) because: "First, it allows students to use grants for both degrees and certifications leading to verifiable high demand jobs. Second, the bill requires grants to be distributed in a back-loaded system upon completion of milestones especially experiential learning requirements. Third, and maybe most important, the bill sets aside dollars needed to promote these workforce grant opportunities to students and potential students in Ohio."

The OMA witnesses made a series of specific recommendations for improvements to the bill.

If you would like to join the OMA work group, please contact [Denise Locke](#). *2/18/2015*

(Note: Brian's testimony was read into the record by OMA's Rob Brundrett, as Brian was, after four hours of driving for the morning hearing, stuck in the snow and ice impaired parking lot otherwise known as I-71.)

Another Pro Marijuana Group Crops Up

Last week a second group, [Responsible Ohioans for Cannabis](#), announced its intention to place a marijuana legalization amendment on the fall ballot.

Previously, a separate group, [Responsible Ohio](#), announced its intention to place an amendment on the 2015 fall ballot.

There is a real possibility then that Ohio may have competing marijuana issues in the fall.

If the groups' language is approved by the Attorney General, the groups will each need to collect more than 300,000 valid signatures to make the ballot.

The OMA Safety and Workers' Compensation is following the issue and will look at this in-depth at its May 5 meeting. [Register here](#). 2/19/2015

2015 Employment Forms Available - Corrected

OMA provides free up-to-date [reproducible forms](#) to assist your human resource department, managers and supervisors. These forms comply with federal and Ohio laws and have been reviewed by OMA counsel Bricker & Eckler LLP for compliance as recently as December 2014.

These forms were updated again just this week to make several corrections.

Please read the [special instructions to employers](#) to protect your company when using these forms. 2/17/2015

Congress Acts to Undo "Ambush" Election Rule

Joe Trauger, Vice President, Human Resources Policy, the National Association of Manufacturers (NAM) advises that Senator Lamar Alexander, Chairman, Senate Health, Education, Labor and Pensions (HELP) Committee, and Congressman John Kline, Chairman, House Education and the Workforce Committee, introduced identical Congressional Review Act Resolutions, ([S.J.Res 8](#) and [H.J.Res 29](#)) which, if voted favorably, would send to the president a congressional disapproval of the NLRB's "Ambush" Election Rule.

According to Trauger, it is expected the resolutions will pass both the House and Senate, but will have to be signed by the president in order to overturn the rule, which is unlikely. The NAM sent a support letter to both chambers urging each to pass the measures (click [here](#) to view the House version, and [here](#) to view the Senate). A vote is expected on these resolutions in late March. 2/10/2015

Attention Employers Using Background Checks

OMA Connections Partner, Roetzel, reports a new wave of class-action lawsuits that should concern any employer that uses background checks in making employment decisions.

These lawsuits allege violations of the Fair Credit Reporting Act (FCRA), the federal law that regulates the collection and use of consumer credit information. Many employers are unaware that FCRA also imposes obligations on employers that order background reports, including criminal and motor vehicle record checks, from a consumer reporting agency.

[Read more](#) about compliance requirements from Roetzel. 2/6/2015

Cash Crop for Backers of Marijuana Amendment?

[Responsible Ohio](#), the group pushing for a 2015 marijuana ballot amendment, released the full text of the [proposed amendment](#) this week. The group also made headlines by naming the [ten sites](#) throughout Ohio where marijuana would be grown in compliance with the new constitutional amendment. The sites are specific parcels of land named in the amendment.

The group is currently collecting the initial 1,000 signatures needed for the Ohio Attorney General to review the amendment. If okayed by the Attorney General, the group would then need to collect approximately 306,000 valid signatures to make the November ballot. 2/12/2015

Dilute vs. Adulterated Drug Test Result?

Here's a brief blog from OMA Connections Partner, Working Partners®, about certain drug test results.

A 'negative dilute' drug test result is not the same as adulterated. Dilute means the creatinine level and specific gravity of the urine deviated from what is considered normal. Adulterated, on the other hand, means the specimen either contained an identified substance not expected to be present in human urine or contained something expected but in an abnormally high amount. There are several things that could cause a specimen to be

dilute. [Read more](#) 2/12/2015

Ohio Ranks 40th in Health

Each year, the United Health Foundation [ranks the states](#) on overall health. Ohio's ranking was 40th in the most recent year, 2014.

The study finds [Ohio's "challenges"](#) of low immunization coverage among children, high rate of preventable hospitalizations and high infant mortality rate. 2/12/2015

How Would the Gov's K-12 Budget Affect Your Schools?

The Office of Budget and Management (OBM) released a spreadsheet detailing the effect of the governor's budget on local school districts. See those effects, by county, [here](#). Or, use this [search tool](#) from the Plain Dealer.

The ever-reforming governor proposes a new [funding formula](#), one designed to better reflect local capacity: "(t)he governor's proposal allows the two measures of a district's capacity — property valuation per pupil and median income — to operate in the formula and better reflect a district's ability to meet its own needs. When a district's income is meaningfully above or below Ohio's median income, the formula will more accurately and appropriately direct state funds as needed."

The result? More money to poorer districts and less to richer districts.

OBM Director Tim Keen explained in testimony that the administration was not "spreadsheet driven," but rather aimed to create a more rational formula based on districts' internal capacity to finance education. The current formula is a mash-up of biennium after biennium after biennium political compromises.

Here will be the lobbying divide: 332 districts will see increases in state aid from the formula and 278 will see decreases. 2/5/2015

H-1B Filing Season Starts April 1st

April 1, 2015 is the first day on which U.S. Citizenship and Immigration Services (USCIS) may receive H-1B specialty worker petitions for the next federal fiscal year that begins on October 1, 2015. To qualify for the H-1B category, the position offered must be a specialty in which a bachelor's degree (or its equivalent) is normally the minimum requirement and the foreign national must hold a bachelor's level degree (or its equivalent) in the specialty defined by

the position.

Due to the overwhelming demand for the annual allotment of 85,000 H-1B visa slots, employers who wish to file new H-1B petitions for current or future employees should plan to do so on April 1st. The number of H-1B approvals requested by employers has reached the annual H-1B "cap" every year for over 10 years. Last year, USCIS received 172,500 petitions within the first week and then conducted a random lottery to determine which petitions would garner a spot. [Read more](#) from OMA Connections Partner, Dinsmore. 2/2/2015

Workforce Development: Top Priority of House

Speaker Cliff Rosenberger and the House Republican leadership team made workforce development the top priority of the body this week. The issue merited introduction as [House Bill 1](#).

The bill, introduced by Rep. Kirk Schuring (R – Canton), would establish a Workforce Grant Program; authorize an income tax credit equal to 25% of the student loan payments a grant recipient participating in the Workforce Grant Program makes per year; and provide \$100 million in state dollars to fund the program.

Together with the Inter-University Council of Ohio, the OMA issued a [joint statement of support](#) for House Bill 1. The organizations applauded Speaker Rosenberger and his leadership team for making workforce development the top issue of the session.

Read a summary of the legislation [here](#).

The OMA Work Group on Manufacturing Career Pathways is working with educators on this bill, and other workforce matters. Contact OMA's [Denise Locke](#) if you'd like to participate in the work group. 1/29/2015

Supreme Court Strikes Down Test of Collectively-Bargained "Vested" Retiree Health Care Benefits

OMA Connections Partner, Dinsmore, [reports](#) that the U.S. Supreme Court has unanimously denounced the Sixth Circuit's legal test for interpreting whether a collective bargaining agreement "vests" health care benefits to retirees.

In *M&G Polymers USA, LLC et al. v. Hobert Freel Tackett et al.*, (Jan. 26, 2015), the Court rejected the legal presumption that, in the absence of extrinsic evidence to the contrary, an employer intends to vest

lifetime health benefits for retirees by including them in a collectively-bargained agreement.

This decision overturns more than 31 years of law in the Sixth Circuit that developed under *International Union, United Auto, Aerospace, & Agricultural Implement Workers of Am. v. Yard-Man, Inc.*, (6th Cir. 1983). 1/27/2015

Where are the Women in Manufacturing?

In 2013, the National Association of Manufacturers (NAM), The Manufacturing Institute, and Deloitte released the [Untapped Resource: How manufacturers can attract, retain and advance talented women](#) report that found while women make up approximately 50% of the labor force, that number is only about 24% in the manufacturing labor force.

NAM, the Institute, APICS and Deloitte are now conducting a second study to identify trends and inform strategies that manufacturing leaders can use to increase the number of women among their ranks and across various roles.

This is your opportunity to provide first-hand insights into factors that either attract or deter women in manufacturing, and your opportunity to identify what you believe to be leading strategies manufacturers can undertake to recruit, retain and advance talented women.

Please consider contributing a few minutes of your time to [complete the survey by clicking here.](#)

The research will continue to raise awareness of underrepresentation of women in the industry and inform manufacturers' talent strategies.

Questions or insights? Contact [Jennifer McNelly](#), President, The Manufacturing Institute. 1/27/2015

Marijuana Ballot Initiative Gearing Up

This week backers of a proposed marijuana ballot initiative that would amend the Ohio constitution released [details](#) of their plan. The proponents' group, [ResponsibleOhio](#), proposes to legalize personal use of marijuana for anyone 21 or older and make a medicinal version available to anyone with a qualifying illness. The group failed to outline who would directly profit from the legalization of marijuana.

The group offered a tax plan that would assess a 15% flat tax on revenue from growing, manufacturing and selling marijuana, with 85% of tax proceeds going to

townships, counties and municipalities to help support public services.

ResponsibleOhio must collect 305,591 valid signatures from Ohio registered voters to place the issue on the November 2015 ballot. ResponsibleOhio intends to submit constitutional amendment language to the Ohio Attorney General Office next month for approval. 1/22/2015

House Passes Bill Redefining a Full-Time Employee Under the Affordable Care Act

On January 8, 2015, the U.S. House of Representatives passed a bill changing the definition of a full-time employee under the Affordable Care Act (ACA) from a person who works 30 hours per week to one who work 40 hours per week.

The ACA requires businesses with 50 or more employees to offer health insurance to their full-time employees or pay a penalty. The 40-hour per week definition would bring the ACA in alignment with other state and federal laws, such as the Fair Labor Standards Act.

The Obama administration argues that the bill would reduce the number of Americans with health insurance coverage. Obama has threatened to veto.

[Read more](#) about this development from OMA Connections Partner, Roetzel. 1/22/2015

And More "Gifts" to Employers from the NLRB

OMA Connections Partner, Dinsmore, summarizes a controversial National Labor Relations Board (NLRB) 3-2 decision that occurred just before the holiday break. In *Babcock & Wilcox Construction Co., Inc.*, the NLRB abandoned 30 years of precedent to change the *Olin Corp.*, 268 NLRB 573 (1984) standard for deferral to arbitral decisions and prearbitral settlement agreements.

[According to Dinsmore](#), this new standard will require employers to renegotiate their grievance and arbitration clauses, change how they handle arbitrations, and modify how they draft settlement agreements. 12/23/2014

2015 Employment Forms - Free & Legally Reviewed

OMA provides free up-to-date reproducible forms to assist your human resource department, managers and supervisors. [These forms](#) comply with federal and Ohio laws and have been reviewed by OMA

counsel, Bricker & Eckler LLP, for compliance as recently as December 2014.

The [reproducible forms](#) offered are: Application for Employment, Health Questionnaire/Physical Condition, Absentee Calendar/Bi-monthly Absence Review, and Vacation Schedule. State & federal posting requirements are also available.

Note that you should now be posting the 2015 Ohio Minimum Wage poster reflecting the increase to \$8.10/hour that was effective January 1, 2015.

Please read the [special instructions](#) to employers to protect your company when using these forms. 12/29/2014

Five Issues to Review in Your Drug-free Workplace Program

An effective drug-free workplace program needs specific and clear directives so its operation can be consistent and fair. OMA Connections Partner, Working Partners®, provides guidance on [five critical issues](#) to consider in your program. 1/7/2015

NLRB Announces Implementation of "Ambush Rule"

The National Labor Relations Board (NLRB) announced the implementation of the long feared "Ambush Election" regulation. The rule is scheduled to take effect on April 14, 2015. The regulation will overhaul the election process through which labor unions are certified by the NLRB to represent workers.

OMA Connections Partner, Roetzel, [describes here](#) some of the changes that are most detrimental to non-union companies. A full recitation of the changes and a chart comparing the current and new rules can be found on the NLRB's website [here](#).

Here is what Jay Timmons, president & CEO, National Association of Manufacturers (NAM), had to say about the action: "... with the stroke of a pen, the National Labor Relations Board has brushed aside the legitimate concerns of manufacturers and workers across the country, with its "ambush elections" rule. The rule infringes on the privacy rights of employees and the free speech rights of employers—and takes away what workers expect when they have to make these important decisions: just a reasonable amount of time.

It's not right. The Board is supposed to be a fair arbiter of the law, not a supporter of a partisan agenda.

The NAM firmly believes that all options must be on the table, including litigation, to prevent this rule from taking effect. If we need to go to court, we will to protect manufacturers—and all Americans—from the NLRB's extreme agenda." 12/16/2014

NLRB Grants Employees the Right To Use Employer E-mail Systems

On December 11, 2014 the National Labor Relations Board (NLRB) issued its decision finding that employees had a statutory right to use employer owned e-mail systems for protected communications during non-working periods. The decision overrules a 2007 decision of the NLRB finding that employers may issue and enforce policies prohibiting non-work related e-mail transmissions.

According to OMA Connections Partner, Dinsmore, the decision of the NLRB went into effect not only immediately – but retroactively. The NLRB found it would be manifestly unjust not to apply the decision to the case it was resolving, and all pending cases, despite the fact that the decision directly overrules a 2007 decision of the Agency and has never been the rule of law previously.

Read more from Dinsmore about the decision [here](#). And here is [more analysis](#) from OMA Connections Partner, Roetzel.

Joe Trauger, Vice President, Human Resource Policy for the National Association of Manufacturers (NAM) said in an email, "The 3-2 decision overturns the 2007 Register Guard case, and holds that employees now may use email for union-related communications during nonworking time."

The NAM filed a joint brief, as a member of the Coalition for a Democratic Workplace, urging the Board to uphold the Register Guard decision. 12/12/2014

Ohio Ranks 47th in "Health Value"

The Health Policy Institute of Ohio (HPIO) this week released a "[Health Value Dashboard](#)" that "shows that Ohio's "health value rank is 47, with Ohioans living less healthy lives and spending more on health care than people in most other states."

HPIO says that low ranks on population health and health care costs contributed to its poor showing in comparison to other states. Ultimately, Ohio manufacturers and other businesses pay a large portion of these high costs (for low health outcomes). 12/17/2014

Human Resources, Health Care & Employment Law Legislation

Prepared by: The Ohio Manufacturers' Association
Report created on March 9, 2015

- HB64** **OPERATING BUDGET** (SMITH R) To make operating appropriations for the biennium beginning July 1, 2015, and ending June 30, 2017, and to provide authorization and conditions for the operation of state programs.
Current Status: 3/12/2015 - House Finance Subcommittee on Primary and Secondary Education, (Eighth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-64>
- SB25** **MINIMUM WAGE** (YUKO K) To raise the minimum wage; to raise the salary threshold above which certain employees are exempt from the overtime law; and to create a uniform standard to determine whether an individual performing services for an employer is an employee of that employer.
Current Status: 2/4/2015 - Referred to Committee Senate Transportation, Commerce and Labor
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-25>

TO: OMA Safety and Workers' Compensation Committee
FROM: Ryan Augsburger / Rob Brundrett
RE: Public Policy Report
DATE: March 11, 2015

Overview

The 131st General Assembly was sworn into office the beginning of January. A new Speaker of the House was elected. Speaker Cliff Rosenberger (R-Clarksville) takes control over the House and among his interests are possible BWC changes.

The General Assembly will be focused on passing the state budget and other budgets over the next several months. Both the Industrial Commission and Bureau of Workers' Compensation have budgets now pending in the House of Representatives. Other possible BWC legislation will be heard across both Chambers the next few months.

Legislation and Rules

Senate Bill 5 – mental / mental

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

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

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

The Senate heard powerful testimony from Administrator Buehrer but nonetheless passed the bill out of committee with only one no vote (Uecker). However the bill was referred to Senate Finance because of the price tag.

Senate Bill 27 – firefighter cancer

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

House Bill 51 – IC budget

The Industrial Commission budget was recently introduced with no real policy changes.

House Bill 52 – BWC budget

The BWC budget was introduced with minimal policy changes, following the same path the Kasich Administration paved with earlier versions of the budget. Perhaps the most noteworthy change in the bill would give the BWC authority to use funds from its current

net position to cover the unfunded liabilities of the Disabled Workers Relief Fund I (DWRF I). The OMA submitted support testimony.

HB 64 – State Operating Budget

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

BWC Medical Reform

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

Bureau of Workers' Compensation

Another Billion Back

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

Eligible employers received a rebate equal to 60 percent of premiums paid during the July 1, 2012 through June 30, 2013 policy year.

Safety Congress

Registration is open for the 2015 Ohio Safety Congress & Expo (OSC15), which will run from March 31 to April 2 at the Greater Columbus Convention Center.

More than 6,000 people attended last year's event, which is hosted annually by Bureau of Workers' Compensation (BWC). It is the largest regional safety and health conference in the U.S.

There's no charge for Ohio employers and their employees to attend the event.

OSC15 aims to help Ohio employers prevent workplace injuries and achieve better outcomes for injured workers. Professional certifications are offered for safety professionals, industrial hygienists, ergonomists, registered nurses, attorneys, rehabilitation, claims managers, disability managers, rehabilitation counselors, paramedics and other professions that accept IACET CEUs for certification maintenance.

In addition, educational tracks for physicians and environmental specialists as well as certified medical education for physicians and medical providers are also being offered this year.

A workers' compensation policy number is required to register.

BWC Board Passes Rate Cut

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

The proposed reduction is attributable to a number of factors, including lower expected claim frequency, as well as the upcoming adoption of a prospective billing system. BWC currently bills employers in arrears. Under the new system of prospective billing, BWC will collect premiums before extending coverage. Prospective billing enables BWC to lower rates to reflect the increased investment income.

The proposed 10.8% reduction is an overall statewide average. The actual premium paid by individual private employers will depend on a number of factors, including the expected future costs in their industry segment, their recent claims history, and their participation in various premium credit and savings programs.

The BWC board of directors approved the proposal at its February hearing.

Ohio BWC: 33rd Lowest Rates in Nation

The Oregon Premium Rate Ranking Study, a biennial review of workers' compensation rates recently released, ranked Ohio 33rd lowest among all 50 states. Ohio ranked third highest in the nation as recently as 2008. Ohio's jumped 30 spots in just six years.

In a media release, the Bureau of Workers' Compensation (BWC) notes: "The Oregon study compares each state's base rates across a selection of 50 widely used classification codes that are assigned by occupation to indicate their degree of risk. Ohio ranked 28th in 2012, 17th in 2010, and 3rd in 2008. Ohio's base rate index in the 2014 study of \$1.74 per \$100 of payroll is below the national median of \$1.85. Ohio's base rate index was \$3.32 in 2008, when the national median was \$2.26."

Ballot Issues

Marijuana Ballot Issue

Responsible Ohio, the group pushing for a 2015 marijuana ballot amendment, released the full text of the proposed amendment this week. The group also made headlines by naming the ten sites throughout Ohio where marijuana would be grown in compliance with the new constitutional amendment. The sites are specific parcels of land named in the amendment.

The group is currently collecting the initial 1,000 signatures needed for the Ohio Attorney General to review the amendment. If okayed by the Attorney General, the group would then need to collect approximately 306,000 valid signatures to make the November ballot.

A second group Responsible Ohioans for Cannabis is also working on ballot language for the fall. There is a good chance Ohio may have competing marijuana issues on the ballot.



February 23, 2015

The Honorable Keith Faber
President, Ohio Senate
Ohio Statehouse
Columbus, Ohio 43215

The Honorable Gayle Manning
Chair, Senate Transportation, Commerce and Labor Committee
Ohio Statehouse
Columbus, Ohio 43215

Dear President Faber and Chairperson Manning:

The above organizations, on behalf of our members, write in opposition to Senate Bill 5. SB 5 proposes to eliminate the physical injury requirement and allow peace officers, firefighters, and emergency medical workers to become eligible for workers' compensation benefits once they have been diagnosed with work-related post-traumatic stress disorder (PTSD).

This initiative is a drastic departure from the current and past state of the law that requires a mental condition, such as PTSD, to arise from, or at the very least be associated with some physical harm experienced by a worker. Additionally, we are concerned about the message selecting only a narrow subset of workers sends to Ohio's workforce as a whole. We recognize that peace officers, firefighters, and emergency medical workers experience traumatic events. However, they are not alone in their willingness to undertake dangerous and essential jobs for the good of us all. If we erode the physical injury requirement for peace officers, firefighters, and emergency medical workers, it may be difficult to justify not doing the same for other professionals who seek equal treatment.

Once a fundamental parameter of the workers' compensation system like the physical injury requirement is compromised, the potential inroads into the program are endless. The result will be increased workers' compensation costs for public and private employers alike. The implications of those cost increases will be felt across the board and will impact Ohio's business climate. The increased costs may also affect our public employers' abilities to provide essential public safety functions.

We have heard opinions that incidences of workers' compensation claims for PTSD, if allowed, will be low. However, we have also heard that PTSD among peace officers and firefighters is underreported and may be prevalent. If either is true, perhaps making an inroad into the workers' compensation system is not the best avenue to address the PTSD issues affecting our first responders. Private health insurance or public health options may be better to deal with PTSD in a broader way. In any event, Ohio's workers' compensation system is not intended to be a substitute means of treatment for mental conditions in order to avoid out-of-pocket expenses.

We are also concerned about singling out PTSD. Selecting one mental condition to the exclusion of all others—much like selecting only a few occupations—will undoubtedly provoke fairness arguments and equal protection challenges in future legislative or judicial actions.

For these reasons, the above organizations oppose the changes to Ohio workers' compensation system proposed in SB 5. Thank you for your consideration of our concerns.

cc: Senate Transportation, Commerce and Labor Committee

BWC Budget Proposals

Governor John Kasich and the Ohio Bureau of Workers' Compensation's (BWC) commitment to prudent fiscal management and strengthening the state's economic vitality is reflected in its proposed 2016/2017 biennial budget. The \$552.4 million budget is a 4% decrease compared to the appropriation for the previous biennium, saving Ohio employers more than \$23 million. Along with keeping employer costs low, BWC is proposing changes to streamline business, alleviate costs for nonprofits and employers, and ensure benefits for Ohioans injured in the workplace.

Streamline Business

Administrative process for employer appeals – The adjudicating process currently requires employers to appear in-person at two separate hearings when appealing BWC policies and decisions. BWC's proposal to make the last level optional for employers supports greater efficiency and will simplify the process, without compromising the employer's right to an in-person hearing if the employer desires.

File decertification appeals in Franklin County- Today, BWC decertification appeals can be filed in the Court of Common Pleas of the county where the provider practices or lives. To ensure consistency, BWC proposes all appeals are filed in the Franklin County Court of Common Pleas. This aligns BWC with standard practice of the liquor control commission and the state medical, chiropractic and nursing boards.

Remove Long-Term Care Loan Program- BWC developed the Long-Term Care Loan Program to help Ohio's nursing homes and hospitals reduce the frequency and severity of injuries sustained by employees when lifting residents or patients. The program has generated little interest with no participation in more than five years. Additionally, BWC offers assistance in purchasing these same items through the Safety Intervention Grant Program, which offers a better financial option for employers. Therefore, BWC proposes removing the Long-Term Care Loan Program.

Alleviate Costs

Funding for the Disabled Workers Relief Fund I (DWRF I) – Employers currently pay into DWRF I, a pay-as-you-go fund that provides relief to a worker whose injuries occurred prior to January 1, 1987, and whose regular permanent total disability benefits have not kept pace with inflation. BWC is seeking authority to use funds from its current net position to cover the unfunded liabilities of this fund. Injured workers would continue to receive this benefit and employers would benefit from lower future rates with removal of the burden of covering costs associated with claims that may have occurred prior to their time in business.

Removing the current mandate for unpaid corporate officers to have workers' compensation coverage - Current law requires BWC to treat corporate officers of nonprofit organizations as if they were earning an income regardless of whether they are receiving remuneration. This places a cost and burden on charitable organizations that in turn could create a barrier to their humanitarian business or mission. BWC proposes to remove this mandate so any officer who is a true volunteer would not be mandated to have workers' compensation coverage.

Ensure benefits

Ensuring mentally or physically incapacitated adult dependents remain eligible for death benefits while participating in a sheltered workshop – Adult dependents with disabilities have opportunities to participate in work programs focused on rehabilitating activity and promoting a higher functioning life. BWC wishes to make clear this activity should not have an impact on any death benefits they are receiving.

Employers' ability to pay sick leave with compensation - Currently, some employers agree to pay supplemental sick leave to their employees when the employee is receiving compensation benefits in order to return the injured worker to 100% of his or her earnings. The law is not clear on this practice and thus BWC proposes to provide the option for employers who wish to pay these additional benefits without jeopardizing the amount of workers' compensation benefits the employee can receive from BWC.

Updating current code:

Hiring ability at the Division of Safety and Hygiene – The Division of Safety and Hygiene is an important component of BWC's continued efforts to help Ohio employers prevent injuries and increase safety in their workplaces. To provide more flexibility and support its mission of workplace safety education and training, BWC proposes to remove the current limit placed in law on the number of unclassified positions in this division.

Clarify responsibilities for board of directors' audit and actuarial committees- In order to ensure the appropriate BWC board members are involved in their areas of expertise, BWC proposes to clarify current law that the audit committee recommends the firm to perform the annual audit and the actuarial committee reviews and approves the rate schedules recommended by contracted consultants and the BWC's actuarial division.

Non-complying employers' liability – Current law states if an employer receives notice but still fails to become an active party in an appeal to the court system, BWC may act on behalf of the employer and the result could have an adverse impact on the employer's premium rate. BWC proposes to clarify in that same scenario, if it is a non-complying employer who does not have a policy, BWC can assess dollar for dollar recovery from the employer.

Remove requirements and optional programs that are no longer being utilized for self-insured employers- Many years ago BWC established two optional programs for self-insured employers to utilize BWC resources for vocational rehab services and to participate in a handicap fund. Today, self-insured employers directly pay for compensation, benefits and services, and see no financial benefit to be reimbursed for the amount they pay into these funds. Therefore, BWC proposes to remove these outdated programs. Additionally, to remain current with governmental accounting standards, BWC proposes to remove an outdated requirement that a public employer have unreserved/undesignated general fund balances equal to at least 5% of the general fund reserves. Because this has no impact on BWC's ability to determine a public employer's financial situation and is no longer required as part of a public employer's audited financial statements, BWC requests the requirement be removed from statute.

Safety & Workers' Compensation

BWC Board Approves 10.8% Rate Decrease

As expected, the Bureau of Workers' Compensation (BWC) board of directors [voted last week](#) to adopt a 10.8% overall rate reduction for Ohio private employers. The change is effective July 1.

The reduction is possible due to a number of factors, including lower expected claim frequency, as well as the upcoming adoption of a prospective billing system.

The reduction is an overall statewide average. The actual premium paid by an employer will depend on expected future costs in their industry segment, their recent claims history, and participation in various premium credit and savings programs. *2/27/2015*

Costly WC Bill Backspins

Last week we reported that the Senate Transportation, Commerce and Labor Committee passed out SB 5, which would allow for posttraumatic stress disorder (PTSD) claims for first responders without physical injuries, right after Ohio Bureau of Workers' Compensation Administrator & CEO Steve Buehrer testified that it would cost local governments \$182 million a year. This amount, he stated, would nearly double the local governments' total current workers' compensation costs for that coverage.

The bill appeared on a fast track. Well, something's changed. Instead of going to the Senate floor, the bill has been re-referred by leadership to the Senate Finance Committee, where additional hearings are expected.

Good news. The OMA opposes the bill. *3/5/2015*

BWC Offers Seminars on Switch to Prospective Premium Payment

This week the Bureau of Workers' Compensation (BWC) will be sending Prospective Billing seminar invitations via e-mail to all employers that are participating in BWC programs. Although invitations are only being sent to program participants, any employer may attend the seminars.

The regional seminars will cover:

- The reason for the transition and its benefits to employers;
- How BWC will cover the costs of this change

with a transition credit;

- Transition timelines and important dates to remember;
- Essential information and new requirements for payroll reporting;
- Changes to deadlines for rating plans and BWC programs.

The BWC will give safety training credit to employers who attend.

Information about the seminars and how to register [can be found here](#). *2/27/2015*

BWC Gives First Look at Sample Premium Notice under Prospective Billing

Here is a [sample of the Notice of Estimated Annual Premium](#) that the Bureau of Workers' Compensation (BWC) will be sending to employers at the end of May. It contains information about the process and timing that employers can expect. *2/27/2015*

BWC Notifies Employers in Lapsed Status to Preserve Transition Credit

On March 4, the Bureau of Workers' Compensation (BWC) sent letters to employers that are in a lapsed status since March 1, 2013 with a balance greater than \$200.

The purpose of this effort is to get as many employers in compliance as possible so they are able to receive the prospective payment transition credit equal to eight months of premium. To receive this credit, coverage must be reinstated and in an active status by July 1, 2015.

Questions about compliance can be directed to (800) 644-6292 or this [email](#). *2/27/2015*

Senate Committee Passes Costly WC Bill

Ohio Bureau of Workers' Compensation (BWC) Administrator Steve Buehrer [testified](#) to the Senate Transportation, Commerce and Labor Committee that SB 5, which would allow for posttraumatic stress disorder (PTSD) claims for first responders without physical injuries, would cost local governments \$182 million a year. This would nearly double the local governments' total current workers' compensation costs for that coverage.

Buehrer told the committee that, in the long history, of workers' compensation in Ohio, mental conditions have only been allowed when coincident with physical injuries or illnesses. He explained that such conditions are covered in health insurance, not workers' compensation. And, he noted that other types of occupations beyond police and fire fighters witness trauma and will inevitably push for the same benefit.

Despite the costs, the committee passed the bill.

The OMA, together with all other major business organizations, opposes SB 5. 2/25/2015

BWC Advice for State-Fund Employers as Prospective Premium Payment Practice Begins

Paying your premiums in a timely manner will keep your workers' compensation coverage in effect, and it can save you from having to pay costly non-compliance fees as well as preserve your eligibility to participate in money-saving rating and discount programs.

In May, you'll receive your notice of estimated annual premium, which will be based on your reported payroll for July 1, 2013 to June 30, 2014. It is not a bill. Please review it for accuracy and contact Bureau of Workers' Compensation (BWC) if you feel something is wrong with the estimate.

The first invoice you will receive will come in August (as part of the transition credit, BWC will make your June invoice payment on your behalf). You'll also need to report payroll for the January to June 2015 period, but BWC will pay that premium with the transition credit as well. Transition credits will not be granted to employers with lapsed coverage or employers who have not reported their January to June 2015 payroll.

BWC's switch to prospective billing also means new deadlines for rating plans and programs. The deadline for programs of Destination: Excellence is now the last business day of May.

A private employer timeline and [other resources](#) about prospective billing are available at [this link](#). BWC is also offering free seminars around Ohio to answer questions and provide details about prospective billing to private employers. To register, [click here](#).

Questions? You can contact your local [BWC customer service office](#), call (800) 644-6292, or [email BWC](#). Or contact [OMA](#). 2/17/2015

BWC Prescription "First-Fill" Goes into Effect

A new rule allows for the immediate fill of necessary medications related to new workplace injuries. The first fill rule gives Bureau of Workers' Compensation (BWC) the ability to care for injured workers more quickly, even before formally approving claims.

The rule, approved late last year by BWC's Board of Directors and the Joint Committee on Agency Rule Review, became effective February 1.

Medication covered under this new rule must be for a period of 10 days or less at the most commonly prescribed dosing schedule.

In cases where a prescription is filled for an injured worker of a state fund employer, but the claim is ultimately denied by BWC, the medication payment will be charged to BWC's surplus fund account and not to the employer associated with the disallowed claim. 2/17/2015

Senate Hears Testimony on "Mental / Mental"

This week the [Senate Transportation Commerce and Labor Committee](#) heard proponent testimony on Senate Bill 5. (Click the link to see committee members and scroll to view testimony documents.) Senate Bill 5 would make peace officers, firefighters, and emergency medical workers diagnosed with post-traumatic stress disorder arising from employment – without an accompanying compensable physical injury – eligible for compensation and benefits under Ohio's workers' compensation law.

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

The OMA and allies weighed in with elected officials last year to prevent the measure from going forward, but the proposal is back in the new 131st General Assembly. 2/19/2015

BWC Reports Ohio Workplace Injuries and Illnesses Below National Average

[Recently released statistics](#) from the U.S. Bureau of Labor Statistics (BLS) show non-fatal workplace injuries and illnesses in Ohio are below the national

average. The [2013 Survey of Occupational Injuries and Illnesses \(SOII\)](#) found Ohio public and private employers combined for an incidence rate of 3.0 cases per 100 full-time workers compared to the national rate of 3.5. Ohio also saw a 5% drop in total estimated injuries and illnesses with 122,600 recordable cases in 2013 compared to 129,200 cases in 2012.

The SOII summarizes statistics at both national and state levels and the Bureau of Workers' Compensation (BWC) has a cooperative agreement with BLS to administer SOII in Ohio. Each year the BLS selects more than 4,000 private and public employers in Ohio to participate in the survey. Results from the mandatory survey are intended to assist employers in assessing industry trends to address safety issues.

Highlights of the SOII data for Ohio's private sector:

- The state's private employers had a lower incidence rate than all neighboring states with 2.9 cases per 100 full-time employees.
 - The healthcare and social assistance sector had the highest injury and illness rate. Other industries with high rates were agriculture, manufacturing, transportation/warehousing and wholesale trade.
 - Establishments with 50-249 employees had the highest injury/illness rate, while those with 1-10 employees had the lowest.
 - There were more recordable cases involving day(s) away from work among those within 45-54 years old than any other age group.
 - Back injuries were more prevalent than injuries to any other body part. However, injuries to the hands and knees were also prevalent.
 - Falls on the same level and overexertion in lifting were the most common events leading to an injury.
- 2/17/2015

BWC Officials Meet with OMA Members

This week the OMA Safety and Workers' Compensation Committee met with top staffers of the Ohio Bureau of Workers' Compensation (BWC). Jeremy Jackson, Chief of Policy, Sarah Morrison, Chief Legal Counsel, and Paul Flowers, Director of Self Insurance, spoke with OMA members about a variety of topics, including the process of self-insuring, BWC's upcoming medical management pilot, prospective billing, and legal cases the BWC is managing.

Sarah Morrison provided [these 2014 data](#) about employers' administrative hearings argued before the BWC administrator's designee. The largest percentage of hearings pertain to contested employer audits. 2/19/2015

OMA Member is a BWC Safety Innovation Award Finalist

Five finalists, including OMA member Mansfield Engineered Components, have been chosen for BWC's fourth annual [Safety Innovations Competition](#), which encourages and recognizes development of innovative solutions that help to reduce workplace injuries and illnesses.

Representatives from BWC's Division of Safety & Hygiene reviewed and selected the finalists from among more than 50 entries.

The finalists are Bemis North America, Fremont; First Solar Inc., Perrysburg; FORJAK Industrial, Columbus; Harmony Systems & Service Inc., Piqua; and Mansfield Engineered Components, Mansfield.

These finalists will display their innovations at the [2015 Ohio Safety Congress & Expo](#) for a chance to win up to \$7,000. 2/17/2015

BWC Cincinnati Service Office Changes Name

The Governor's Hill service office is now the Cincinnati-Governor's Hill service office.

Originally named after the office park where it's located, the Cincinnati-Governor's Hill service office was one of three BWC offices in greater Cincinnati. Today, this office is the only one serving the greater Cincinnati area. It's still in the same location; the name change is to help BWC customers better identify the office's location. 2/17/2015

OMA: BWC's Budget is Encouraging

The Bureau of Workers' Compensation (BWC) released a summary of its budget for fiscal years 2016 and 2017. Here is the BWC's [one-page summary](#) as well as the [bill analysis](#) of the proposed budget, House Bill 52.

In a [statement](#) to the BWC, OMA's Rob Brundrett, Director, Public Policy Services, said, "The Ohio Manufacturers' Association (OMA) is encouraged by the budget summary prepared by the Bureau of Workers' Compensation (BWC) for the fiscal years 2016/2017.

"In recent years, the BWC has increased its investments in employer safety programs, returned dollars generated by its investments to employers in a prudent fashion, reduced base premium rates,

initiated medical management model improvements, and implemented projects that continue to modernize the operations. BWC is now proposing a biennial budget that is less than its last budget, while continuing important strategic programs.

"OMA congratulates the BWC for its management improvements on behalf of the state's workers and employers, and will be pleased to work with Administrator Buehrer on the BWC's budget proposal." 2/12/2015

Ohio Safety Congress & Expo 2015

Registration is open for the 2015 Ohio Safety Congress & Expo (OSC15), which will run from March 31 to April 2 at the Greater Columbus Convention Center.

More than 6,000 people attended last year's event, which is hosted annually by Bureau of Workers' Compensation (BWC). It is the largest regional safety and health conference in the U.S.

Check out the Safety Congress experience in our new [YouTube video](#).

There's no charge for Ohio employers and their employees to attend the event.

OSC15 aims to help Ohio employers prevent workplace injuries and achieve better outcomes for injured workers. Professional certifications are offered for safety professionals, industrial hygienists, ergonomists, registered nurses, attorneys, rehabilitation, claims managers, disability managers, rehabilitation counselors, paramedics and other professions that accept IACET CEUs for certification maintenance.

In addition, educational tracks for physicians and environmental specialists as well as certified medical education for physicians and medical providers are also being offered this year.

A workers' compensation policy number is required to register.

Everything you need to learn about and register for OSC15 [is here](#). 2/5/2015

BWC Proposes Double Digit Private Employer Rate Reduction

Bureau of Workers' Compensation (BWC) Administrator/CEO Steve Buehrer this week proposed to again reduce overall rate levels for private

employers beginning July 1. The proposed reduction is 10.8%.

The proposed reduction is attributable to a number of factors, including lower expected claim frequency, as well as the upcoming adoption of a prospective billing system. BWC currently bills employers in arrears. Under the new system of prospective billing, BWC will collect premiums before extending coverage. Prospective billing enables BWC to lower rates to reflect the increased investment income.

The proposed 10.8% reduction is an overall statewide average. The actual premium paid by individual private employers will depend on a number of factors, including the expected future costs in their industry segment, their recent claims history, and their participation in various premium credit and savings programs.

The BWC board of directors will vote on the proposal during its next meeting, which is scheduled for Friday, February 27, 2015. 1/22/2015

BWC Program Deadline is Next Week

Under its permanently revised calendar, the Bureau of Workers' Compensation (BWC) has set the last day in January as the enrollment deadline for a number of beneficial employer programs, including: Group Retrospective Rating, Individual Retrospective Rating, One Claim, and Deductible.

Workers' compensation third party administrators, including OMA Workers' Compensation Services, may set earlier deadlines in order to guarantee timely and accurate BWC filings.

Contact OMA's [Denny Davis](#) or [Barb Bender](#) if you have any questions or need help with your OMA enrollment. 1/22/2015

Tax Forms for Another Billion Back Available Soon

BWC will soon mail Internal Revenue Service (IRS) 2014 1099 MISC forms to employers who received rebates in 2014 as part of Another Billion Back. BWC is required to send 1099 MISC forms to all employers who received payments of more than \$600.

The rebate amount listed on your 1099 MISC form may be different from the rebate check amount you received in 2014. This difference is due to BWC withholding any outstanding balance owed from your rebate check.

1099 MISC details can be viewed and printed by logging in [here](#) starting Monday, Feb. 2.

[Email BWC](#) if you need more information about your IRS 1099 MISC form.

Rebate recipients are encouraged to consult with their tax professionals regarding tax reporting requirements. 1/15/2015

OMA Announces Safety & Workers' Compensation 2015 Committee Dates

Consider marking your calendar to attend the 2015 OMA Safety and Worker's Compensation Committees. The meetings provide OMA members an opportunity to work with peers and meet with state leaders on important safety and workers' compensation issues. Meetings are held in-person in Columbus and a call-in option is available.

The committee provides the information and analyses you need to keep up on BWC and Industrial Commission activity, Ohio legislative activity related to workers' comp, as well as OSHA developments.

The 2015 meetings are scheduled for: (click to add to your calendar) [Thursday, February 19](#), [Tuesday, May 5](#), and [Wednesday, October 7](#).

[Register here](#). If you have questions, please contact OMA's [Rob Brundrett](#) who staffs the committee. 1/15/2015

Be Safe!

This month's [BWC Safety Update](#) is chock full of safety tips and news including how using mobile devices is harming our spines! 1/15/2015

Ohio Supreme Court Again Limits Employers' Liability for Intentional Torts

OMA Connections Partner, Roetzel, reports that on December 18, 2014, the Ohio Supreme Court issued another opinion limiting employers' liability for intentional torts in the workplace. This decision is the latest in a series of cases that narrowly interpret Ohio's intentional tort statute and make it very difficult for employees to bring these claims.

Here's Roetzel's [summary](#) of *Pixley v. Pro-Pak Indus., Inc.* in which Roetzel says, "... the Court's decision is another victory for employers in the ongoing battle over Ohio's intentional tort statute. At least for now, a majority of the justices are determined to recognize the General Assembly's decision to restrict liability for

intentional tort claims." 12/29/2014

Guest Column from BWC CEO & Administrator

From rate decreases to A Billion Back to more safety resources for employers to a focus on improving the medical management of injured workers, Bureau of Workers' Compensation (BWC) leader, Steve Buehrer, sums up 2014 and looks ahead to 2015 in this column:

"At the Ohio Bureau of Workers' Compensation, 2014 was dubbed the year of workplace safety, and I'm pleased to report that the year lived up to its name and so much more. The year also continued progress toward fulfilling Gov. John Kasich's vision of a workers' comp system that works as a partner in improving Ohio's business environment and growing the economy." [Read more](#) 12/31/2014

2015: BWC Prospective Premium Payment Plan Kicks In

This year, the Bureau of Workers' Compensation (BWC) continues its transition to a system whereby employers will pay for their workers' compensation coverage prior to the coverage period as opposed to after the period. This modernizes the payment practices of the BWC and aligns it with insurance industry practices.

To facilitate the conversion, in 2015 the BWC provides a one-time "transition credit" – or premium holiday – equal to eight months of premium.

We've outlined the [timeline and milestones](#) that employers need to know. 1/7/2015

Workers' Compensation Legislation
Prepared by: The Ohio Manufacturers' Association
Report created on March 9, 2015

- HB51** **INDUSTRIAL COMMISSION BUDGET** (HACKETT R) To make appropriations for the Industrial Commission for the biennium beginning July 1, 2015, and ending June 30, 2017, and to provide authorization and conditions for the operation of Commission programs.
Current Status: 3/11/2015 - House Finance, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-51>
- HB52** **WORKERS' COMPENSATION BUDGET** (HACKETT R) To make changes to the Workers' Compensation Law, to make appropriations for the Bureau of Workers' Compensation for the biennium beginning July 1, 2015, and ending June 30, 2017, and to provide authorization and conditions for the operation of the Bureau's programs.
Current Status: 3/11/2015 - House Finance, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-52>
- HB64** **OPERATING BUDGET** (SMITH R) To make operating appropriations for the biennium beginning July 1, 2015, and ending June 30, 2017, and to provide authorization and conditions for the operation of state programs.
Current Status: 3/12/2015 - House Finance Subcommittee on Primary and Secondary Education, (Eighth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-64>
- SB5** **WORKERS' COMPENSATION-PTSD** (PATTON T, BROWN E) To make peace officers, firefighters, and emergency medical workers diagnosed with post-traumatic stress disorder arising from employment without an accompanying physical injury eligible for compensation and benefits under Ohio's Workers' Compensation Law.
Current Status: 3/10/2015 - Senate Finance, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-5>
- SB27** **WORKERS' COMPENSATION-FIREFIGHTER CANCER** (PATTON T) To provide that a firefighter who is disabled as a result of specified types of cancer is presumed for purposes of the laws governing workers' compensation and the Ohio Police and Fire Pension Fund to have incurred the cancer while performing official duties as a firefighter.
Current Status: 2/17/2015 - Senate Insurance, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-27>

TO: OMA Government Affairs Committee
FROM: Ryan Augsburger / Rob Brundrett
SUBJECT: Tax Public Policy Report
DATE: March 11, 2015

Overview

The 131st General Assembly was seated in January. The dominate tax issue will be the state budget which was introduced in February. The bill proposed sweeping new tax changes centered on a small business tax cut and personal income tax cut. In order to finance the cut several other tax rates were increased. The budget must be signed prior to July 1, 2015.

State Financial Condition

Economic growth slowed to a 2.6% pace in the fourth quarter from approximately 4.75% during the middle two quarters. The economy expanded by 2.4% for the year.

U.S. employment increased by 257,000 jobs in January and the gains in the two previous months were revised higher by a total of 147,000 jobs. The unemployment rate ticked higher to 5.7% reflecting a large increase in the labor force.

Ohio employment increased by 5,100 jobs in December and by 61,500 jobs for the year. The unemployment rate decreased 0.2 percentage points in December to 4.8% – the lowest level since August 2001.

Despite a softening recently in some measures of national economic activity, leading indicators remain consistent with uninterrupted growth at a moderate pace across the country and in Ohio.

Special Committees

Senate Tax Expenditure Review Committee

President Faber announced that the Senate Ways and Means Committee would be reviewing existing Ohio tax expenditures prior to the state budget bill moving to the House. The OMA testified on March 11, on the manufacturing inputs sales tax exemption. The Governor has also included a review of tax expenditures in his budget proposal.

Tax Legislation

House Bill 9 – Tax expenditure review committee

One of the House priority bills is to create a Tax Expenditure Review Committee for the purpose of periodically reviewing existing and proposed tax expenditures. The Governor included this in his budget proposal and the Senate is reviewing expenditures currently.

House Bill 64 – state budget bill

House Bill 64 the state budget bill was introduced in February. The House removed the tax portions of the bill for separate hearings in the Ways and Means Committee. The bill raises the CAT rate from .26% to .32%, increases the state sales tax by one-half cent, from 5.75 percent to 6.25 percent. It also expands sales tax to a number of services,

including cable TV subscription services and parking. There is also a possibility the new language might pick up legal, accounting, and intercompany transactions.

The severance tax and the tobacco tax are also proposed for rate changes.

The plan uses the new revenues generated to finance a small business and personal income tax deduction. Current law contains a deduction for one-half of the first \$250,000 for an individual's net business income; this deduction applies to sole proprietors as well as to the owners of pass-through entities such as partnerships, S corporations, and limited liability companies. The budget retains this provision for businesses with income in excess of \$2 million. In addition, the bill proposes to exclude small business income from any business with gross receipts up to \$2 million.

Personal income tax rates will be reduced 15 percent during the first year of the budget, with an additional 8 percent reduction for the second year. The top personal income tax rate would be reduced from the current 5.33 percent to 4.1 percent over the two years.

In a memo prepared for OMA members, OMA tax counsel Mark Engle of Bricker & Eckler LLP notes: "In the broadest sense, the tax proposals contained in H.B. 64 are similar to those included in the last budget proposal: lower income taxes on individuals and small-business owners, paid for in part by increased sales, commercial activity, tobacco and severance taxes, especially on large business entities. Opposition to the prior proposal resulted in a somewhat scaled back reduction in income taxes and more modest increases in the sales tax rate, as well as increases in the taxes applicable to tobacco and alcohol."

Senate Bill 88 – CAT credit

Sponsored by Sen. Charleta Tavares (D-Columbus) would create tax credits, including CAT credits, for the employment of individuals who have been convicted of criminal offenses.

House Bill 102 – CAT credit

House Bill 102 sponsored by Reps. Niraj Antani (R-Miamisburg) and Hearcel Craig (D-Columbus), would provide a bid preference for state contracts to a veteran-owned business and would authorize a personal income and CAT credit for a business that hires and employs a veteran for at least one year.

Tax News

Ohio 2nd in 2014 Site Selection Ranking

For the second year in a row, Ohio finished second in Site Selection magazine's "Governor's Cup," awarded for the number of new plant projects in the year. Ohio finished second both in the aggregate number of projects and in the per capita category.

Texas led the nation in total projects. Kentucky took the per capita crown.

Ohio House Bill 64: Budget for Fiscal Years 2016-2017 Featuring Significant Tax Changes

Mark A. Engel
Bricker & Eckler LLP

Just before Valentine's Day, House Bill 64 containing the provisions of Ohio Governor John Kasich's budget bill for the 2016-2017 fiscal years was introduced. Continuing a trend from prior budgets, the plan calls for further reductions in the personal income tax rate, expansion of the small business deduction, revisions to the minimum commercial activity tax for business with less than \$2 million in annual receipts, and increased personal exemptions for lower and middle income taxpayers. The reductions would be paid for in part by increases in the rates of the sales, cigarette and commercial activity taxes, expanding the sales tax to a number of new services, as well as a revamping of Ohio's severance tax on oil and natural gas. Over-all, the proposal claims a tax reduction of over \$500 million over the two years of the budget.

Personal Income Tax

Current law contains a deduction for one-half of the first \$250,000 for an individual's net business income; this deduction applies to sole proprietors as well as to the owners of pass-through entities such as partnerships, S corporations, and limited liability companies. The budget retains this provision for businesses with income in excess of \$2 million. In addition, the bill proposes to exclude small business income from any business with gross receipts up to \$2 million.

Personal income tax rates will be reduced 15 percent during the first year of the budget, with an additional 8 percent reduction for the second year. The top personal income tax rate would be reduced from the current 5.33 percent to 4.1 percent over the two years.

The personal exemption for taxpayers earning less than \$40,000 annually would be increased from \$2,200 to \$4,000 for taxable years beginning in 2015 or later. For those earning between \$40,000 and \$80,000 annually, the exemption would increase from \$1,950 to \$2,850.

The plan also proposes to means-test some deductions and credits. This provision applies to the deduction for social security and railroad retirement benefits; the \$50 senior credit; and the lump sum retirement credit. Taxpayers with annual income in excess of \$100,000 would no longer be able to claim these deductions and credits.

Commercial Activity Tax

Under current law, the tax on the first \$1 million in annual taxable gross receipts is not determined by multiplying the taxable gross receipts by the statutory rate; instead, taxpayers pay a graduated minimum tax based on their total taxable gross receipts from the prior year. Under the bill, the minimum tax for taxpayers with less than \$2 million in annual taxable gross receipts would be reduced from \$800 to \$150. For taxpayers with annual taxable gross receipts between \$2 million and \$4 million, the minimum tax would be \$2,100. The minimum tax for taxpayers with annual taxable gross receipts in excess of \$4 million remains at \$2,600.

The rate of the tax will increase from 0.26 percent of annual taxable gross receipts in excess of \$1 million to 0.32 percent of such receipts, an increase of roughly 23 percent.

There is a new exclusion for receipts from the sale of vapor products by a dealer equal to the amount of the new state excise tax on such products (see Tobacco Tax discussion). This exclusion mirrors a number of other exclusions for various taxes collected by taxpayers to be remitted to the state.

The bill also changes the distribution of receipts from the CAT. Small amounts would be allocated for administrative purposes, be earmarked for highway infrastructure purposes, or be used for purposes of the school district and local government tangible property tax replacement funds. The majority of the tax, up to 75 percent for tax years beginning in 2016, would be distributed to the general revenue fund.

Sales Tax

The state sales tax rate will be increased by one-half cent, from 5.75 percent to 6.25 percent.

The tax will also be expanded to a number of services, including cable TV subscription services and parking. In addition, the tax is expanded to the following services, regardless of the profession of the provider unless the provider is an employee of the recipient of the service:

- Transactions by which bad debt is or is to be transferred;
- Travel service, which means acting as an agent in selling travel, tour, or accommodation services to the general public and commercial clients;
- Research and public opinion polling service, which means systematically gathering, recording, tabulating and presenting marketing and public opinion data;
- Public relations service, which means designing and implementing public relations campaigns designed to promote the interests and image of one or more clients;
- Lobbying service, which means any activity that serves to influence the behavior or opinion of an individual, an industry, or an organization;
- Management consulting service, which means any activity that provides advice and assistance to businesses and other organization on business issues; and
- Debt collection service, which means collecting payments for claims and remitting payments collected to their clients; and
- Repossession service, which means repossessing tangible assets for the creditor as a result of delinquent debts.

The current exclusion for sales of services transacted by the state or its political subdivisions is repealed.

Ohio currently reduces the price paid for a new car or boat by the value of any car or boat traded in, the value of which is applied against the purchase price. This reduction will be cut in half.

Finally, the vendor discount, intended to reimburse vendors for the cost of collecting, reporting, and remitting the sales tax, will be capped at \$1,000 monthly.

Severance Tax

The severance tax is a volume-based tax imposed on oil and natural gas at a rate, including a regulatory fee, of \$.20 per barrel and \$.03 per MCF, respectively. These rates apply to oil and natural gas produced by both conventional vertical wells and horizontal wells using hydraulic fracking technology. Condensate and natural gas liquids are not separately taxed.

In the case of oil or natural gas produced by vertical wells, the tax would be imposed at rates of 20¢ per barrel of oil, and 3¢ per MCF of natural gas; the existing assessment fees would be repealed. In the case of oil, natural gas, condensate, or natural gas liquids produced by horizontal wells, the tax would be based on the volume of product produced during a calendar quarter multiplied by the average quarterly spot price of the commodity in question. For each product, the “average quarterly spot price” means, for the quarter that begins six months prior to the existing quarter, the average daily spot price of a specified quantity of product, as publicly available from a source determined by the tax commissioner. Before the first day of each quarter, the tax commissioner is required to certify and post on the Department’s web site, the average quarterly spot price for each product for the ensuing quarter.

The tax is imposed at the following rates:

- For oil, the tax is imposed at a rate of 6.5 percent
- For natural gas that enters the natural gas distribution system without processing, 6.5 percent;
- For all other natural gas, 4.5 percent;
- For condensate collected at a point other than the wellhead, 6.5 percent; and
- For natural gas liquids collected other than at the wellhead, 4.5 percent.

Funds generated by the tax are deposited into the severance tax receipts fund. After any transfer of funds into the tax refund fund, the remaining funds are credited as follows:

- Monthly, an amount to the oil and gas well fund and geological mapping fund, based on amounts appropriated for regulation, geological mapping, and plugging idle and orphaned wells.
- Quarterly, of the remaining amount,
 - 10 percent to the county severance tax fund;
 - 5 percent to the severance tax infrastructure fund
 - 5 percent to the severance tax endowment fund
 - 80 percent to the general revenue fund.

Tobacco Tax

The tax rate on cigarettes is increased from 62.5 mills per cigarette to 112.5 mills, or \$1.00 per package of 20 cigarettes. The bill also eliminates the discount for wholesalers or retailers for adding tax stamps to the cigarettes that are sold.

a. Minimum Cigarette Pricing

The bill imposes a scheme to regulate the price at which cigarettes may be sold. The “retail cigarette price” is the wholesale cigarette price multiplied by 1.08. If a county cigarette tax has been imposed, that tax is deducted from the wholesale price before the calculation is made, and then is added to the calculated price. The “wholesale cigarette price” means 1.03 multiplied by the sum of the manufacturer’s list price, the state tax paid, and any county tax.

The Department of Taxation is required to post on its website a list of each manufacturer licensed to sell cigarettes in Ohio; the brands the manufacturer is licensed to sell in Ohio; and the manufacturer’s list price for each brand family of cigarettes. A manufacturer may not sell cigarettes in Ohio that are not on the list, and must notify the tax commissioner of any price change before implementing the change.

Wholesale and retail sellers may not sell cigarettes below the wholesale price or retail price, respectively, and generally may not offer promotions that would result in prices below the posted prices. The license of a seller who violates these requirements may be revoked. However, this provision does not apply to brand close-outs; the sale of damaged or imperfect products; sales during the liquidation of a business; or sales made pursuant to court order.

b. Rate Increase on Other Tobacco Products

With respect to other tobacco products, the tax is increased to 60 percent of the wholesale or retail price, as appropriate. Any sellers’ discount is repealed.

c. New Tax on Vapor Products, i.e., e-cigarettes

A new tax scheme for “vapor products” is included in the bill in new Chapter 5744. A “vapor product” means a noncombustible product made of, or derived from, nicotine and that is intended for human consumption., and that includes any mechanical heating element to deliver the product. A tax is imposed on the “cigarette equivalent” of the vapor product. The cigarette equivalent of a liquid product is one-tenth of one milliliter, while the cigarette equivalent of a solid product is 1 gram, including the weight of any delivery device. The tax is imposed at the same rate as the tax on cigarettes; that is, the tax rate is 122.5 mills per cigarette equivalent.

The bill establishes licensing, filing, and assessment procedures that closely mirror those relating to regular tobacco products. Wholesale and retail sellers will have to obtain a license from the department of taxation in order to sell vapor products in the state. Sellers will also have to file monthly tax returns and remit payment of the tax by the 15th day of the month following the month covered by the return. The tax commissioner may require that all filings and payments are to be made through the Ohio Business Gateway or by other electronic means, and may also excuse persons from electronic filing and payment requirements.

Provision is made for responsible party liability where tax has not been paid, and for successor liability in the case of businesses that are sold or transferred to another.

There would be a four-year statute of limitations for both assessments and refunds. This period can be extended by agreement of the taxpayer and the tax commissioner.

Receipts from the tax are to be credited to the general revenue fund. The tax and licensing requirements would be effective January 1, 2016.

Overall Reduction in Taxes

The proposal is expected to result in a net reduction in taxes of \$246 million in fiscal year 2016, and an additional \$277 million in fiscal year 2017.

Tax Expenditure Review Committee

The bill also authorizes the establishment of a Tax Expenditure Review Committee. The function of the Committee is to review a number of exemptions, exclusions, and credits from various taxes according to a prescribed schedule. By the last day of 2016, 2017, 2018 and 2019 the Committee is to complete its review the expenditures scheduled for that year and issue a report containing its recommendations with respect to each expenditures.

The Committee is to consider a number of factors, including fiscal effects, the number and classes that are benefitted from each exclusion, and the success of each expenditure in meeting its objectives.

Of interest to manufacturers, the sales tax exemptions for manufacturing equipment, packages and packaging equipment, and research and development equipment are slated for review in 2017. The CAT credits for qualified research and development expenses and net operating loss carry-forwards are scheduled for review in 2018.

Summary

In the broadest sense, the tax proposals contained in H.B. 64 are similar to those included in the last budget proposal: lower income taxes on individuals and small-business owners, paid for in part by increased sales, commercial activity, tobacco and severance taxes, especially on large business entities. Opposition to the prior proposal resulted in a somewhat scaled back reduction in income taxes and more modest increases in the sales tax rate, as well as increases in the taxes applicable to tobacco and alcohol. A budget bill must be in place by June 30, 2015. It will contain provisions to reduce the personal income tax. It remains to be seen what other tax provisions will be included in the final bill.



Ohio Manufacturers' Concerns about House Bill 64

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

The current proposal – House Bill 64 – is designed to shift taxes away from income and towards consumption. However, if the proposed changes are to enhance the business climate in Ohio, they must be consistent with sound tax policy. Merely extending the tax base is not enough.

The specific issues identified in this document are critical to business in general and to manufacturing in particular. They are interrelated and in many ways spill over into each other. If they are not addressed, the proposed legislation will create incentives to not do business in Ohio or with Ohio businesses. Lower income tax rates won't override the burdensome, anti-competitive nature of the itemized shortcomings.

House Bill 64: Major Components and Concerns

Commercial Activity Tax (CAT)

- Ohio's Commercial Activity Tax (CAT) is a broad-based, low-rate tax that applies to gross receipts from virtually all business activities conducted in Ohio.
- HB 64 proposes to increase the CAT rate 23 percent, from 0.26 percent to 0.32 percent. While the nominal rate may appear small, as a gross receipts tax the pyramiding impact of the tax is significant.
- Additionally, because the tax applies to each stage of the economy, the cost of the tax becomes hidden in each subsequent transaction and increases the cost of doing business.

Sales Tax

- HB 64 proposes to increase the state sales tax rate by 8.7 percent.
- This runs contrary to the principal of a broad-based, low-rate tax, where the goal should be to lower rates, not to increase them.
- The rationale offered for increasing the sales tax rate is the belief that in order to spur economic growth, consumption, rather than income, should be taxed. That is one of the reasons the CAT, which taxes commercial consumption, was enacted. Similarly, a sales tax acts to tax personal consumption. It is not intended to tax business inputs such as raw materials, machinery and equipment that are used to produce other outputs that are ultimately taxed. Commercial consumption is already subject to taxation under the CAT, so any expansion of the sales tax base should not be directed at commercial consumption.

- Additionally, manufacturers are highly concerned about several provisions in HB 64 that would extend the sales tax to certain currently exempt services such as legal and accounting services. Among the concerns are (1) extension of the tax to transactions between members of an affiliated group of entities, (2) uncertainty surrounding sourcing rules, (3) failure to afford to services the benefit of existing exemptions for tangible property for purposes of resale or for business inputs, and (4) uncertainty of the breadth of taxable services under the plain language of the statute.

Affiliated Entities

- Existing law excludes from the state sales tax certain taxable services (e.g., electronic information services and employment services) that are provided to other members within a related group of businesses.
- Under HB 64, transactions among affiliated entities are taxable “regardless of the identity of the service provider.” Thus, the members of affiliated businesses that use a common service center to provide accounting, credit and collections, legal, management or other centralized services, will all have to pay sales tax on those transactions within the group if there is any sort of cost allocation or charge-back. This provision in HB 64 concerns manufacturers for several reasons:
 - Such business structures are typically used to reduce costs or for liability reasons; they do not represent any meaningful economic activity of the business. Recognition of this fact has led to the exclusion of transactions between affiliated entities for income or commercial activity tax purposes.
 - Any economies a company might realize from an affiliated entities business structure can be lost through the taxation of those services. Businesses employing this structure often allocate costs as simply as possible to minimize their administrative costs. If all transactions are taxed, businesses will need to track those allocations more closely in order to tax them properly. The cost of such changes for businesses not currently set up to do so (in time, money and human capital) could be enormous.
 - This situation is made worse by the uncertainty of determining the location where the benefit of services provided to affiliated entities is received (see below).

Location of the Sale

- In addition to the statewide sales tax, counties and transit authorities also may impose local sales tax at various rates. It is critical, therefore, to determine where a sale takes place for both state and local tax purposes so that the correct tax can be collected and paid.
- Existing law provides some general guidelines regarding where a sale takes place. Generally, a sale is taxed at the location where the tangible property is located, or where the benefit of the service is received. Given the nature of the limited number of services that currently are taxed, this rule, although inexact, generally works.
- However, HB 64’s inclusion of nearly all business services in the sales tax base will make it increasingly more difficult to determine where a sale takes place and the correct tax, if any, to apply to the transaction.

- Previously the Department of Taxation proposed to allow taxpayers to use any reasonable method to apportion their sales or purchases, and has indicated it intends to promulgate rules that will provide guidance in this area. Unfortunately, such vagueness only increases the uncertainty and speculation associated with HB 64's proposed extension of the sales tax.
- Without clear, unambiguous guidance and enforcement policies from state government, this provision of HB 64 could become a compliance and audit nightmare.

Exemptions for Resale and Business Inputs

- A number of tangible business inputs are presently excluded from the sales tax for a person creating tangible items that are ultimately sold and subject to the tax. (For example, manufacturers may acquire various tangible items used in the manufacturing activity without paying sales tax.) However, this provision is limited to the acquisition of "things" or property.
- House Bill 64 contains no parallel exclusion for services that may be used in the manufacturing process even though services such as temporary labor on the assembly line are just as critical in producing a product for sale as any machine.
- Transactions involving tangible property are excluded from the sales tax because it is a tax on ultimate consumption. The product being produced ultimately will be taxed, but inputs into the production of those goods should not be taxed. This basic premise of sales tax policy has existed since the inception of the tax in 1934 and applies to a number of activities where multiple steps may be taken that result in a tangible good that is sold for ultimate consumption and that is subject to sales tax.
- HB 64 fails to extend this basic policy to services to which the sales tax would be extended under the bill. There is no good reason to create a divergence in the treatment of one sort of purchase (tangible personal property) from another sort of purchase (service or intangible).
- Transparency also is lost as the sales tax pyramids on *intermediate* transactions.

Income Tax

- HB 64 calls for cutting the state income tax by 23 percent and eliminating it entirely for small businesses with less than \$2 million in annual gross receipts.
- Ohio manufacturers understand that lowering the state's income tax rates and broadening its base is intended to increase the state's overall competitiveness with other states when attempting to attract new businesses and/or retain expanding businesses. We are troubled, however, by the number of credits and exclusions from the tax. Selecting a single form of business for tax relief at the expense of other forms of business amounts to government picking winners and losers.
- Additionally, many of the businesses targeted to benefit from the income tax changes included in HB 64 also will pay additional CAT and sales tax due to the other provisions of the bill. We question whether this tax shifting will really work to improve Ohio's economy.



**BEFORE THE WAYS AND MEANS COMMITTEE
OF THE OHIO HOUSE OF REPRESENTATIVES
REPRESENTATIVE JEFF MCCLAIN, CHAIRMAN**

**TESTIMONY
OF
MARK ENGEL
BRICKER & ECKLER LLP
OMA TAX COUNSEL**

MARCH 11, 2015

Mr. Chairman and members of the Committee, my name is Mark Engel. I'm a Partner in charge of Bricker & Eckler's Cincinnati-Dayton office; my practice is taxation, with concentrated experience in all aspects of state and local taxation, including tax planning, compliance, and litigation in sales and use, income, commercial activity, public utility, and property taxation as well as economic development. I also serve as tax counsel for The Ohio Manufacturers' Association (OMA). I'm testifying today on behalf of OMA regarding the governor's business tax proposals incorporated in House Bill 64. The OMA was created in 1910 to advocate for Ohio's manufacturers; today, it has 1400 members. Its mission is to protect and grow Ohio manufacturing.

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

The OMA has identified specific issues of concern in House Bill 64's tax proposal that are critical to business in general and to manufacturing in particular. They are interrelated and in many ways spill over into each other. My testimony will address the greatest concerns.

Commercial Activity Tax

Major tax reforms approved by the Ohio General Assembly in 2005 led to significant improvements to a tax system that was for many years widely regarded as obsolete. These reforms reduced overall tax rates, eliminated tax on investment, and broadened the tax base, all of which have provided more stable and predictable revenues, and simplified compliance.

The elimination of the tangible personal property tax, the corporate franchise tax, and the estate tax has strengthened the competitiveness of Ohio's tax system. So has the reduction of the personal income tax rate as well as the creation of the broad-based, low-rate commercial activity tax (CAT).

The most competitive aspects of the CAT are its broad base, its low rate, and its broad application to business entities. House Bill 64 proposes that the rate at which the CAT is imposed be raised by 23% from 0.26 percent to 0.32 percent in order to help finance a personal income tax deduction. As a gross receipts tax, the CAT applies to every transaction in the chain of commerce. Thus, the tax is paid multiple times and is

included in the price that the final consumer pays for a good or service. The distortive effect of taxing intermediate transactions is minimized when the tax rate is kept low. By raising the rate, this distortive effect is magnified. It renders Ohio tax structure less transparent and its businesses less competitive. The rate must remain low for the CAT to work effectively.

CAT Facts

According to Ohio Department of Taxation Fiscal Year 2014 Commercial Activity Tax Returns data, manufacturers made up the second-largest group of CAT taxpayers, representing 10.2% of all taxpayers (retail trade is the largest).

In terms of CAT revenues based only on the 0.26% CAT rate for gross receipts in excess of \$1 million, manufacturers pay 26.8% of the state's total – far more than any other group. If the CAT rate is increased from 0.26% to 0.32%, as proposed in House Bill 64, manufacturers as a group will be required to pay roughly \$111M in additional CAT per year, a 23% tax increase.

In addition, CAT filers with taxable gross receipts of \$1 million or less accounted for 66.7% of all filers in fiscal year 2014, but only 0.7% of the total liability for that period. Clearly, small business benefits from the CAT, as well as the 21% reduction in personal income tax rates that was also part of the 2005 tax reform, the 10% reduction enacted in the last budget, and the additional proposed reductions included as part of the state's current budget bill.

Sales Tax

House Bill 64 proposes to increase the state sales tax rate by 8.7%. The rationale offered for increasing the sales tax rate is the belief that in order to spur economic growth, consumption, rather than income, should be taxed. That is one of the reasons the CAT, which taxes commercial consumption, was enacted. Similarly, a sales tax acts to tax personal consumption. It is not intended to tax business inputs such as raw materials, machinery and equipment that are used to produce other outputs that are ultimately taxed. Commercial consumption is already subject to taxation under the CAT so any expansion of the sales tax base should not be directed at commercial consumption.

Additionally, manufacturers are highly concerned about the provisions in House Bill 64 that would extend the sales tax to certain currently exempt services such as legal and accounting services. Among the concerns are (1) extension of the tax to transactions between members of an affiliated group of entities, (2) uncertainty surrounding sourcing

rules, (3) failure to afford to services the benefit of existing exemptions for tangible property for purposes of resale or for business inputs, and (4) uncertainty of the breadth of taxable services under the plain language of the statute.

Affiliated Entities

Existing law excludes from the state sales tax certain taxable services (e.g., electronic information services and employment services) that are provided to other members within a related group of businesses.

Under House Bill 64, transactions among affiliated entities are taxable “regardless of the identity of the service provider.” Thus, the members of affiliated businesses that use a common service center to provide accounting, credit and collections, legal, management or other centralized services, will all have to pay sales tax on those transactions within the group if there is any sort of cost allocation or charge-back. This provision in House Bill 64 concerns manufacturers for several reasons:

1. Such business structures are typically used to reduce costs or for liability reasons; they do not represent any meaningful economic activity of the business. Recognition of this fact has led to the exclusion of transactions between affiliated entities for income or commercial activity tax purposes.
2. Any economies a company might realize from an affiliated entities business structure can be lost through the taxation of those services. Businesses employing this structure often allocate costs as simply as possible to minimize their administrative costs. If all transactions are taxed, businesses will need to track those allocations more closely in order to tax them properly. The cost of such changes for businesses not currently set up to do so (in time, money and human capital) could be enormous.

It has become a best practice among large, global companies (and many smaller ones, as well) to consolidate shared business services as a corporate headquarter function. These functions employ highly compensated managers. If the transactions of these global business service centers were to become taxed, such companies would be discouraged from locating these shared services business centers in Ohio, as the Ohio tax cost under the bill would be high.

3. This situation is made worse by the uncertainty of determining the location where the benefit of services provided to affiliated entities is received.

Location of the Sale

In addition to the statewide sales tax, counties and transit authorities also may impose local sales tax at various rates. It is critical, therefore, to determine where a sale takes place for both state and local tax purposes so that the correct tax can be collected and paid.

Existing law provides some general guidelines regarding where a sale takes place. Generally, a sale is taxed at the location where the tangible property is located, or where the benefit of the service is received. Given the nature of the limited number of services that currently are taxed, this rule, although inexact, generally works.

However, House Bill 64's ambiguous definitions which appear to include nearly all business services in the sales tax base will make it increasingly more difficult to determine where a sale takes place and the correct tax, if any, to apply to the transaction.

Previously the Department of Taxation proposed to allow taxpayers to use any reasonable method to apportion their sales or purchases, and has indicated it intends to promulgate rules that will provide guidance in this area. Unfortunately, such vagueness only increases the uncertainty and speculation associated with House Bill 64's proposed extension of the sales tax.

This provision of HB 64 could become extremely complex with respect to compliance and auditing.

Exemptions for Resale and Business Inputs

Additionally, a number of tangible business inputs are presently excluded from the sales tax for a person creating tangible items that are ultimately sold and subject to the tax. (For example, manufacturers may acquire various tangible items used in the manufacturing activity without paying sales tax.) However, this provision is limited to the acquisition of "things" or property.

House Bill 64 contains no parallel exclusion for services that may be used in the manufacturing process even though services such as temporary labor on the assembly line are just as critical in producing a product for sale as any machine.

Transactions involving tangible property are excluded from the sales tax because it is a tax on ultimate consumption. The product being produced ultimately will be taxed, but inputs into the production of those goods should not be taxed. This basic premise of sales tax policy has existed since the inception of the tax in 1934 and applies to a number of activities where multiple steps may be taken that result in a tangible good that is sold for ultimate consumption and that is subject to sales tax.

House Bill 64 fails to extend this basic policy to services to which the sales tax would be extended under the bill. There is no good reason to create a divergence in the treatment of one sort of purchase (tangible personal property) from another sort of purchase (service or intangible).

Transparency also is lost as the sales tax pyramids on *intermediate* transactions.

Income Tax

House Bill 64 calls for cutting the state income tax by 23 percent and eliminating it entirely for small businesses with less than \$2 million in annual gross receipts.

Ohio manufacturers understand that lowering the state's income tax rates and broadening its base is intended to increase the state's overall competitiveness with other states when attempting to attract new businesses and/or retain expanding businesses. We are troubled, however, by the number of credits and exclusions from the tax. Selecting a single form of business for tax relief at the expense of other forms of business amounts to government picking winners and losers.

Additionally, many of the businesses targeted to benefit from the income tax changes included in House Bill 64 also will pay additional CAT and sales tax due to the other provisions of the bill. We question whether this tax shifting will really work to improve Ohio's economy.

Conclusion

The OMA supports tax policy that supplies sufficient revenue for the execution of necessary state services in a manner that stimulates economic growth, investment and job creation. Tax policy should encourage growth of capital, growth in intellectual property, and growth in jobs in Ohio. Unfortunately, as currently drafted, House Bill 64's tax provisions will have the opposite effect: They will increase costs, and discourage growth of capital and job creation.

Manufacturing is the largest contributor to the state's GDP, contributing fully 17 percent. The success of Ohio manufacturing – through its vast network of in-state customers and suppliers - large global firms and their local supply chains - enhances the economic vitality of all other Ohio industries and Ohioans' quality of life.

Thank you very much for the opportunity to comment and provide input into this proposed legislation. Ohio's manufacturers are prepared to help improve the business

climate in the state. We look forward to continuing our partnership with the administration and the General Assembly.

I'll be pleased to answer any questions you may have.

###

Taxation Legislation

Prepared by: The Ohio Manufacturers' Association
Report created on March 9, 2015

- HB9** **TAX EXPENDITURE REVIEW COMMITTEE** (BOOSE T) To create a Tax Expenditure Review Committee for the purpose of periodically reviewing existing and proposed tax expenditures.
Current Status: 2/10/2015 - House Ways and Means, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-9>
- HB12** **TIF-INCENTIVE DISTRICTS** (BUTLER, JR. J, BURKLEY T) To establish a procedure by which political subdivisions proposing a tax increment financing (TIF) incentive district are required to provide notice to the record owner of each parcel within the proposed incentive district before creating the district, and to permit such owners, under specific conditions, to exclude their parcels from the incentive district by submitting a written response.
Current Status: 2/10/2015 - Referred to Committee House Ways and Means
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-12>
- HB19** **INTERNAL REVENUE CODE** (SCHERER G) To expressly incorporate changes in the Internal Revenue Code since March 22, 2013 into Ohio law and to declare an emergency.
Current Status: 3/3/2015 - **REPORTED OUT**, Senate Finance, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-19>
- HB26** **COIN SALES-USE TAX EXEMPTION** (MAAG R, HAGAN C) To exempt from sales and use taxes the sale or use of investment metal bullion and coins.
Current Status: 2/10/2015 - Referred to Committee House Ways and Means
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-26>
- HB32** **AIRCRAFT-MOTOR FUEL EXCISE TAX** (PERALES R) To subject the receipt of motor fuel used to operate aircraft to the motor fuel excise taxes rather than the sales and use taxes and to require a percentage of motor fuel excise tax revenue to be used for airport improvements.
Current Status: 2/10/2015 - Referred to Committee House Ways and Means
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-32>
- HB64** **OPERATING BUDGET** (SMITH R) To make operating appropriations for the biennium beginning July 1, 2015, and ending June 30, 2017, and to provide authorization and conditions for the operation of state programs.
Current Status: 3/12/2015 - House Finance Subcommittee on Primary and Secondary Education, (Eighth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-64>
- HB65** **TAX-EXPENDITURE APPRAISAL** (DRIEHAUS D) To provide for the periodic appraisal of the effectiveness of tax expenditures.
Current Status: 2/18/2015 - Referred to Committee House Ways and Means
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-65>

- HB84 MUNICIPAL TAX-CIVIL ACTIONS** (SPRAGUE R, SWEENEY M) To require civil actions by taxpayers related to municipal income taxes be brought against the municipal corporation imposing the tax rather than the municipal corporation's tax administrator.
Current Status: 3/3/2015 - Referred to Committee House Ways and Means
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-84>
- HB99 INCOME TAX-SCHOOL FUNDING** (CURTIN M) To require that an amount equal to state income tax collections, less amounts contributed to the Ohio political party fund via the income tax checkoff, be distributed for the support of elementary, secondary, vocational, and special education programs.
Current Status: 3/4/2015 - Introduced
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-99>
- HB102 VETERAN-OWNED BUSINESSES** (CRAIG H, ANTANI N) To provide a bid preference for state contracts to a veteran-owned business and to authorize a personal income and commercial activity tax credit for a business that hires and employs a veteran for at least one year.
Current Status: 3/4/2015 - Introduced
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-102>
- SB2 INTERNAL REVENUE SERVICE-INCORPORATE CHANGES** (PETERSON B) To expressly incorporate changes in the Internal Revenue Code since March 22, 2013, into Ohio law, and to declare an emergency.
Current Status: 2/18/2015 - Referred to Committee House Ways and Means
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-2>
- SB12 INCOME TAX CREDIT-SCIENCE RELATED DEGREE** (HOTTINGER J) To grant an income tax credit to individuals who earn degrees in science, technology, engineering, or math-based fields of study.
Current Status: 2/4/2015 - Referred to Committee Senate Ways and Means
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-12>
- SB18 TAX CREDIT-NATIONAL GUARD EMPLOYMENT** (GENTILE L) To authorize a refundable income tax credit for employers that hire one or more qualified veterans or members of the National Guard or reserves.
Current Status: 2/4/2015 - Referred to Committee Senate Ways and Means
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-18>
- SB21 EARNED INCOME TAX CREDIT RESTRICTION** (SKINDELL M) To remove the income restriction on the earned income tax credit and to make the credit refundable beginning in 2015.
Current Status: 2/4/2015 - Referred to Committee Senate Ways and Means
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-21>

- SB40** **ECONOMIC DEVELOPMENT TAX CREDIT (BEAGLE B)** To authorize tax credits for contributions of money to economic and infrastructure development projects undertaken by local governments and non-profit corporations.
Current Status: 2/11/2015 - Referred to Committee Senate Ways and Means
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-40>
- SB41** **NEW MARKETS TAX CREDIT QUALIFICATIONS (BEAGLE B, TAVARES C)** To modify the qualifications for the New Markets Tax Credit and the schedule for receiving the credit.
Current Status: 2/11/2015 - Referred to Committee Senate Ways and Means
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-41>
- SB52** **AIRCRAFT FUEL EXCISE TAX (BEAGLE B)** To subject the receipt of motor fuel used to operate aircraft to the motor fuel excise taxes rather than the sales and use taxes and to require a percentage of motor fuel excise tax revenue to be used for airport improvements.
Current Status: 2/18/2015 - Referred to Committee Senate Ways and Means
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-52>
- SB88** **FELON EMPLOYMENT TAX CREDIT (TAVARES C, THOMAS C)** To create a tax credit for the employment of individuals who have been convicted of criminal offenses.
Current Status: 3/4/2015 - Referred to Committee Senate Ways and Means
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-88>
- SB100** **SALES TAX HOLIDAY-ENERGY STAR (BROWN E)** To provide a three-day sales tax "holiday" each April during which sales of qualifying Energy Star products are exempt from sales and use taxes.
Current Status: 3/4/2015 - Referred to Committee Senate Ways and Means
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-100>

Tax

A Pair of CAT Credit Bills Introduced

Two new bills that would create commercial activity tax (CAT) credits have been introduced in the Ohio General Assembly over the past two weeks.

[SB 88](#) sponsored by Sen. [Charleta Tavares](#) (D-Columbus) would create tax credits, including CAT credits, for the employment of individuals who have been convicted of criminal offenses.

A second bill, [HB Bill 102](#) sponsored by Reps. [Niraj Antani](#) (R-Miamisburg) and [Hearcel Craig](#) (D-Columbus), would provide a bid preference for state contracts to a veteran-owned business and would authorize a personal income and CAT credit for a business that hires and employs a veteran for at least one year.

The OMA opposes CAT credits; they erode the broad tax base and threaten the competitive low CAT tax rate. *3/5/2015*

Budget Modifies AG's Monitoring of State Economic Development Incentives

HB 64, the state budget bill, proposes to [modify the oversight role](#) of the Attorney General to monitor state economic development incentive projects. Currently the Attorney General is required to monitor the compliance of entities with the terms of their awards and submit an annual report thereof to the General Assembly.

The bill would still require the Attorney General to determine compliance with the terms of the award, including the performance metrics, but at the end of the year by which the entity is required to meet one of those metrics, rather than annually. *3/5/2015*

Calculate Effect of Tax Proposal for Your Company

The state operating budget, House Bill 64, as introduced contains tax policy proposals of high interest to manufacturers, including adjustments to the commercial activity tax (CAT), sales tax, and personal income tax.

We've developed a calculator to help you determine the potential impacts to your company:

Use this [calculator](#) (with [instructions](#)) to determine

your costs of the tax proposals (the calculator is an Excel form and may take several minutes to download).

The budget issues and impacts will be on the agendas of these upcoming OMA policy committee meetings, which are forums for OMA member input.

OMA Government Affairs Committee on [March 11](#) at 9:30 a.m. The Director of the Office of Budget and Management, Tim Keen, is a confirmed guest speaker.

OMA Tax Committee on [March 18](#) at 10:00 a.m.

[Register here for these committee meetings](#) and communicate your input [directly to us](#). *2/25/2015*

Governor's Tax Proposal Summarized

In a memo prepared for OMA members, OMA tax counsel Mark Engle of Bricker & Eckler LLP notes: "In the broadest sense, the tax proposals contained in H.B. 64 are similar to those included in the last budget proposal: lower income taxes on individuals and small-business owners, paid for in part by increased sales, commercial activity, tobacco and severance taxes, especially on large business entities. Opposition to the prior proposal resulted in a somewhat scaled back reduction in income taxes and more modest increases in the sales tax rate, as well as increases in the taxes applicable to tobacco and alcohol."

The OMA Government Affairs Committee and the OMA Tax Committee are reviewing the proposal for establishing an OMA position on its various elements.

[Read the full memo here](#). Give feedback to the [OMA decision-making process](#) by [participating in the committees](#), and by communicating with [Ryan Augsburger](#) and [Rob Brundrett](#). *2/19/2015*

House Ways & Means Committee to Hold Hearings on Budget Tax Package

Chairman [Rep. Jeff McClain](#) (R-Upper Sandusky) [announced](#) a full slate of committee hearings in the House Ways and Means Committee over the next three weeks.

The committee will be vetting the governor's tax proposal. Next week testimony is focused on business taxes; the following week on severance,

personal and tobacco taxes; and the week of March 9th testimony on all the tax proposals will be heard. 2/19/2015

3115 Exception Offered to Small Business

OMA Connections Partner, Clark, Schaefer, Hackett, tells us that last week the IRS released a new revenue procedure that gives small business taxpayers the option of making changes to comply with the tangible property regulations on the federal tax return without including a separate Form 3115 (Application for Change in Accounting Method) or separate statement.

Businesses that do not qualify as small taxpayers, who are otherwise required to comply with the regulations, will still be required to file the 3115 to

indicate their compliance. [Read more](#) 2/18/2015

House Finance Committee Hears Details on Kasich Tax Plan

This week the Ohio House Finance Committee heard [testimony](#) from Ohio Tax Commissioner [Joe Testa](#) on the newly introduced state budget plan, [House Bill 64](#).

Commissioner Testa provided 31 pages of detailed testimony and took questions from committee members regarding Governor Kasich's proposed tax plan. You can watch a video of the hearing [here](#). There were some testy moments in the hearing.

The OMA will provide analysis of the tax package as it affects manufacturers. Contact OMA's [Rob Brundrett](#) for information about tax matters in the bill, and [register](#) for the March 18 OMA Tax Committee meeting. 2/12/2015

Senate Announces Tax Expenditure Review

This week Ohio Senate President [Keith Faber](#) (R-Celina) announced that the [Senate Ways and Means Committee](#) will undertake a review of state "tax expenditures," a name used for tax exemptions and carve-outs. A goal of the committee is to ensure existing tax breaks are relevant, logical, and helpful to the state and its citizens.

The governor's office published its [report](#) on the state's tax expenditures when it proposed the budget this month. 2/12/2015

State Budget Unveiled

This week, Governor John Kasich unveiled his 2-year state budget proposal, dubbed a [Blueprint For A New Ohio](#). This state operating budget funds state government operations for the period July 1, 2015 to June 30, 2017. In addition to the state operating budget, separate budget legislation will fund the Bureau of Workers' Compensation and the Industrial Commission, and the Ohio Department of Transportation.

The governor released a [series of fact sheets](#) that describe the major points of the proposal. The budget bill itself is expected to be introduced into the House of Representatives next week. The governor's budget director, Office of Budget and Management director Tim Keen, presented the budget to the House Finance Committee this week.

Among his many proposals, the governor proposes \$500 million in net tax cuts. The budget would decrease personal income taxes while increasing the commercial activity tax (CAT), sales tax, cigarette tax, and severance tax rates. OMA Tax Counsel Mark Engel of Bricker and Eckler LLP has produced this 2-page [summary of tax policy proposals](#).

The OMA Government Affairs Committee and Tax Committee will go to work to identify the budget elements that are important to manufacturing. The Government Affairs Committee meets March 11 and the Tax Committee meets March 18. All members are invited; [register here](#). Meetings are in-person and call-in. 2/4/2015

State Budget Unveiling Monday

The governor's state budget will be unveiled Monday, February 2. The legislature will act on three separate budgets: the main state operating budget, the transportation budget, and the Bureau of Workers' Compensation / Industrial Commission budget.

The House Finance Committee will begin hearings next Tuesday; the Office of Budget and Management and Legislative Service Commission are scheduled to offer testimony. On Wednesday the committee will hear testimony on the transportation budget from the Department of Transportation, Department of Public Safety, and the Ohio Turnpike and Infrastructure Commission. The House has scheduled a vote on the operating budget the week of April 20th.

Budget documents when they come out will be posted [here](#) on the Legislative Service Commission website and [here](#) on the Office of Budget and Management website.

The OMA Tax Committee will be following the budget issues that particularly impact manufacturers. Its next

meeting is Wednesday, March 18. [Register here](#). 1/29/2015

New Chairman Appointed to House Finance Committee

With former [House Finance Chairman Ron Amstutz](#) (R-Wooster) becoming Speaker Pro Tempore, [Rep. Ryan Smith](#) (R-Bidwell) has been tapped to chair the House Finance Committee. This powerful committee will hold the hearings on the governor's budget proposal starting next month.

New [Speaker Cliff Rosenberger](#) (R-Clarksville) appointed Rep. Smith, who is currently serving his second complete term in the House after being appointed during the 129th General Assembly. He represents Ohio's [93rd district](#), which includes Gallia and Jackson counties along with parts of Lawrence and Vinton counties. 1/22/2015

NAM: The Economic Cost of Delaying Pro-Growth Tax Reform

As the new Congress convenes, the National Association of Manufacturers (NAM) is releasing a new tax policy study.

The study shows how a pro-growth tax reforms have the power to contribute more than \$12 trillion in GDP, \$3.3 trillion in investment and 6.5 million jobs over 10 years. The projection is built on a platform of these five reforms: 1) a maximum corporate tax rate of 25%; 2) a globally competitive international tax system; 3) full expensing of capital equipment; 4) enhanced and permanent research & development incentives; and 5) parallel changes for non-corporate pass-through entities.

Go to NAM's [website](#) for the full study and an executive summary. 1/15/2015

ODT Cracking Down on Tax Return Refund Fraud

The Ohio Department of Taxation (ODT) will be employing new protective measures to combat theft of tax refunds by people using stolen personal ID's. These measures will cause delays in tax refunds for certain returns that are selected for closer scrutiny. Read more about this important change in a [letter](#) from Ohio Tax Commissioner [Joe Testa](#). 1/15/2015.

This year will have a lot of content for the committee to consider as the state writes its biannual budget.

The 2015 meetings are scheduled for: (click to add to your calendar) [Wednesday March 18](#), [Thursday May](#)

[28](#), and [Thursday October 15](#).

[Register here](#). Contact OMA's [Rob Brundrett](#) who staffs the committee if you have questions. 1/15/2015

Important Tax Figures for 2015

OMA Connections Partner, GBQ Partner, provides [this table](#) which lists some important federal tax information for 2015, as compared with 2014. Some of the dollar amounts changed due to inflation. Other amounts changed due to legislation. 1/6/2015