



OMA Government Affairs Committee

March 6, 2019

AGENDA

Welcome & Introductions

Scott Corbitt, Region Vice President, Anheuser-Busch
Committee Chair

Luke Harms, Senior Manager of Government Relations, Whirlpool
Stephen Norton, Director Corp Comms & Gov't Rel, STERIS
Committee Vice Chairs

Staff Reports

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

OMA Counsel's Report

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

Special Guest

Senator Steve Wilson
Chair, Ohio Senate Energy & Public Utilities Committee

Representative Mark Romanchuk
Ohio House of Representatives

Discussion Agenda

- State Priorities Outlook
- State Budget
- Motor Fuel Tax, page 28
- Electricity Power Plant Bailouts, page 61
- Lake Erie Bill of Rights, page 56
- Food Manufacturing Policy Forum, page 47
- OMA Workforce Opportunities, page 106

2019 Government Affairs Committee Calendar
Meetings will begin at 9:30 a.m.

Wednesday, March 6
Wednesday, June 5
Thursday, August 22
Wednesday, November 13

Our thanks to today's meeting sponsor:





SENATOR STEVE WILSON

OHIO SENATE  7TH DISTRICT



State Senator Steve Wilson is currently serving his first full four-year term in the Ohio Senate, representing all or part of Warren, Hamilton and Butler counties. Wilson was previously appointed in 2017 to fill a vacancy in the 7th Senate District.

An Ohio native and long-time Warren County resident, Senator Steve Wilson has built a career of dedicated service to both his community and his profession. From the time he was honorably discharged as a Naval Officer in 1975, Senator Wilson focused his efforts on an entry-level position at Lebanon Citizens National Bank (LCNB) and public service in his community. Over four decades later, Wilson is the retired CEO of LCNB Corp. and LCNB National Bank. To this day, he continues to proudly serve as Chairman of the board.

Senator Wilson has always sought to give back to the community, making it a better place to live, work and raise a family. He believes that quality education and schools, as well as responsible community planning and creating good-paying jobs, are the tenets to growing a strong living and working environment for all Ohioans.

Known for his thoughtful approach to achieving effective policy change, Wilson isn't afraid to tackle the complex issues. His willingness to listen and immerse himself in learning all sides of an issue has served him well in the Ohio Senate, as is evidenced by the various positions he has held. In the 132nd General Assembly, Senator Wilson was appointed Chair of the Ohio Committee on Ohio College Affordability, Vice-Chair of the Senate Local Government, Public Safety and Veterans Affairs Committee, and a member of the prominent Senate Finance Committee. He also briefly served as Chair of the Senate Energy and Natural Resources Committee.

Senator Wilson and his wife, Jill, live in Maineville. They have four children and five grandchildren and are active members of the Otterbein United Methodist Church.

133rd General Assembly Committee Assignments:

- Energy and Public Utilities (Chairman)
- Finance Committee
- Insurance and Financial Institutions
- Local Government, Public Safety and Veterans Affairs
- Ways and Means
- Finance- Higher Education Subcommittee

ABOUT OMA POLICY COMMITTEE MEETINGS

OMA policy committee meetings provide opportunities for you to work with colleagues, subject matter experts, policymakers and government agency staff to gain critical updates and to set policy priorities for Ohio manufacturing.

OMA has five standing policy committees: **energy, environment, government affairs, safety & workers' compensation, and tax.**

Join Management Communities that Support Your Work

To make sure you receive committee meeting notices and materials in your inbox, go to My OMA to subscribe to the management communities that interest you.

Each policy committee meets in person in the OMA offices in Columbus, and several meetings are held regionally. These meetings can also be joined by phone. The format for the meeting is typically a two hour morning meeting, followed by an informal networking lunch, provided by the OMA.

2019 OMA Policy Committee Meeting Calendar *(click dates to register)*

Energy 10:00 a.m. – 1:00 p.m.	Environment 10:00 a.m. – 1:00 p.m.	Government Affairs 9:30 a.m. – 1:00 p.m.	Safety & Workers' Compensation 10:00 a.m. – 1:00 p.m.	Tax 10:00 a.m. – 1:00 p.m.
Tues., March 12	Weds., April 10	Weds., March 6	Weds., February 27	Tues., April 9
Thurs., May 30	Weds., June 12	Weds., June 5	Thurs., May 23	Tues., June 11
Thurs., August 29*	Weds., October 23	Thurs., August 22*	Weds., October 2	Weds., November 6
Thurs., November 21		Weds., November 13		

Register for Meetings

For in-person or call-in attendance, go to **My OMA** or call us at **(800) 662-4463**.

Attending in person?

The Ohio Manufacturers' Association
33 N. High St., 6th floor
Columbus, Ohio 43215

Attending via phone?

We email you the call-in instructions once you register.

More information?

Certainly! Call us at **(800) 662-4463** or email us at **oma@ohiomfg.com**.

***Regional Meetings – watch your email for details**

Public Policy “Hot Topics” March 6, 2019

Overview

The glitter of inauguration activities in January has faded, but the honeymoon will continue. The most vital period of a new chapter in public policy is dawning. Governor DeWine’s first budget is just days from introduction. On March 5, the Governor addressed a joint session of the House and Senate to present his first State of the State address outlining policy priorities we will soon see in the state budget.

The General Assembly started a bit slower mostly due to leadership election outcomes in House. But bills are now being introduced daily and committees are meeting. The budget will dominate activity around the statehouse through the end of June, but several significant policy changes may also be linked to the budget.

Executive Branch

All statewide offices have new occupants. The OMA participated in many inaugural events. Hundreds of government appointees have been selected to aide and counsel elected officials and lead state administrative agencies. Administrative agencies such as the PUCO and BWC have great ability to impact business costs and burdens. OMA staff has been meeting with leaders of key state agencies to acquaint them with their manufacturers’ policy priorities. Cabinet directors will be highlighted in section summaries.

Legislative Branch

- **Senate** (Republicans control 22 – 9)
Senate President Larry Obhof returns to the post for his final two-year session. He announced committee assignments in early February. Senators Matt Huffman (R – Lima) and Jay Hottinger (R – Newark) have joined the leadership team.
- **House of Representatives** (Republicans control 61 – 38)
Representative Larry Householder (R – Perry County) prevailed in a contested election for Speaker of the House. Representative Jim Butler (R – Dayton) was elected Speaker Pro Tem; Representative Bill Seitz (R – Cincinnati) is Majority Floor Leader; Representatives Anthony DeVitis (R - Uniontown), Jay Edwards (R – Nelsonville), Laura Lanese (R – Grove City) fill out other leadership posts. Speaker Householder also announced committees in early February. OMA staff is making the rounds.

Priority Legislation

Customarily the first bills introduced in a legislative session reflect the highest priorities of the chamber’s leadership. In the Senate, SB 1 is a regulatory reform bill taking aim at the number of regulations on the books. SB 2 deals with Lake Erie and water pollution problems. SB 3 deals with reform of drug sentencing laws. House priority bills have not yet been introduced.

The Budget

The state budget is actually a collection of budget bills, but under Ohio’s constitution, they must all be adopted before July 1, even earlier for the Transportation Budget. The Transportation Budget (House Bill 62) is already pending in full steam. House activity will soon be completed so that it can be considered in the Senate and completed before April 1. See included resource material on gasoline tax and vehicle user fees, etc.

The Workers’ Comp and Industrial Commission Budgets are already moving. See Safety and Workers Comp sector for more detail.

The main Operating Budget is expected to be introduced on March 15. In Ohio budget bills become Christmas trees that attract all sorts of ornaments throughout the legislative process. The OMA will track the myriad of most impactful provisions and report on them in Leadership and to the Government Affairs

Committee. The good news about the operating budget is that revenue seems to be strong in Ohio so general tax increases are not expected at this time. Stay tuned.

State Budget & Tax Policy

The Ohio Department of Taxation has finally wrapped up its work on the five year rule review to manufacturing sales and use tax exemption. The OMA working group helped guide the measure through a tricky review. The OMA Tax and Finance Committee has been working to draft legislation that would benefit manufacturers by taking advantage of the under-utilized Job Retention Tax Credit. Former legislator Jeff McClain was named the new Ohio Tax Commissioner.

Electricity Bailouts / Market Distortion

After being disappointed by state leaders for many years, proponents of nuclear power plant bailouts think they have the stars in alignment for a bill to transfer a massive amount of money from customers to power plant owners. The OMA has been a steadfast lead customer opponent to the various prior attempts.

The bill is expected to be introduced in the House very soon, and likely will be a priority bill (HB1 – HB 15). See Energy section for more. An effective opposition will require a major offensive!

Ballot Reform

Last November Ohioans defeated a criminal sentencing constitutional amendment. The issue once again ignited the debate about how well-financed out of state interests are able to use Ohio's constitution as a petri dish for policy experimentation. The initial interest in a fix seems to have dissipated.

Workforce Development

A top priority for Ohio manufacturers, the OMA is in its third year supporting an industry sector partnership model on a regional basis. Your company is invited to opt-in to next steps and participate in 2019 activity. Please contact the OMA staff to get your local facilities to engage in this regional effort to develop a modern manufacturing workforce. The OMA's third annual summit will be held fall 2019 to continue to build on the workforce successes over the past several years. Make sure your company is plugged in.

Environment

The previous administration failed in its final attempts to regulate agricultural runoff during its waning days. The DeWine administration has said that Lake Erie will be a priority and it is expected to play a prominent role in the budget discussions. Laurie Stevenson a long time Ohio EPA staffer was named the new Director of Ohio EPA. OMA's water working group continues to stay engaged with both the administration and legislature to ensure manufacturers are represented in any water discussions.

Unemployment Compensation

The legislature remains on the sideline of true unemployment compensation reform. The Senate has again indicated true comprehensive reform is a goal for the next budget bill. However new House leadership will make a reform package much harder to pass than in previous years.

Tort Reform

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

Right to Work

With the approval of right-to-work legislation in West Virginia following narrowly successful veto override, pressure would seem to be mounting on a similar proposal in the Buckeye State. No action anticipated.

Workers' Comp & Industrial Commission

The DeWine administration has appointed Stephanie McCloud as the new BWC Administrator while former BWC Administrator Sarah Morrison remains at the agency in a policy role until she is confirmed by the U.S. Senate as federal judge. The BWC Board just cut private employer rates another 20% and there

is a real possibility for another billion back in the near future. The BWC and IC budget have been introduced. The IC budget will probably be passed quickly. However the BWC budget appears to be headed for some longer discussions and labor and the trial bar have shopped amendments included universal PTSD coverage.

Leadership

Governor to Give State of the State Address on Tuesday **March 1, 2019**

Governor Mike DeWine will deliver his first State of the State address to a joint session of the Ohio General Assembly at the Statehouse on Tuesday, March 5.

Members can watch the noon speech live at **The Ohio Channel**.

OMA members can join the **March 6 meeting of the OMA Government Affairs Committee** to learn how the governor's policy priorities line up with the manufacturing competitiveness agenda. Ohio's lawmakers will be in Columbus almost continuously now through the end of June according to the **House and Senate session calendar**. The state budget bill is required to be passed by the end of June and will dominate legislative activity until that time. 2/28/2019

OMA Supports Senate's #1 Priority Bill **March 1, 2019**

This week the **OMA submitted testimony** in support of Senate Bill 1. The Senate's highest priority bill requires each state agency to reduce the regulatory restrictions contained in its rules by 30% by 2022.

The bill also prohibits a state agency from adopting new regulatory restrictions that would increase the percentage of restrictions in the agency's rules.

OMA described its support in testimony: "... it is also important to ensure that the regulations promulgated are necessary, non-duplicative, and the least burdensome possible while still providing their intended protections.

Manufacturers are regulated by all levels of government, from local jurisdictions through the federal government and also internationally. We believe that Senate Bill 1 will help ensure that Ohio's regulatory structures provide necessary protections while making Ohio more business friendly by eliminating unnecessary regulations that can stifle growth." 2/28/2019

Staub Hosts Portman State of MFG Tour **February 22, 2019**



National Association of Manufacturers President & CEO **Jay Timmons** is on a two-week sweep through eight states to spotlight the importance of manufacturing and to recruit talent for the future of manufacturing.

Here is a [link](#) to a video of the State of Manufacturing remarks that Timmons delivered in Houston, TX, to an audience including students at Lone Star College (or read the remarks [here](#)). He is introduced by Gerald Napoles, Ph. D., President of Lone Star College North Harris campus. In his remarks, Timmons challenges the young people in the audience to consider manufacturing careers and also calls for Congress to act on infrastructure, trade, and immigration reform.

Meanwhile, in a NAM and OMA event this week, Staub Manufacturing Solutions in Dayton hosted a roundtable of manufacturers with Senator Rob Portman. Steve Staub, president and co-owner, is on the OMA and the NAM boards of directors. Senator Portman and the manufacturers discussed the impact of tax reform on the manufacturing industry, concerns about trade policy, and solutions to close the skills gap and invest in a modern manufacturing workforce.

More about #MFGTour19 [here](#) and [here](#). 2/21/2019
OMA member Steve Staub, President & Co-owner, Staub Manufacturing Solutions, Dayton, with Senator Rob Portman

DeWine Names New JobsOhio Leader **February 22, 2019**

Last week Governor Mike DeWine announced that J.P. Nauseef had been selected as the next president and chief investment officer of **JobsOhio**.

JobsOhio is Ohio's private non-profit corporation that was founded to drive job creation and new capital investment in Ohio through business attraction, retention and expansion efforts.

According to the governor's **news release**, Nauseef, a Dayton resident, is a "former U.S. Air Force officer with 30 years of experience in the public, private, and non-profit sectors with a longstanding passion for and focus on technology, innovation, and economic development. He is currently chairman and co-founder of Krush Media Group and continues to be a strong advocate for military missions and families. In addition, J.P. was the president and CEO of the Dayton Development Coalition, which is one of JobsOhio's regional partner organizations."

Nauseef takes over next month and replaces John Minor, who has been president and chief investment officer of JobsOhio since 2012. 2/16/2019

Senate Hears Sponsor Testimony on Priority Legislation **February 22, 2019**

This week Senators **Kristina Roegner** (R-Hudson) and **Robert McColley** (R-Napoleon) gave **sponsor testimony** on **Senate Bill 1**. The bill is a carryover from the 132nd General Assembly and is the chamber's number one priority. The Senate remains focused on reducing the regulatory burden facing Ohio's businesses.

SB1 requires each state agency to reduce the regulatory restrictions contained in its rules by 30% by 2022. It also prohibits a state agency from adopting new regulatory restrictions that would increase the percentage of restrictions in the agency's rules.

Roegner testified: "According to the 2018 Mercatus Center study, Ohio has the third-most regulations of all states that have been researched, only trailing New York and Illinois in the number of administrative rules currently in place. That is twice the number of regulations on the books in Maryland or Missouri, or three

times the number of regulations in place in Michigan." 2/21/2019

Governor Proposes 18 Cent Gas Tax Increase **February 22, 2019**

Governor DeWine this week **proposed an 18 cent increase** in the state gasoline tax to fill a deep pothole in the budget for building and maintaining the roads and bridges in the state. The tax would be indexed against the consumer price index.

Department of Transportation Director Jack Marchbanks has testified that the state's transportation system faces a "fiscal cliff" in an annual \$1 billion shortfall for maintenance and new projects.

The current state gasoline tax is 28 cents. The proposed increase would raise \$1.2 billion annually that would be shared with local governments.

In 2013, Governor Kasich raised \$1.5 billion by bonding against future turnpike revenue. The move masked the state's gasoline tax revenue deficiency; the bond money ran out this year. 2/21/2019

A Salute to Engineers! **February 22, 2019**

This week is National Engineers Week^(R), eWeek, which was founded by the **National Society of Professional Engineers** (NSPE) in 1951. eWeek is dedicated to ensuring a diverse and well-educated future engineering workforce by increasing understanding of and interest in engineering and technology careers. Where would we be without engineers!

Salute! 2/20/2019

House Committee Leadership Announced **February 15, 2019**

Speaker **Larry Householder** has announced the **committee assignments** for House members of the 133rd General Assembly.

Rep. **Scott Oelslager** was appointed chairman of the powerful House Finance Committee. This committee oversees the budget process during the first six months of each new General Assembly.

Other important committees for manufacturers' issues will be chaired as follows

- Public Utilities – Rep. **Jamie Callender**
- Insurance – Rep. **Tom Brinkman**
- Ways and Means – Rep. **Tim Schaffer**
- Energy and Natural Resources –
Rep. **Nino Vitale**
- Energy Generation Subcommittee –
Rep. **Dick Stein** and Rep. **Michael O'Brien**
- Economic and Workforce Development –
Rep. **Paul Zeltwanger**
- Commerce and Labor – Rep. **Gayle Manning**

2/14/2019

Senate President Obhof Names Committee Chairs **February 15, 2019**

This week Senate President **Larry Obhof** announced the **committee assignments** for Senate members of the 133rd General Assembly.

Senator **Matt Dolan** was appointed chairman of the powerful Senate Finance Committee. That committee will play a large role in developing the state budget bill over the next six months. Other committee chairs of importance for manufacturers' issues include:

- Agriculture and Natural Resources –
Sen. **Frank Hoagland**
- Energy and Public Utilities – Sen. **Steve Wilson**
- Transportation, Commerce, and Workforce –
Sen. **Rob McColley**
- Ways and Means – Sen. **Lou Terhar**
- Insurance and Financial Institutions –
Sen. **Bob Hackett**

2/14/2019

Panel Recommends State Gas Tax Increase **February 8, 2019**



In response to declining state gas tax revenue and increased transportation infrastructure needs, members of Gov. DeWine's Advisory Committee on Transportation Infrastructure concurred with hiking the gas tax and considering other revenue generators including a fee on non-motor-fuel powered vehicles.

The committee heard testimony from a variety of advocates including ODOT Director Jack Marchbanks who **testified** that Ohio's transportation system is "facing an impending crisis" absent an increase in funding.

Specific recommendations are likely to be forthcoming in time for the state transportation budget which must be completed by the end of April.

Representatives of OMA member companies Eaton and Honda of America Manufacturing, participated on the advisory committee.

Look for a full report at the OMA **Government Affairs Committee** on March 6. *2/7/2019*
Gov. DeWine appointed an Advisory Committee on Transportation Infrastructure to recommend options for maintaining and enhancing the state's transportation infrastructure.

House and Senate Elect Leadership Teams **February 8, 2019**

The House Republicans this week elected its new leadership team. Rep. **Jim Butler** (R-Dayton) was elected as the speaker pro tempore. Rep. **Bill Seitz** (R-Cincinnati) is majority floor leader. Rep. **Anthony DeVitis** (R-Uniontown) is assistant majority floor leader. Rep. **Jay Edwards** (R-Nelsonville) is majority floor whip, and Rep. **Laura Lanese** (R-Grove City) is assistant majority floor whip.

The Democratic leadership team consists of Rep. **Emilia Strong-Sykes** (D-Akron) as minority leader, Rep. **Kristin Boggs** (D-Columbus) as assistant minority leader, Rep. **Kent Smith** (D-Euclid) as minority whip, and Rep. **Paula Hicks-Hudson** (D-Toledo) as assistant minority whip.

Meanwhile, the Senate selected a new majority floor leader in Sen. **Matt Huffman** (R-Lima) Wednesday, while electing Sen. **Jay Hottinger** (R-Newark) to Huffman's former post of majority whip. These changes were made following Sen. Randy Gardner's resignation to become chancellor of the Department of Higher Education.

The powerful positions of the chairmen of finance committees were also named this week. Rep. **Scott Oelslager** (R-Canton) will chair the House committee, while Sen. **Matt Dolan** (R-Chagrin Fall) takes the position in the Senate. 2/7/2019

Governor DeWine Announces Advisory Committee on Transportation Infrastructure **February 1, 2019**

This week Governor DeWine announced the creation of a new committee that will study the current conditions of Ohio's roadways and recommend options for maintaining and enhancing the state's transportation infrastructure.

Members of the Ohio Governor's Advisory Committee on Transportation Infrastructure are named in this **news release**.

Governor DeWine has asked the committee to issue its recommendations in mid-February. 1/30/2019

New Manufacturers' Survey: Toughest Challenge is Lack of Skilled Workers **February 1, 2019**

The Manufacturing Group of OMA Connections Partner, Schneider Downs, recently completed its **2018 Manufacturers' Economic Survey**, which yielded manufacturers' thinking on a range of topics including workforce, tariffs, IT security, the Tax Cuts and Jobs Act, and General Data Protection Regulation (GDPR).

The report is free but you will need to sign in to download it. 1/29/2019

House Democrats Elect Leadership **January 25, 2019**

The House Democratic caucus elected its leadership for the new biennial session. The House minority leader is Rep. **Emilia Sykes** (D-Akron). She succeeds Rep. Fred Strahorn (D-Dayton), who stepped down when the majority of the caucus voted for Rep. **Larry Householder** (R-Glenford) as Speaker.

Other members of the new Democratic leadership are: Rep. **Kristin Boggs** (D-Columbus), assistant minority leader; Rep. **Kent Smith** (D-Euclid), minority whip; and Rep. **Paula Hicks-Hudson** (D-Toledo), assistant minority whip. 1/24/2019

An Eye to the Future, With Great Optimism **January 18, 2019**

Governor Mike DeWine was sworn in Monday and gave **his inaugural address** in the historic Statehouse Rotunda.

The governor said: "It is with that eye to the future and with great optimism that I will serve as your Governor — because I truly believe that the best is yet to come!"

He pledged to seek our different ideas and opinions, to listen, to bring people together.

"But don't mistake our willingness to listen and our openness to new ideas for a lack of vision or resolve or focus. The Bible warns us of an 'uncertain trumpet.' Our trumpet will give a clear and certain call, as there will be no mistaking where I am leading!" DeWine said.

The governor is focused on long-term, meaningful, positive change: "Over the next four years, I will be asking the people of Ohio and I will be asking those of you in the General Assembly to do things where the results will not be immediate — but where they will be profound, and where they will endure." 1/17/2019

Coalition to Address Ohio's Critical Infrastructure Issues **January 18, 2019**

The OMA is supporting a coalition – **Fix Our Roads (FOR) Ohio** – to put a spotlight on Ohio’s deteriorating infrastructure and lack of remedial funding. The coalition is comprised of business groups, local governments, regional planning councils and transportation-oriented organizations.

According to FOR Ohio’s **news release**: “The Ohio Department of Transportation (ODOT) is scheduled to spend \$1.7 billion on its capital program in FY 2020, down from a high of \$2.4 billion in FY 2014. This decrease is due in large part to the expiration of Ohio’s Turnpike Bond program at the end of this fiscal year (June 30, 2019), and represents a 29 percent decrease in capital spending from FY 2014. ...

“According to a recent report by TRIP, a national transportation research group, 30 percent of Ohio’s major roads are in poor or mediocre condition. The FHWA National Bridge Inventory, which compiles data for bridges spanning more than 20 feet, rates 1,653 of Ohio’s bridges as structurally deficient, meaning there is significant deterioration of the bridge deck, supports, or other major components.”

The coalition plans to work with the DeWine administration and new General Assembly to advance potential options including phasing in increases to Ohio’s Motor Fuel User Fee (gas tax), levying an annual fee on electric-powered vehicles, studying future funding alternatives in light of evolving technology, and identifying a dedicated funding source to better support public transit. *1/16/2019*

Financial Assistance for Import-Impacted Manufacturers **January 18, 2019**

For 35 years, the **Great Lakes Trade Adjustment Assistance Center** (GLTAAC) has been working with import-impacted manufacturing firms in Michigan, Ohio and Indiana through the federal Trade Adjustment Assistance for Firms program (TAAF), and has helped hundreds of manufacturers compete against imports.

Manufacturers who have been impacted by imports can qualify for \$75,000 in program matching funds to implement critical business improvement projects, all aimed at increasing their global competitiveness.

Call or **email** GLTAAC Project Manager, Scott Phillips, (734) 787-7509. *1/16/2019*

DeWine Continues to Fill Out Cabinet **January 11, 2019**

This week Governor-elect Mike DeWine continued to fill out his cabinet with a slew of appointments. Included in this week’s announcements:

- State Senator Randy Gardner was tapped to lead the Department of Higher Education;
- Former State Representative Dorothy Pelanda will head up the Department of Agriculture;
- Attorney Stephanie McCloud will lead the Bureau of Workers’ Compensation; and
- Longtime Ohio EPA staffer Laurie Stevenson will take over as director of that agency.

See a **full list** of DeWine appointments and key staff, courtesy of Hannah News Service. *1/10/2018*

Householder Elected Speaker **January 11, 2019**

The Ohio House of Representatives convened on Monday – as did the Senate – to administer oaths of office and elect leadership. The House speakership had been bitterly contested for more than a year with Republican **Larry Householder** working to wrest the gavel from incumbent Republican Speaker Ryan Smith. In the end, Householder won back the Speaker’s gavel (52-46), even while Smith enjoyed considerably more supporters among the Republican caucus. Here is an **excerpt** from the House Journal that breaks down the voting. Readers may remember that Householder was the Speaker from 2001 to 2004. Householder bested Smith by persuading 26 Democrats to support him. Labor groups were especially vocal in urging Democrats to support Householder. Utilizing minority party votes to form a majority coalition to elect a Speaker is unprecedented in modern times. *1/10/2019*

Senate Elects Leaders for the 133rd General Assembly
January 11, 2019

With the opening of the 133rd General Assembly on Monday, the Senate unanimously elected its leadership posts for the next two years.

President **Larry Obhof** (R-Medina) was reelected as Senate President. The Senate also confirmed Sen. **Bob Peterson** (R-Sabina) as president pro tempore, Sen. **Randy Gardner** (R-Bowling Green) as majority floor leader and Sen. **Matt Huffman** (R-Lima) as majority whip.

Huffman replaces term-limited Gayle Manning who returned to the House. Republicans will need to decide who to add to their leadership team, because on Thursday Randy Gardner was appointed Director of the Ohio Department of Higher Education by Governor-elect Mike DeWine.

The Democratic leadership team retained Sen. **Kenny Yuko** (R-Richmond Heights) as minority leader and Sen. **Cecil Thomas** (D-Cincinnati) will serve as his number two. Sen. **Sean O'Brien** (D-Bazetta) will serve as minority whip and Sen. **Sandra Williams** (D-Cleveland) will serve as assistant minority whip. *1/10/2019*

Pelanda to Head Ohio Department of Agriculture
January 11, 2019

Governor-elect Mike DeWine this week appointed Dorothy Pelanda to lead the Ohio Department of Agriculture. Pelanda is a former member of the Ohio House, where she represented Union County and parts of Marion County.

The Dept. of Agriculture regulates aspects of food production and is an important state agency to Ohio's food and beverage manufacturers, processors and ingredient makers.

The OMA will be arranging for food sector manufacturers to visit with Director Pelanda at our OMA Food Manufacturers' Policy Forum in March.

The regulated community has been at odds with state regulators due to proposals aimed at phosphorous nutrient discharge into watersheds. Pelanda, an attorney, will no doubt be focusing on the state's response to water pollution beginning on day one. *1/10/2019*

Marchbanks to Lead ODOT
January 11, 2019

Jack Marchbanks will become Ohio's next Department of Transportation (ODOT) chief, having been appointed by Governor-elect Mike DeWine this week. Marchbanks, a career ODOT administrator, moves into the top job having served in a variety of senior posts within the department.

The transportation budget is expected to rocket through the General Assembly in early Spring. The state's transportation trust fund, comprised of gas-tax monies, is forecast to run a structural deficit in near-term years.

Ohio's manufacturers are dependent on effective movement of freight and we look forward to working with Jack. *1/10/2019*

Help to Market Your Products or Services Internationally
January 11, 2019

The International Market Access Grant for Exporters (IMAGE) program is designed to help small businesses increase exports and create jobs in Ohio's economy. The program reimburses at a 50 percent rate, capped at \$12,500 per eligible approved applicant.

Popular eligible activities include but are not limited to trade shows, international advertising, and trade missions.

For more information about the IMAGE program and activities eligible for reimbursement, **click here**. *1/2/2019*

Miscellaneous Legislation of Interest to Manufacturers

Prepared by: The Ohio Manufacturers' Association
Report created on March 5, 2019

- HB30 EUTHANIZED ANIMAL REMAINS-FOOD (LANESE L)** To prohibit pet food from containing remains from any dog or cat or from any other animal that was euthanized by the use of an injected drug.
Current Status: 2/12/2019 - Referred to Committee House Agriculture and Rural Development
All Bill Status: 2/12/2019 - Introduced
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-30>
- HB46 STATE GOVT EXPENDITURE DATABASE (GREENSPAN D)** To require the Treasurer of State to establish the Ohio State Government Expenditure Database.
Current Status: 2/27/2019 - House State and Local Government, (First Hearing)
All Bill Status: 2/12/2019 - Referred to Committee House State and Local Government
2/12/2019 - Introduced
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-46>
- HB48 LOCAL GOVT ROAD IMPROVEMENT FUND (GREENSPAN D)** To provide for a new Local Government Road Improvement Fund for local governments to fund road improvements.
Current Status: 2/12/2019 - Referred to Committee House Finance
All Bill Status: 2/12/2019 - Introduced
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-48>
- HB62 TRANSPORTATION BUDGET (OELSLAGER S)** To make appropriations for programs related to transportation and public safety for the biennium beginning July 1, 2019, and ending June 30, 2021, and to provide authorization and conditions for the operation of those programs.
Current Status: 3/6/2019 - House Finance, (Ninth Hearing)
All Bill Status: 3/5/2019 - House Finance, (Eighth Hearing)
2/28/2019 - House Finance, (Seventh Hearing)
2/27/2019 - House Finance, (Sixth Hearing)
2/26/2019 - House Finance, (Fifth Hearing)
2/21/2019 - House Finance, (Fourth Hearing)
2/20/2019 - House Finance, (Third Hearing)
2/19/2019 - House Finance, (Second Hearing)
2/13/2019 - House Finance, (First Hearing)
2/12/2019 - Referred to Committee House Finance
2/12/2019 - Introduced
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-62>
- HB72 CAPITAL IMPROVEMENTS FUND (ROGERS J, CERA J)** To create the Supplemental State Capital Improvements Pilot Program funded by a temporary transfer from the Budget Stabilization Fund and to make an appropriation.
Current Status: 2/20/2019 - Referred to Committee House Finance
All Bill Status: 2/14/2019 - Introduced

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-72>

HB76 **BALLOT LANGUAGE UNIFORMITY** (MERRIN D) To enact the "Ballot Uniformity and Transparency Act" to modify the form of election notices and ballot language for property tax levies.

Current Status: 2/20/2019 - Referred to Committee House Ways and Means

All Bill Status: 2/14/2019 - Introduced

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-76>

SB1 **REDUCE REGULATORY RESTRICTIONS** (MCCOLLEY R, ROEGNER K) To require certain agencies to reduce the number of regulatory restrictions and to continue the provision of this act on and after August 18, 2019.

Current Status: 3/5/2019 - Senate Government Oversight and Reform, (Third Hearing)

All Bill Status: 2/26/2019 - Senate Government Oversight and Reform, (Second Hearing)

2/19/2019 - Senate Government Oversight and Reform, (First Hearing)

2/12/2019 - Introduced

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

SB3 **EXPRESS INTENT-DRUG SENTENCING REFORM** (EKLUND J, O'BRIEN S) To express the intent of the General Assembly to develop and enact legislation to reform Ohio's drug sentencing laws.

Current Status: 3/6/2019 - Senate Judiciary, (Second Hearing)

All Bill Status: 2/13/2019 - Referred to Committee Senate Judiciary

2/13/2019 - Senate Judiciary, (First Hearing)

2/12/2019 - Introduced

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-3>

SB33 **CRITICAL INFRASTRUCTURE FACILITIES OFFENSES** (HOAGLAND F) To modify certain criminal offenses with respect to critical infrastructure facilities and to impose fines and civil liability for damage to a critical infrastructure facility.

Current Status: 2/20/2019 - Senate Judiciary, (First Hearing)

All Bill Status: 2/12/2019 - Introduced

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-33>

SB46 **PUNITIVE OR EXEMPLARY DAMAGES LIMITATION EXEMPTIONS** (EKLUND J) To expand the exemption from punitive or exemplary damages limitations in tort law that is related to certain felony convictions.

Current Status: 3/5/2019 - Senate Government Oversight and Reform, (First Hearing)

All Bill Status: 2/20/2019 - Referred to Committee Senate Government Oversight and Reform

2/12/2019 - Introduced

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-46>

SB52

CIVILIAN CYBER SECURITY RESERVE FORCES (GAVARONE T) To create the civilian cyber security reserve forces, to make the Secretary of State a member of the Homeland Security Advisory Council, to require the Secretary of State to appoint a chief information security officer, to require the boards of elections to audit election results, and to make an appropriation.

Current Status: 3/5/2019 - Senate Government Oversight and Reform, (Second Hearing)

All Bill Status: 2/26/2019 - **SUBSTITUTE BILL ACCEPTED**, Senate Government Oversight and Reform, (Second Hearing)
2/20/2019 - Referred to Committee Senate Government Oversight and Reform
2/19/2019 - Senate Government Oversight and Reform, (First Hearing)
2/13/2019 - Introduced

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-52>

SB57

DECRIMINALIZE HEMP (HILL B, HUFFMAN S) To decriminalize hemp and hemp products and to establish a hemp cultivation licensing program.

Current Status: 3/5/2019 - Senate Agriculture and Natural Resources, (First Hearing)

All Bill Status: 2/26/2019 - Referred to Committee Senate Agriculture and Natural Resources
2/20/2019 - Introduced

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-57>



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133rd General Assembly Schedule for First Half of 2019

The Ohio Senate and Ohio House have set the following tentative schedule for the first half of 2019. Unless otherwise noted, the House will meet at 1 p.m. on Tuesdays, Wednesdays and Thursdays. The Senate will meet at 1:30 p.m. on Tuesdays and Wednesdays and 11 a.m. on Thursdays. Dates and times, however, are subject to change. Check the *Hannah Report* for the latest information.

March

Tuesday, March 5 - "**State of the State**"/Joint Session
Wednesday, March 6 - Senate/House Sessions
Thursday, March 7 - House Session (if needed)/Senate committee hearings

Tuesday, March 12 - Senate Session (if needed)
Wednesday, March 13 - Senate/House Sessions
Thursday, March 14 - House Session (if needed)/Senate committee hearings
Friday, March 15 - **Deadline for governor to submit FY20-21 budget to the General Assembly**

Tuesday, March 19 - Senate committee hearings
Wednesday, March 20 - House Session/Senate Session (if needed)
Thursday, March 21 - House Session/Senate committee hearings

Wednesday, March 27 - House/Senate Sessions
Thursday, March 28 - House Session/Senate Session (if needed)

April

Tuesday, April 2 - Senate Session (if needed)
Wednesday, April 3 - House/Senate Sessions
Thursday, April 4 - House Session/Senate committee hearings

Tuesday, April 9 - Senate Session (if needed)
Wednesday, April 10 - House/Senate Sessions
Thursday, April 11 - House Session/Senate committee hearings

Tuesday, April 16 - Senate Session (if needed)
Wednesday, April 17 - April 29 - **Spring Break**

Tuesday, April 30 - Senate committee hearings

May

Wednesday, May 1 - House/Senate Sessions
Thursday, May 2 - House Session
Friday, May 3 - House Session (if needed)

Tuesday, May 7 - **Primary Election**/Senate committee hearings

Wednesday, May 8 - House/Senate Sessions
Thursday, May 9 - House Session (if needed)

Wednesday, May 15 - House/Senate Sessions
Thursday, May 16 - House Session (if needed)

Tuesday, May 21 - Senate Session (if needed)
Wednesday, May 22 - House Session/Senate Session (if needed)
Thursday, May 23 - House Session (if needed)

Monday, May 27 - **Memorial Day** (State Offices closed)

Wednesday, May 29 - House/Senate Sessions
Thursday, May 30 - House/Senate Sessions (if needed)

June

Tuesday, June 4 - Senate Session (if needed)
Wednesday, June 5 - Senate Session
Thursday, June 6 - Senate Session (if needed)

Tuesday, June 11 - Senate Session (if needed)
Wednesday, June 12 - House/Senate Sessions
Thursday, June 13 - House Session

Tuesday, June 18 - Senate Session (if needed)
Wednesday, June 19 - House/Senate Sessions
Thursday, June 20 - House Session

Tuesday, June 25 - House Session/Senate Session (if needed)
Wednesday, June 26 - House/Senate Sessions
Thursday, June 27 - House/Senate Sessions (if needed)

cont'd on p. 2

July

Monday, July 1 - **FY20 begins**

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

Wednesday, July 10 - House Session (if needed)

Thursday, July 11 - House Session (if needed)

Wednesday, July 17 - House/Senate Sessions (if needed)

Thursday, July 18 - House Session (if needed)



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House Standing Committees for 133rd General Assembly

Aging and Long Term Care 614-644-6011

Thursdays, 11 a.m., Room 122

Arndt (R) - Chair; Reineke (R) - Vice Chair
(R) Antani, Ginter, Green, Powell, Roemer, Ryan, Scherer
(D) *Howse, Boyd, Clites, Liston, Russo, West

Agriculture and Rural Development 614-466-2038

Tuesdays, 9 a.m., Room 121

Koehler (R) - Chair; T. Smith (R) - Vice Chair
(R) Jones, Kick, Manchester, D. Manning, Powell,
Schaffer, Seitz, Stoltzfus
(D) *Brent, Cera, Clites, Hicks-Hudson, Lightbody,
Patterson, Weinstein

Armed Services and Veterans Affairs 614-644-6020

Wednesdays, 11 a.m., Room 122

Perales (R) - Chair; Hood (R) - Vice Chair
(R) Dean, A. Holmes, Keller, Kick, Lanese, Richardson
(D) *Weinstein, Brown, Crawley, A. Miller, Sheehy

Civil Justice 614-466-8140

Tuesdays, 3 p.m., Room 115

Hambley (R) - Chair; Patton (R) - Vice Chair
(R) Butler, Callender, Cupp, Hillyer, Lanese, Seitz
(D) *Brown, Crossman, Galonski, Hicks-Hudson, Skindell

Criminal Justice - 614-466-8550

Thursdays, 11 a.m., Room 017

Lang (R) - Chair; Plummer (R) - Vice Chair
(R) Butler, Cupp, LaTourrette, D. Manning, Seitz, T. Smith
(D) *Leland, Crossman, Galonski, Rogers, West

Criminal Sentencing Subcommittee 614-644-5088/614-644-6037

Tuesdays, 3 p.m., Room 121

LaTourrette (R) - Co-Chair
Galonski (D) - Co-Chair
(R) Plummer, T. Smith
(D) Rogers

Commerce and Labor 614-644-5076

Wednesdays, 3 p.m., Room 114

G. Manning (R) - Chair; Dean (R) - Vice Chair
(R) DeVitis, Edwards, Hood, Jones, Patton, Riedel, Stein
(D) *Lepore-Hagan, Brent, Lightbody, Sheehy, K. Smith,
Sweeney

Economic and Workforce Development 614-644-6027

Wednesdays, 9 a.m., Room 114

Zeltwanger (R) - Chair; Powell (R) - Vice Chair
(R) DeVitis, A. Holmes, Lang, McClain, Reineke,
Riedel, Vitale
(D) *Sobecki, Ingram, Liston, Miranda, Skindell,
Upchurch

Energy and Natural Resources 614-466-1507

Tuesdays, 11 a.m., Room 017

Vitale (R) - Chair; Kick (R) - Vice Chair
(R) Baldrige, Cross, Hillyer, Jordan, Stein, Wiggam
(D) *Denson, G. Holmes, Leland, O'Brien, Weinstein

Energy Generation Subcommittee 614-

466-9628/614-466-5358

Tuesdays, 3 p.m., Room 114

Stein (R) - Co-Chair
O'Brien (D) - Co-Chair
(R) Baldrige, Jordan
(D) G. Holmes

Federalism 614-466-8134

Wednesdays, 9 a.m., Room 113

Becker (R) - Chair; Stoltzfus (R) - Vice Chair
(R) Brinkman, Dean, Green, Hood, Koehler, R. Smith
(D) *A. Miller, Kelly, Kennedy-Kent, J. Miller, Strahorn

Finance 614-752-2438

Tuesdays, Wednesdays, Thursdays, 9 a.m., Room 313

Oelslager (R) - Chair; Scherer (R) - Vice Chair
(R) Baldrige, Blessing, Butler, Callender, Carfagna,
Carruthers, Cross, Cupp, Edwards, Greenspan,
Hambley, Hoops, Lipps, Plummer, Perales,
Richardson, Roemer, Romanchuk, Wilkin
(D) *Cera, Crawley, Hicks-Hudson, Howse, Kelly, A.
Miller, O'Brien, Patterson, Rogers, Skindell,
Sweeney, West

Agriculture, Development and Natural Resources Subcommittee 614-466-3760

Wednesdays, 3 p.m., Room 113

Hoops (R) - Chair
(R) Baldrige, Richardson
(D) *Hicks-Hudson, O'Brien

Health and Human Services Subcommittee 614-466-5802

Wednesdays, 11 a.m., Room 115

Romanchuk (R) - Chair
(R) Lipps, Roemer
(D) *West, Kelly

Higher Education Subcommittee 614-466-1431

Tuesdays, 11 a.m., Room 018

Carfagna (R) - Chair
(R) Edwards, Perales
(D) *Sweeney, A. Miller

Primary & Secondary Education Subcommittee 614-466-9624/614-466-1405

Tuesdays, 11 a.m., Room 115

Cupp (R) - Co-Chair
Patterson (D) - Co-Chair
(R) Blessing, Hambley
(D) Crawley

Transportation Subcommittee 614-466-0961

Thursdays, 11 a.m., Room 121

Greenspan (R) - Chair
(R) Carruthers, Cross
(D) *Skindell, Howse

Financial Institutions 614-644-6711

Tuesdays, 5 p.m., Room 113

Jordan (R) - Chair; Hillyer (R) - Vice Chair
(R) Carfagna, Cross, Greenspan, Lanese, Lang, Roemer
(D) *K. Smith, Crossman, Denson, Leland, Russo

Health - 614-466-1731

Tuesdays, 11 a.m., Room 116

Merrin (R) - Chair; D. Manning (R) - Vice Chair
(R) Antani, Butler, Carruthers, Ginter, Keller, LaTourette, Lipps, Plummer, Romanchuk
(D) *Boyd, Clites, Lepore-Hagan, Liston, Russo, Upchurch, West

Higher Education 614-644-5094

Tuesdays, 3 p.m., Room 122

Keller (R) - Chair; Riedel (R) - Vice Chair
(R) Edwards, A. Holmes, G. Manning, Perales, Richardson, R. Smith
(D) *Ingram, Galonski, Lightbody, J. Miller, Miranda

Insurance 614-644-6886

Tuesdays, 9 a.m., Room 113

Brinkman (R) - Chair; Antani (R) - Vice Chair
(R) DeVitis, Lang, LaTourette, Merrin, Patton, Ryan
(D) *Boggs, Brown, G. Holmes, Sweeney, Upchurch

Primary and Secondary Education 614-466-9091

Tuesdays, 5 p.m., Room 121

Blessing (R) - Chair; Jones (R) - Vice Chair
(R) Carruthers, Cupp, Koehler, Manchester, G. Manning, R. Smith, T. Smith
(D) *Robinson, Crawley, Ingram, J. Miller, Patterson, Sobecki, Strahorn

Public Utilities 614-644-6074

Wednesdays, 11 a.m., Room 116

Callender (R) - Chair; Wilkin (R) - Vice Chair
(R) Antani, Blessing, Brinkman, Cross, DeVitis, Edwards, Patton, Schaffer, Seitz, Stein, Vitale, Wiggam
(D) *G. Holmes, Boggs, Crossman, Denson, A. Miller, Robinson, Rogers, Sheehy, K. Smith

Rules and Reference 614-466-2500

Room 119

Householder (R) - Chair; Butler (R) - Vice Chair
(R) Callender, DeVitis, Edwards, Lanese, Seitz
(D) *Sykes, Boggs, Hicks-Hudson, K. Smith

State and Local Government 614-466-1474

Wednesdays, 3 p.m., Room 122

Wiggam (R) - Chair; Ginter (R) - Vice Chair
(R) Arndt, Becker, Greenspan, Hambley, R. Smith, T. Smith, Wilkin
(D) *Kelly, Kennedy-Kent, Russo, Skindell, Sobecki, Strahorn

Transportation and Public Safety 614-644-6034

Tuesdays, 11 a.m., Room 114

Green (R) - Chair; McClain (R) - Vice Chair
(R) Arndt, Hoops, Jones, Manchester, G. Manning, Patton, Stoltzfus
(D) *Sheehy, Brent, Howse, Lepore-Hagan, Miranda, O'Brien

Ways and Means 614-466-8100

Tuesdays, 3 p.m., Room 116

Schaffer (R) - Chair; Lipps (R) - Vice Chair
(R) Becker, Carfagna, Green, Hoops, McClain, Merrin, Powell, Reineke, Roemer, Ryan, Scherer
(D) *Rogers, Boyd, Cera, Denson, Leland, Robinson, Sobecki, Upchurch

* Ranking Minority Member



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Senate Announces Members of Standing Committees

The following are the Senate committees for the 133rd General Assembly and their members:

Agriculture & Natural Resources - 614-466-6508

Wednesdays, 4 p.m., South Hearing Room

Hoagland, Chair	*O'Brien
Hill, Vice Chair	Fedor
Hackett	Maharath
S. Huffman	
Kunze	
McColley	
Peterson	
Uecker	

Education - 614-466-4538

Tuesdays, 10:15 a.m., South Hearing Room

Lehner, Chair	*Fedor
Terhar, Vice Chair	Maharath
Brenner	Sykes
Coley	
Gavarone	
M. Huffman	
S. Huffman	
Manning	

Energy & Public Utilities - 614-466-9737

Tuesdays, 9:30 a.m., Senate Finance Hearing Room

Wilson, Chair	*Williams
McColley, Vice Chair	Craig
Brenner	O'Brien
Burke	
Dolan	
Eklund	
Hoagland	
M. Huffman	
Peterson	
Rulli	

Finance - 614-466-8056

Tuesdays, 2:30 p.m., Senate Finance Hearing Room

Dolan, Chair	*Sykes
Burke, Vice Chair	Antonio
Eklund	O'Brien
Hottinger	
Kunze	
Lehner	
McColley	
Schuring	
Terhar	
Wilson	

General Government and Agency

Review Subcommittee - 614-466-0626

Thursdays, 9:15 a.m., South Hearing Room

Schuring, Chair	*Yuko
Rulli, Vice Chair	Craig
Eklund	O'Brien
Hoagland	
Hill	
Uecker	

Health and Medicaid Subcommittee - 614-466-3780

Thursdays, 9:15 a.m., Senate Finance

Hearing Room

Hackett, Chair	*Thomas
S. Huffman, Vice Chair	Antonio
Burke	
Coley	
Hottinger	
Roegner	

Higher Education Subcommittee - 614-466-5981

Thursdays, 9:15 a.m., North Hearing Room

Kunze, Chair	*Williams
Gavarone, Vice Chair	Maharath
McColley	
Peterson	
Wilson	

Primary/Secondary Education Subcommittee - 614-466-8068

Wednesdays, 2:30 p.m., North Hearing Room

Terhar, Chair	*Fedor
Lehner, Vice Chair	Sykes
Brenner	
M. Huffman	
Manning	

Government Oversight & Reform - 614-466-8072

Tuesdays, 3:15 p.m., South Hearing Room

Coley, Chair *Craig
M. Huffman, Vice Chair Fedor
Gavarone Thomas
Hoagland
McColley
Peterson
Roegner
Uecker

Health, Human Services & Medicaid - 614-466-8049

Wednesdays, 2:30 p.m., South Hearing Room

Burke, Chair *Antonio
S. Huffman, Vice Chair Maharath
Gavarone Thomas
Hackett
Hottinger
Kunze
Lehner
Roegner[
Schuring

Insurance and Financial Institutions - 614-466-3780

Wednesdays, 11:15 a.m., Senate Finance Hearing Room

Hackett, Chair *Craig
Hottinger, Vice Chair Fedor
Brenner Williams
Burke
Dolan
S. Huffman
Kunze
Peterson
Terhar
Wilson

Judiciary - 614-644-7718

Wednesdays, 9:15 a.m., North Hearing Room

Eklund, Chair *Thomas
Manning, Vice Chair Fedor
Coley O'Brien
Gavarone
M. Huffman
Lehner
McColley

Local Government, Public Safety and Veterans Affairs - 614-466-8082

Tuesdays, 11:15 a.m., North Hearing Room

Uecker, Chair *Maharath
Brenner, Vice Chair Craig
Hackett Thomas
Hill
Hoagland
Rulli
Wilson

Rules & Reference - 614-466-7505

Tuesdays/Wednesdays at 11 a.m.; Thursdays at 10 a.m., Majority Conference Room

Obhof, Chair *Yuko
Peterson, Vice Chair O'Brien
Burke Thomas
Coley Williams
Dolan
Eklund
Hottinger
M. Huffman
Kunze
Wilson

Transportation, Commerce & Workforce - 614-466-8150

Wednesdays, 10 a.m., South Hearing Room

McColley, Chair *Antonio
Uecker, Vice Chair Maharath
Hoagland Sykes
Hottinger
Kunze
Manning
Roegner
Rulli

Ways & Means - 614-466-8068

Tuesdays, 4 p.m., Senate Finance Hearing Room

Terhar, Chair *Williams
Roegner, Vice Chair Antonio
Eklund Sykes
Hackett
Hill
Manning
Schuring
Wilson

*Ranking Minority Member



133rd General Assembly Legislative Directory 2019-2020



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Updated 2/14/19

Joint Legislative Committees

Controlling Board 614.728.8778 (R) *Bakken Rep. Householder (R)-Chair Rep. Oelslager, Wilson Democrats: Sen. Sykes; Rep. Cera	Joint Legislative Ethics Committee (JLEC) 614.466.8580 Rep. Householder (R)-Chair Rep. Oelslager, Wilson Democrats: Sen. Sykes; Rep. Cera	Joint Education Oversight 614.466.8624 Lauren Monerew-Jones - Executive Director Rep. Cera (R)-Chair Rep. Householder, Oelslager, Wilkin Democrats: Rep. Cera *Remaining Senators, Chair and Vice Chair to be determined.
Joint Committee on Agency Rule Review (JCARR) 614.466.4086 Sen. Uecker (R)-Chair Rep. Householder, Oelslager, Wilkin Democrats: Rep. Householder, Oelslager, Wilkin	Joint HealthCare Oversight Committee (JHOC) 614.644.2016 Lauren DeCamp - Interim Executive Director Rep. Householder (R)-Chair Rep. Householder, Oelslager, Wilkin Democrats: Rep. Householder, Oelslager, Wilkin	Legislative Service Commission (LSC) 614.466.3815 Rep. Householder, Oelslager, Wilkin Democrats: Rep. Cera *Remaining Senators, Chair and Vice Chair to be determined.

U.S. Senate

Senate Office Building Washington, D.C. 20515	Robinson, Bob 449 Russell St. Columbus, OH 43215	202.224.2315 202.224.3353
Shah, Charles 509 Mt. St. Columbus, OH 43215	202.224.2315 614.466.2093	202.224.2315 614.466.6774

U.S. House

House Office Building Washington, D.C. 20515	Balderson, Troy 1221 Longworth HOB (R) District 12: 250 E. Wilson Bridge Rd., ste 100 Westerville, OH 43085	202.225.5355 614.523.2555	202.225.2676 419.999.6455
Beatty, Joyce 701 Rayburn HOB (R) District 3: 471 E. Broad St., ste 1100 Columbus, OH 43215	202.225.4324 614.220.0003	220.225.5731 330.357.4139	
Chabot, Steve 2448 Rayburn HOB (R) District 1: Cincinnati, OH 45202	202.225.2216 513.684.2723	202.225.4146 459.259.7500	
Danahy, Warren 2077 Rayburn HOB (R) District 8: 20 Dickey Dr. Troy, OH 45373	202.225.6205 937.339.1524	202.225.6405 419.354.8700	
Fudge, Marcia 2344 Rayburn HOB (R) District 11: 4834 Richmond Rd., ste 150 Warrensville Heights, OH 44128	202.225.7032 716.572.4900	202.225.5761 330.740.0193	
Gibbs, Bob 2446 Rayburn HOB (R) District 7: 110 Cottage St. Athens, OH 44805	202.225.6265 419.207.0650	202.225.2015 614.771.4968	
Gonzalez, Anthony 1810 Longworth HOB (R) District 10: 4150 Beidon Village St., ste 607 Canton, OH 44718	202.225.3876 607	202.225.6465 937.225.2943	
Johnson, Bill 2336 Rayburn HOB (R) District 6: Harrisburg, OH 45750	202.225.5705 740.376.0868	202.225.3164 513.474.7777	

Senate Committees

Agriculture and Natural Resources 614.466.6508 Hoagland (R)-Chair; Hill (R)-Vice-Chair (R) *Bakken, Hill, Wilson McCloskey, Peterson, Uecker (D) *O'Brien, Fedor, Maharath	Government Oversight and Reform 614.466.8072 Coley (R)-Chair; M. Huffman (R)-Vice-Chair (R) *Gavronne, Hoagland, McCloskey, Peterson, Rogner, Uecker (D) *Craig, Fedor, Thomas	Health, Human Services and Burks (R)-Chair; S. Huffman (R)-Vice-Chair 614.466.8049 (R) Gavronne, Hackett, Hottinger, Kunze, Lehner, Rogner, Schuring (D) *Antonia, Maharath, Thomas
Education 614.466.8358 (R) Uecker (R)-Chair; Fedor (R)-Vice-Chair (R) Brenner, Burke, Dolan, Eklund, M. Huffman, S. Huffman, Manning (D) *Fedor, Maharath, Sykes	Insurance and Financial Institutions 614.466.3780 Hackett (R)-Chair; Hottinger (R)-Vice-Chair (R) Brenner, Burke, Dolan, S. Huffman, Kunze, Peterson, Tensch, Wilson (D) *Craig, Fedor, Williams	Judiciary 614.644.7718 (R) Coley, Gavarone, M. Huffman, Lehner, McCloskey (D) *Thomas, Fedor, O'Brien

Primary Subcommittee 614.466.8098 Tensch, Wilson Lehner (R)-Vice-Chair (R) Brenner, M. Huffman, Manning (D) *Fedor, Sykes	Local Government, Public Safety and Veterans Affairs 614.466.8082 Uecker (R)-Chair; Brenner (R)-Vice-Chair (R) Hackett, Hill, Hoagland, Rull, Wilson (D) *Maharath, Craig, Thomas	Rolls and Reference 614.466.7505 Chair (R)-Chair; Peterson (R)-Vice-Chair Burke, Coley, Dolan, Eklund, Hottinger, M. Huffman, Kunze, Wilson (D) *Tuck, O'Brien, Thomas, Williams
General Government and Agency Review Subcommittee 614.466.6826 Schuring (R)-Chair; Rull (R)-Vice-Chair (R) Eklund, Hill, Hoagland, Uecker (D) *Tuck, Craig, O'Brien	Higher Education Subcommittee 614.466.9581 K. Williams Gavarone (R)-Vice-Chair (R) McCloskey, Peterson, Wilson (D) *Williams, Maharath	Transportation, Commerce and Workforce 614.466.8068 McCloskey (R)-Chair; Uecker (R)-Vice-Chair (R) Hoagland, Hottinger, Kurze, Manning, Rogner, Rull (D) *Antonia, Maharath, Sykes

Ohio Supreme Court

Chief Justice - Maureen O'Connor Sharon L. Kennedy	Justice - Judith L. French Melody J. Stewart
Justice - R. Patrick DeWine Michael P. Donnelly	Justice - Patrick F. Fischer Patrick F. Fischer

Ohio Senate

Senate Building | Capitol Square | Columbus OH 43215

Republicans (24) - Democrats (9)	Antonia, Nickie (D-23) Rm 050 1309 Balle Ave., Lakeside Dr., Canal Winchester 43110	614.466.7505 216.271.4421
Bakken, Bob 614.466.8156	Brenner, Andrew 614.466.8086 8823 Devonshire Lake Ct., Powell 43065	614.466.7584 937.243.4333 860 Wedgewood Dr., Marysville 43040
Burke, Dave (R-24) Rm 140 8265 Cherry Laurel Dr., West Chester 45044	Craig, Hearcal (D-15) Rm 056 1205 Unwood Ave., Columbus 43206	614.466.8072 614.466.7182 514.466.6818 2080 Howland Wilson Rd., NE, Cortland 44410
Dolan, Matt (R-24) Rm 127 515 Solon Rd., Chagrin Falls 44022	Eklund, John (R-18) Rm 143 216.622.8211 44024	614.466.8156 614.466.8285
Fedor, Teresa (R-20) Rm 128 2839 109th St., Toledo 43611	Gavarone, Theresa (R-20) Rm 039 1537 Cedar Lane, Bowling Green 43402	614.466.8285 614.466.8068
Hackett, Robert (R-10) Rm 132 2050 Palouche Dr., London 43140	Hill, Brian (R-10) Rm 120 43701	614.466.8068 614.466.8068
Hoagland, Frank (R-10) Rm 120 5751 Wp. Rd. 120, Adena 43901	Huffman, Stephen (R-12) Rm 034 862 Buckeye Court, Tipp City 45371	614.466.8068 614.466.8068
Hottinger, Jay (R-31) Rm 129 894 Jonathan Lane, Newark 43065	Huffman, Matt (R-12) Rm 220 2220 Merritt Ave., Lima 45805	614.466.8068 614.466.8068
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A MOMENT OF TRUTH:

Ohio's Transportation Funding Problem,
and How to Solve It.

FOR  **HIO**
FIX OUR ROADS OHIO
Better Transportation for Working and Living

FIX OUR ROADS OHIO – CASE STATEMENT

As Ohio addresses the economic and social challenges of the 21st Century, the state faces a major shortage of reliable funding for our state’s roads and bridges. Unless action is taken soon to address the issue, the system will continue to fall into disrepair and become further congested – damaging the overall vitality of our state and the people who live here.

A diverse group of Ohioans with a shared interest in the future of our state’s economy and lifestyle has come together to ask Ohio policy makers to focus on our state’s transportation funding structure and enact solutions. Fix Our Roads Ohio (FOR Ohio) is a coalition of stakeholders that have united in an effort to educate state leaders on the critical needs of Ohio’s transportation infrastructure, and to advocate for a dedicated funding solution that provides long-term, smart investment in Ohio’s transportation future.

OVERVIEW

Ohio has one of the largest and most active transportation systems in the United States, with 262,350 total road lane miles and 44,657 bridges. Ohio is located within one day’s drive of 60% of the population of the United States and Canada and ranks near the top of the pack compared with all other states in many other measurements:

- ♥ 2nd largest inventory of bridges
- ♥ 3rd largest in freight volume
- ♥ 4th largest interstate highway system (based on lane miles)
- ♥ 6th in the country in total Vehicle Miles Traveled, at 118.6 billion miles annually

Our state’s economy and quality of life are directly tied to the quality of our transportation system. The high volume of passenger vehicles and commercial freight traffic flowing through the state every day supports businesses, provides jobs and ultimately drives Ohio’s economy. But population growth and economic development mean increased demands on our roads and bridges. As traffic congestion worsens each year, more and more roads suffer from potholes and rutted pavement. Congestion costs Ohio motorists an estimated \$4.7 billion each year in lost time and wasted fuel. Many of Ohio’s bridges are showing their age with structural deficiencies.

Annual Cost of Congestion in Ohio Cities

Urban Area	Cost Per Commuter		Total Cost	
	Annual Hours of Delay Per Commuter	Annual Cost of Congestion Per Commuter	Total Annual Hours of Delay (in thousands)	Total Annual Cost of Congestion (in millions)
Cincinnati OH-KY-IN	41	\$ 989	48,485	\$ 1,159
Cleveland OH	38	\$ 887	45,051	\$ 1,046
Columbus OH	41	\$ 933	40,025	\$ 921
Toledo OH-MI	38	\$ 920	15,905	\$ 381
Dayton OH	25	\$ 590	14,604	\$ 346
Akron OH	27	\$ 634	12,283	\$ 284
Youngstown OH-PA	20	\$ 466	7,744	\$ 181
Canton OH	16	\$ 367	4,761	\$ 107
Huntington WV-KY-OH	16	\$ 362	3,280	\$ 77
Lorain-Elyria OH	14	\$ 308	2,550	\$ 58
Lima OH	12	\$ 325	938	\$ 25
Wheeling WV-OH	11	\$ 275	954	\$ 24
Parkersburg WV-OH	14	\$ 317	965	\$ 22
Middletown OH	8	\$ 182	850	\$ 20
Mansfield OH	10	\$ 232	838	\$ 19
Weirton-Steubenville WV-OH-PA	10	\$ 239	742	\$ 18
Springfield OH	9	\$ 195	796	\$ 18
Newark OH	7	\$ 167	621	\$ 14
Total Ohio Cities			201,392	\$ 4,720

Source: Texas Transportation Institute 2015 Urban Mobility Scorecard



State

In the Ohio Department of Transportation’s preliminary budget plan for FY 2020 and 2021, the vast majority of highway revenues are allocated for highway maintenance rather than increasing capacity and building a transportation system that will carry Ohio into the future. Unfortunately, available funding is about to dramatically decrease with the expiration of Ohio’s Turnpike Bond program and the continuing influence of inflation. This is demonstrated by the decreasing size of the ODOT capital program from a high of approximately \$2.4 billion in FY 2014 to approximately \$1.7 billion in FY 2020.

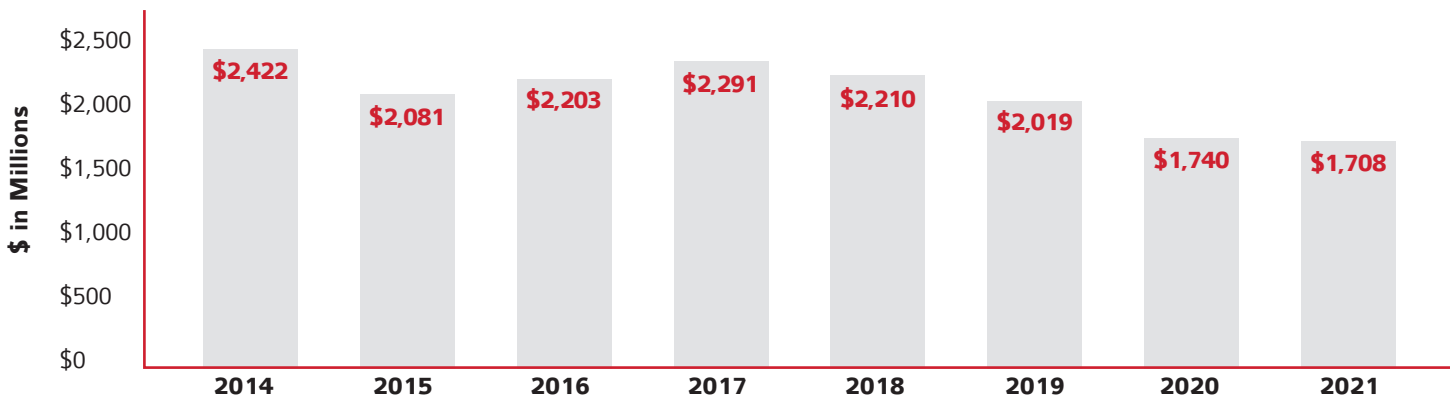
According to the TRIP transportation research group’s 2018 report, *Modernizing Ohio’s Transportation System*, 30% of Ohio’s major roads are in poor or mediocre condition. The FHWA National Bridge Inventory, which compiles data for bridges spanning more than 20 feet, rates 1,653 of Ohio’s bridges as structurally deficient, meaning there is significant deterioration of the bridge deck, supports or other major components. Without adequate funding, Ohio roads and bridges will continue to fall into disrepair.

Preliminary information from ODOT indicates that, absent new revenues, the agency will make significant program cuts in the next biennium in order to meet its requirement to present a balanced budget. The anticipated reductions will eliminate funding for new projects aimed to add capacity and relieve congestion on Ohio roads, as well as delay needed maintenance and upgrades to existing bridges and roadways. A cutback in transportation investment will negatively ripple through Ohio’s economy as road conditions worsen and construction jobs are lost.

Local

The predicament of insufficient funding for roads and bridges is not limited to the state-maintained system. The County Engineers Association of Ohio has reported that only 40% of the funds needed to bring aging roads to current standards, replace or repair all eligible bridges, pave county roads on a 10-year cycle, and perform ongoing maintenance, are currently available to perform this work. This deficiency in funding leads to a continuing

ODOT Capital Program Funding 2014-2021



Source: ODOT pro forma Budget 2020-2021 10/4/2018

downward spiral of deteriorating roadway and bridge conditions.

Technology

Beyond these critical existing needs, the future of transportation contemplates advanced technology such as autonomous vehicles and smart mobility. Ohio has been a leader in the development of this technology. At current funding levels, however, Ohio can't even maintain its existing system, and is ill-prepared to be a leader in constructing necessary infrastructure improvements for future needs.

Over the years, there have been a number of short-term efforts at the state and federal levels to provide transportation funding. In January 2019 Ohio will seat a new Governor and a new session of the General Assembly will begin. **Among the most critical decisions facing the new administration and legislature will be how to adequately provide sustainable, long-term funding of Ohio's transportation infrastructure at the state and local levels.**

AN INVESTMENT IN ROADS IS AN INVESTMENT IN OHIO'S ECONOMY

Ohio's roads, highways, and bridges are vital links for the state's residents, businesses, and visitors, providing daily access to homes, jobs, shopping, healthcare and social services, natural resources, and recreation. The quality of

our roads is directly related to our quality of life and to the economic competitiveness of our state.

A recent study by the American Road & Transportation Builders Association (ARTBA) studied the impact on economic benefits under two scenarios: 1) an Ohio Department of Transportation (ODOT) capital program at 2014 and 2015 levels of \$2.4 billion, and 2) an ODOT program of \$1.7 billion, a 29% decrease, as anticipated in ODOT's next biennium budget. The study found the difference in economic activity generated by these two scenarios to be significant. Specifically, the report found that over a 10 year period, should ODOT's budget decrease, the State of Ohio would forego \$2.4 billion per year in output, tax revenues, earnings and user benefits. The reduction in funding would deprive jobs to 8,710 Ohioans who would otherwise generate \$417 million per year in earnings. In addition, with the *higher* investment level, the percent of travel on deficient roadways would decrease from 22.3% of travel to 13.4% after 10 years. At the anticipated *lower* level of funding, the percent of travel on deficient roadways would increase to 25.4% of all travel.

Investing in Ohio's transportation future is about ensuring safe, effective, efficient transportation for all Ohioans. In combination with road and bridge improvements, FOR Ohio believes that any responsible funding plan must consider public transit systems to address urban and rural mobility needs in addition to highways, roads, and bridges.

Annual Economic Impacts and User Benefits of Two Highway and Bridge Investment Scenarios in Ohio

	ODOT Capital Program \$1.7 Billion	ODOT Capital Program \$2.4 billion	Foregone Benefits
Economic Impacts			
Employment	21,484 jobs	30,194 jobs	8,710 jobs
Total Output	\$ 3.8 billion	\$ 5.3 billion	\$ 1.5 billion
Earnings	\$ 1.0 billion	\$ 1.4 billion	\$ 417.2 million
Total Tax Revenues*	\$ 194.2 million	\$ 273.0 million	\$ 78.7 million
Total Economic Impacts	\$ 5.0 billion	\$ 7.1 billion	\$ 2.0 billion
User Benefits**	\$ 2.1 billion	\$ 2.5 billion	\$ 400.2 million
Total Economic Impacts and User Benefits	\$ 7.1 billion	\$ 9.6 billion	\$ 2.4 billion

*State Payroll Tax; Federal Payroll Tax; State & Local Income Tax; State and Local Sales Tax

**Safety Benefits; Operating Benefits; Travel Time Benefits; Maintenance Savings

Source: American Road & Transportation Builders Association December, 2018



CURRENT STATE OF FUNDING

First levied in 1925, the primary source of road and bridge funding in the state of Ohio is the Motor Fuel User Fee. The fee is a fixed per-gallon-purchased fee rather than a percentage of the price-per-gallon. This means that regardless of the price per gallon of gasoline, the fee remains constant: 18.4 cents per gallon for the federal fee and 28 cents per gallon for the state fee. (The federal fee has not changed since 1993. The last state adjustment to this motor fuel user fee was in 2005.)

According to the Ohio Department of Transportation, \$100 in construction in July 2005 cost \$152 in June 2018. Today's purchasing power of the state's 2005 28-cent motor fuel user fee now equates to 18-cents in 2018 dollars. At the state level, one cent of fuel fee generates approximately \$66 million in revenue.

Available funding for roads and bridges is decreasing by \$250 million on average per year, due to the conclusion of the Ohio Turnpike bonding program. The Ohio Turnpike and Infrastructure Commission issued bonds in August 2013 in the amount of \$1 billion and another issuance in 2018 for \$550 million. The entirety of that amount will be encumbered for specific projects by the end of State Fiscal Year 2019.

Bond programs necessarily come to an end. The unfortunate result is a large decrease in available funding and an ensuing fiscal and political scramble to ensure funding for the upkeep of Ohio roads.

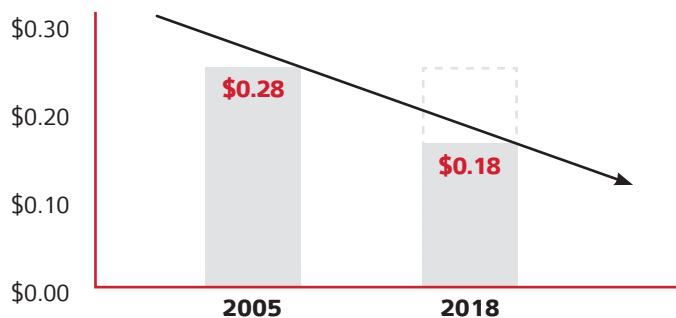
Additionally, the Ohio Turnpike bond program (and before it, federal stimulus funding), benefited state and interstate systems, but did little to meet local highway and bridge funding needs. In fact, the County Engineers Association

of Ohio has identified \$1.12 billion in needs on the county-maintained system alone.

During the stimulus/bond program periods, the traditional and most productive source of road and bridge funding — the motor fuel user fee (gas tax) — provided the bulk of funding for maintaining roads at the state and local levels.

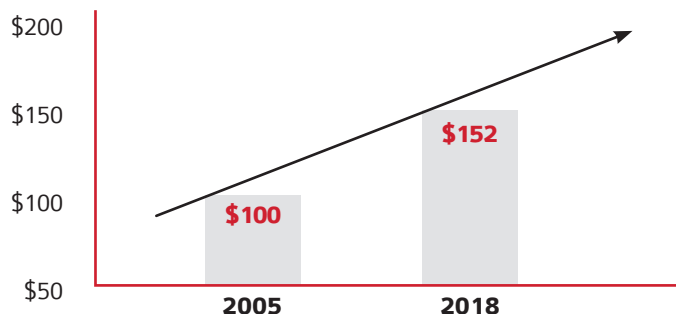
Impact of Inflation on Ohio Motor Fuel User Fee 2005 vs. 2018

(Buying Power, Cents-per-Gallon)



Source: Modernizing Ohio's Transportation System TRIP, June 2018

Impact of Inflation on Construction Costs 2005 vs. 2018



Source: ODOT



FUNDING SOLUTION OPTIONS

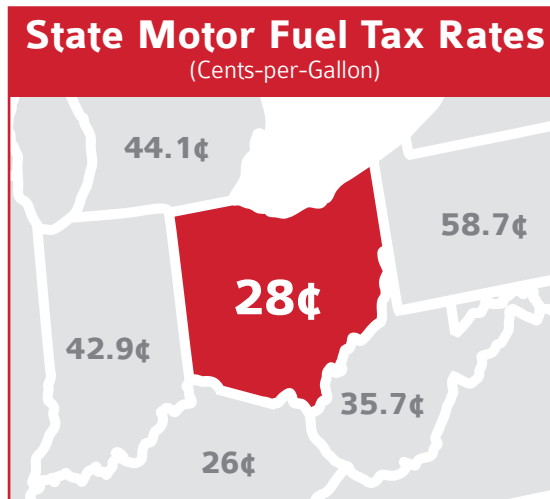
Given the ongoing maintenance and construction needs of Ohio’s roads and bridges, and the decline in available funding being generated to meet those needs, FOR Ohio offers a package of revenue-raising options to provide a sustained and reliable funding stream to maintain and improve Ohio’s state and local transportation system. The options include:

Increase the Motor Fuel User Fee.

One of the most obvious solutions is an adjustment to the motor fuel users’ fee (motor fuel tax), which is the primary source of Ohio’s highway construction revenue. At 28 cents per gallon, Ohio currently ranks 29th in the nation, and is much lower than border states Indiana, Michigan, and Pennsylvania. The gas tax collection mechanism is already in place. And by indexing the fee so that it keeps up with inflation, it will not require lawmakers to continually make changes over time. Ohio’s motor fuel tax is an inherently fair user fee – those who use the roads pay for better and safer roads. Finally, the fee is the only identified revenue

source that supports necessary funding on a long-term, sustainable basis.

♥ **Option:** Phase in an increase to Ohio’s Motor Fuel User Fee. The goal should be to recover the losses caused by inflation since 2005 and the expiring turnpike bond program and to index the fee (using the ODOT Construction Materials Index) in order to provide long-term stability. Alignment with the corresponding rates in neighboring states would be a sensible guideline.



Source: American Petroleum Institute, December 2018
<https://www.api.org/oil-and-natural-gas/consumer-information/motor-fuel-taxes/gasoline-tax>

Levy an Alternative Fuel Vehicle Fee. Construction and maintenance of Ohio’s road and highway system comes largely from users of the system via the motor fuel user fee. With the advent of alternative fuel vehicles, there is a rapidly-growing cross section of motorists who are using the roads,

but because they don’t purchase gasoline, they are not contributing toward the maintenance and construction of the system. Now is the time to assess system maintenance to these unique vehicles. To date, nineteen states have

implemented some form of fee collection from alternative fuel vehicle owners.

Option: Adopt an annual Alternative Fuel Vehicle Fee to put Ohio in line with other states. Alignment with fees in neighboring states would be a sensible guideline.

Study alternatives to the motor fuel vehicle user fee. The threat of constrained oil supplies and an ever-increasing number of alternative-fueled vehicles make it clear that the long-term use of petroleum-based fuels will be dwindling. Ohio must engage in the ongoing national discussion related to alternative funding methodologies.

Option: Engage in future funding discussion through research, debate and, when appropriate, pilot project activities for a primary funding alternative.

Identify a dedicated funding source for public transit. Public transit is a major user of roads and bridges. Transit operates for the benefit of Ohio’s citizens and for assisting in the efficient operations of our highway system. Given the high concentration of metropolitan areas and the great needs for rural mobility among various segments of our population, Ohio can no longer remain 41st in the nation for state assistance in funding transit.

Option: The legislature must identify a dedicated funding source that, in combination with transit user fees and existing local funding sources, broadens the positive impact that transit provides in both urban and rural areas of our state. State general revenue funding for transit has been reduced drastically since its peak in FY 2000 at \$44 million. While even more money is needed, the state should at least restore the spending power equal to the appropriation at the beginning of this century.

CONCLUSION

Addressing the massive funding gap facing Ohio’s transportation system will require strong leadership from the Governor and the General Assembly to ensure Ohio’s economic vitality. FOR Ohio stands ready to be part of the solution.

State Transit Investment by Per Capita Funding

State	State Transit Funding FY 2016	Per Capita FY 2016
DC	\$ 531,633,000	\$ 776.86
Massachusetts	\$ 1,729,471,556	\$ 253.45
New York	\$ 5,011,381,700	\$ 252.64
Alaska	\$ 173,199,886	\$ 233.57
Illinois	\$ 2,574,752,065	\$ 200.59
Maryland	\$ 1,125,249,671	\$ 186.77
Connecticut	\$ 582,693,314	\$ 162.41
Delaware	\$ 138,327,530	\$ 145.20
Pennsylvania	\$ 1,647,371,630	\$ 128.83
Minnesota	\$ 416,207,000	\$ 75.33
California	\$ 2,301,559,553	\$ 58.57
Rhode Island	\$ 54,521,504	\$ 51.55
New Jersey	\$ 349,353,029	\$ 38.91
Virginia	\$ 275,122,201	\$ 32.70
Michigan	\$ 265,995,916	\$ 26.78
Wisconsin	\$ 110,737,500	\$ 19.18
Florida	\$ 346,922,736	\$ 16.79
Vermont	\$ 7,616,974	\$ 12.22
Washington	\$ 85,568,222	\$ 11.75
Indiana	\$ 62,437,577	\$ 9.41
Oregon	\$ 37,221,670	\$ 9.11
North Carolina	\$ 87,843,069	\$ 8.65
North Dakota	\$ 5,182,054	\$ 6.86
Tennessee	\$ 45,182,784	\$ 6.80
Wyoming	\$ 3,025,405	\$ 5.17
Iowa	\$ 15,751,761	\$ 5.03
Kansas	\$ 11,000,000	\$ 3.78
Nebraska	\$ 6,297,705	\$ 3.30
New Mexico	\$ 6,643,800	\$ 3.19
Colorado	\$ 15,000,000	\$ 2.71
Oklahoma	\$ 5,750,000	\$ 1.47
West Virginia	\$ 2,347,569	\$ 1.28
South Carolina	\$ 6,000,000	\$ 1.21
Arkansas	\$ 3,492,826	\$ 1.17
South Dakota	\$ 1,000,000	\$ 1.16
Texas	\$ 30,341,068	\$ 1.09
Louisiana	\$ 4,955,000	\$ 1.06
New Hampshire	\$ 1,265,548	\$ 0.95
Maine	\$ 1,147,845	\$ 0.86
Montana	\$ 675,000	\$ 0.65
Ohio	\$ 7,300,000	\$ 0.63
Mississippi	\$ 1,628,000	\$ 0.55
Kentucky	\$ 1,875,297	\$ 0.42
Georgia	\$ 3,071,913	\$ 0.30
Idaho	\$ 312,000	\$ 0.22
Missouri	\$ 1,045,875	\$ 0.17
Alabama	\$ 0	\$ 0
Arizona	\$ 0	\$ 0
Hawaii	\$ 0	\$ 0
Nevada	\$ 0	\$ 0
Utah	\$ 0	\$ 0
Totals	\$ 18,095,478,753	

Source: AASHTO, Survey of State Funding for Public Transportation 2018

FIX OUR ROADS OHIO COALITION

Fix Our Roads Ohio (FOR Ohio) is a coalition of stakeholders that have united in an effort to educate state leaders on the critical needs of Ohio's transportation infrastructure, and to advocate for a dedicated funding solution that provides long-term, smart investment in Ohio's transportation future.

LOCAL GOVERNMENT

Ohio Municipal League
County Commissioners Association of Ohio
Ohio Council of County Officials
County Engineers Association of Ohio
Ohio Township Association
Ohio Mayors Alliance
Northeast Ohio Mayors and City Managers Association
Cuyahoga County Mayors and City Managers Association
Central Ohio Mayors and Managers Association
Ohio Rural Development Alliance
Ohio Public Transit Association

PUBLIC SAFETY

Buckeye State Sheriffs' Association
Emergency Management Association of Ohio
Ohio Fire Chiefs' Association
Ohio Association of Public Safety Directors

BUSINESS

Cincinnati USA Regional Chamber
Columbus Chamber of Commerce
Greater Cleveland Partnership
Greater Akron Chamber of Commerce
Dayton Area Chamber of Commerce
Toledo Regional Chamber of Commerce
Youngstown/Warren Regional Chamber of Commerce
Ohio Hotel and Lodging Association
AAA Clubs of Ohio
Dayton Area Logistics Association
Ohio Restaurant Association
Ohio Manufacturers' Association
Clean Fuels Ohio
UPS
Ohio Chemistry Technology Council

TRANSPORTATION

American Council of Engineering Companies of Ohio
Flexible Pavements of Ohio
Ohio Trucking Association

Ohio Aggregates and Industrial Minerals Association
Ohio Contractors Association
Transportation Advocacy Group of Northwest Ohio
Ohio Association of Movers
Ohio Prestressers Association
American Society of Civil Engineers
Ohio Concrete
UNITED Equipment Dealers Association
Ohio Equipment Distributors Association
COTA

REGIONAL COUNCILS

Ohio Association of Regional Councils
Akron Metropolitan Area Transportation Study (AMATS)
Belomar Regional Council and Interstate Planning Commission
Brooke-Hancock Jefferson Metropolitan Planning Commission
Buckeye Hills Regional Council
Clark County-Springfield Transportation Coordinating Committee
Eastgate Regional Council of Governments
Erie County Regional Planning Commission
KYOVA Interstate Planning Commission
Licking County Planning Commission;
 Licking County Area Transportation Study
Lima-Allen County Regional Planning Commission
Logan-Union Champaign Regional Planning Commission
Maumee Valley Planning Organization
Miami Valley Regional Planning Commission (MVRPC)
Mid-Ohio Regional Planning Commission (MORPC)
Mid-Ohio Valley Regional Council
Northeast Ohio Areawide Coordinating Agency (NOACA)
Northeast Ohio Four-County Regional Planning
 & Development Organization
Ohio Mid-Eastern Governments Association
Ohio Valley Regional Development Commission
Richland County Regional Planning Commission
Stark County Regional Planning Commission
Toledo Metropolitan Area Council of Governments (TMACOG)
Wood-Washington-Wirt Interstate Planning Commission



For more information about Ohio's transportation infrastructure, visit us today at FixOurRoadsOhio.com

List of Supporters of HB 62 as proposed by ODOT

AAA Clubs of Ohio
ACT Ohio
Akron Metropolitan Area Transportation Study (AMATS)
American Council of Engineering Companies of Ohio
American Society of Civil Engineers
Belomar Regional Council and Interstate Planning Commission
BIA of Central Ohio
Brooke-Hancock Jefferson Metropolitan Planning Commission
Buckeye Hills Regional Council
Buckeye State Sheriffs' Association
Central Ohio Mayors and Managers Association
Cincinnati USA Regional Chamber
Clark County-Springfield Transportation Coordinating Committee
Clean Fuels Ohio
Columbus Chamber of Commerce
COTA
County Commissioners Association of Ohio
County Engineers Association of Ohio
Cuyahoga County Mayors and City Managers Association
Dayton Area Chamber of Commerce
Dayton Area Logistics Association
Eastgate Regional Council of Governments
Emergency Management Association of Ohio
Erie County Regional Planning Commission
Fix Our Roads Ohio
Flexible Pavements of Ohio
Greater Akron Chamber Of Commerce
Greater Cleveland Partnership
International Union of Operating Engineers Local 18
KYOVA Interstate Planning Commission
Licking County Planning Commission; Licking County Area Transportation Study
Lima-Allen County Regional Planning Commission
Logan-Union Champaign Regional Planning Commission
Maumee Valley Planning Organization
Miami Valley Regional Planning Commission (MVRPC)
Mid-Ohio Regional Planning Commission (MORPC)
Mid-Ohio Valley Regional Council
Northeast Ohio Areawide Coordinating Agency (NOACA)
Northeast Ohio Four-County Regional Planning & Development Organization
Northeast Ohio Mayors and City Managers Association
Ohio Aggregates and Industrial Minerals Association
Ohio Association of Movers
Ohio Association of Public Safety Directors
Ohio Association of Regional Councils
Ohio Chemistry Technology Council
Ohio Concrete
Ohio Contractors Association
Ohio Council of County Officials
Ohio Equipment Distributors Association
Ohio Fire Chiefs' Association
Ohio Hotel and Lodging Association
Ohio Manufacturers' Association
Ohio Mayors Alliance
Ohio Mid-Eastern Governments Association
Ohio Municipal League
Ohio Prestressers Association
Ohio Public Transit Association
Ohio Restaurant Association
Ohio Rural Development Alliance
Ohio Township Association
Ohio Trucking Association
Ohio Valley Regional Development Commission
Richland County Regional Planning Commission
Stark County Regional Planning Commission
Toledo Metropolitan Area Council of Governments (TMACOG)
Toledo Regional Chamber of Commerce
Transportation Advocacy Group of Northwest Ohio
UNITED Equipment Dealers Association
UPS
Wood-Washington-Wirt Interstate Planning Commission
Youngstown/Warren Regional Chamber of Commerce



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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
and Drafting

Legislative Budget
Office

H.B. 62
133rd General Assembly

Bill Analysis

[Click here for H.B. 62's Fiscal Note](#)

Version: As Introduced

Primary Sponsor: Rep. Oelslager

Margaret Marcy, Attorney
Carlen Zhang-D'Souza, Attorney
Joe McDaniels, Attorney

Department of Taxation

- Increases the per gallon rates of the motor fuel tax and the motor fuel use tax from 28¢ to 46¢ beginning July 1, 2019.
- Indexes the per gallon rate of the taxes with the consumer price index (CPI) to account for inflation beginning July 1, 2020.
- Maintains current revenue distribution proportions and amounts.
- Allows fuel dealer and retailer discounts and allowances to return to their former (higher) levels.
- Increases the refund for fuel used in school buses from 6¢ per gallon to 24¢ per gallon beginning July 1, 2019.
- Maintains existing cents-per-gallon refund levels for fuel used in transit and developmental disability system buses.
- Requires that the amount deposited to the Motor Fuel Tax Administration Fund be determined by appropriation rather than as a percentage of motor fuel tax receipts.

Motor fuel excise tax

(R.C. 5735.05, 5735.053, and 5735.142; Sections 757.40, 757.50, and 812.30)

The motor fuel excise tax is levied at the rate of 28¢ per gallon and applies to gasoline, diesel, kerosene (other than K-1 grade), and all other liquid fuels, including liquid natural gas and liquid petroleum gas. Nearly all the revenue is devoted, by constitutional command, solely to road and highway purposes including construction, maintenance, signals and signs and other traffic control systems, various other highway related purposes, and to retiring debt issued for such purposes. A small percentage of the revenue is attributed to tax-paid fuel for boats or

other water-going vessels, and that part of the revenue is used for various waterway-related purposes. The tax is payable primarily by wholesale distributors ("dealers").

Rate

The bill increases the per-gallon tax rate from 28¢ to 46¢ beginning July 1, 2019. Thereafter, the Tax Commissioner is required to annually increase the motor fuel excise tax rate at the same rate as the increase in the Consumer Price Index (CPI). The amount of the increase – referred to by the bill as the "tax adjustment factor" – is computed by multiplying 46¢ by the percentage increase in the CPI from January 1, 2019 to December 31 of the preceding year. This computation is to be completed in April of each year (beginning in 2020) and the rate increase takes effect on the ensuing July 1. No rate adjustment is to occur for years in which the CPI decreases – in that case the rate remains the same as the preceding year.

The CPI is a measure of inflation reported by the United States Bureau of Labor Statistics. The CPI used to index the fuel tax rate tracks the average change over time in the prices paid by urban consumers for a "market basket" of consumer goods and services.

Motor fuel use tax

The state's motor fuel use tax rate will increase by the same amounts by operation of law. Under current law, the fuel use tax applies to fuel purchased outside Ohio but used within the state by commercial trucks.¹

Revenue distribution

Revenue generated from the rate increase will be distributed among state funds and among local governments in the same proportions as under current law. In fiscal year 2018, approximately 56% of the revenue was credited to the Highway Operating Fund, which is the primary state source of road and highway funding; about 6% was committed to highway debt service; and 2.75% was for transportation-related spending by various state agencies other than the Department of Transportation. About 31.5% of the revenue was distributed by statutory formula among counties, townships, and municipal corporations through the Gasoline Excise Tax Fund. An additional 3.4% of the revenue was devoted to local funding of roads and bridges through the state's local infrastructure program (LTIP) on a grant basis.

Allowances, discounts, and refunds

Current law governing the motor fuel tax permits each motor fuel dealer that properly files and pays monthly taxes to deduct the tax due on 3% of the fuel the dealer received, minus 1% of the fuel sold to retail dealers.² This allowance is to cover the costs of filing the report and to compensate for evaporation, shrinkage, and other "unaccounted for" losses. However, each

¹ See, R.C. Chapter 5728, not in the bill.

² R.C. 5735.06(B)(1)(c), not in the bill.

of the last six transportation appropriation acts reduced the 3% discount to 1% (minus 0.50% of fuel sold to retail dealers) for each year since FY 2008.³

The bill allows the dealer shrinkage allowance to return to its former 3% level. Since the allowance is computed on the basis of taxable gallons reported, the amount of the allowance should not be affected directly by the tax rate increase, but it could be affected indirectly through any effect the rate increase has on fuel consumption.

Current law also grants a refund to retail fuel dealers who have purchased fuel on which the excise tax has been paid to account for evaporation and shrinkage.⁴ The refund equals 1% of the taxes paid on the fuel each semiannual period. But, as with the dealer shrinkage allowance, the retailer refund has been reduced to 0.5% for each fiscal year from 2008 through 2019 by uncodified provisions in the last six transportation appropriation acts.

The bill allows the retailer refund to return to its former 1% level. Since it is a percentage of the taxes paid instead of being based on number of gallons, the refund amount will increase not only by returning to 1% but also from the increase in the tax rate.

Transit and school buses

Under current law, transit systems, school districts, and county developmental disability boards are entitled to refunds for at least some part of the fuel excise tax that was paid on the fuel used by those entities.⁵ Transit systems are refunded 27¢ per gallon and developmental disability boards are refunded 6¢ per gallon (i.e., the amount by which the tax rate was last increased, from 2003 to 2005).

The bill increases the refund amount for school districts from 6¢ per gallon to 24¢ per gallon beginning July 1, 2019, but does not change the existing cents-per-gallon refund amounts for transit systems and developmental disability boards to account for the increased tax rate.

Tax Administration Fund

Under current law, 0.275% of motor fuel tax receipts are credited to the Motor Fuel Tax Administration Fund and used to pay the expenses of the Department of Taxation in administering the tax. The bill instead requires that the amount deposited to the Fund be determined by appropriation.

Department of Public Safety (DPS)

- Clarifies that a commercial driver's license (CDL) holder, who (1) is operating **any** motor vehicle (commercial or not), (2) is arrested for a violation of the law governing operating

³ The most recent temporary reduction in the allowances is in Section 757.20 of H.B. 26 of the 132nd G.A. The reduction expires June 30, 2019.

⁴ R.C. 5735.141, not in the bill.

⁵ R.C. 5735.142, not in the bill.

a vehicle while impaired (OVI), and (3) refuses an officer's request to submit to a drug or alcohol test, will be disqualified from driving a commercial motor vehicle.

- Requires the State Board of Emergency Medical, Fire, and Transportation Services to participate in the Retained Applicant Fingerprint Database and Continuous Record Monitoring Service for any EMR, EMT, AEMT, or paramedic certified by the Board.
- Requires all individuals certified or applying for certification as an EMR, EMT, AEMT, or paramedic to submit one complete set of fingerprints to the Superintendent of the Bureau of Criminal Identification for a background check.
- Requires DPS to pay any associated fees for individuals submitting fingerprints for the database, except for applicants seeking certification by reciprocity.

Implied consent for CDL holders

(R.C. 4506.17)

Currently, a person is disqualified from operating a commercial motor vehicle if all of the following apply:

1. The person holds a commercial driver's license (CDL) or commercial temporary instruction permit (CDL permit) or the person operates a commercial motor vehicle that requires a CDL or CDL permit;
2. The person is arrested for violating the law governing operating a vehicle while impaired (OVI); and
3. The person refuses to submit to a blood, urine, or breath test despite being deemed to have consented under the implied consent statute.

Although R.C. Chapter 4506 requires the Registrar of Motor Vehicles to disqualify a CDL holder if the holder refuses to comply with a request for a blood, breath, or urine test under Ohio's implied consent statute, several lower courts have found that CDL holders may only be disqualified if the holder is operating a commercial motor vehicle at the time of arrest. *Lachowski v. Petit*, Portage C.P. No. 2018-CV-430; *Vaughn v. Petit*, Franklin C.P. No. 18CV007834. These decisions create uncertainty regarding the disqualification of a CDL holder who refuses to submit to a test while driving a **noncommercial** vehicle.

Consequently, the bill clarifies that refusal to submit to a test (when arrested for OVI) leads to disqualification when a CDL holder is driving **any** type of motor vehicle, not just a commercial motor vehicle.

Relatedly, the U.S. Supreme Court has found that the implementation of implied consent laws that impose a **civil** penalty, such as license disqualification, on motorists who refuse to comply with a request for a blood, breath, or urine test is constitutional. *Birchfield v. North Dakota*, 136 S. Ct. 2160, 2165 (2016), citing *McNeely v. Missouri*, 133 S. Ct. 1552 (2013).

Emergency medical personnel background checks

(R.C. 4765.302 and 109.5721, not in the bill)

The bill requires the State Board of Emergency Medical, Fire, and Transportation Services to participate in the Retained Applicant Fingerprint Database and Continuous Record Monitoring Service for any emergency medical responder (EMR), emergency medical technician (EMT), advanced emergency medical technician (AEMT), or paramedic certified by the Board. The Superintendent of the Bureau of Criminal Identification (BCI) collects and stores fingerprints in the database of employees or volunteers and then notifies participants when an individual has been arrested for, convicted of, or pleaded guilty to any offense. BCI conducts both initial and continuous background checks on employees and volunteers via the database and service.

Under the bill, each individual seeking initial certification or certification renewal as an EMR, EMT, AEMT, or paramedic must submit one complete set of fingerprints for background check purposes to the Superintendent, unless the individual is already enrolled in the Continuous Record Monitoring Service. The individual must be fingerprinted at a location approved by the Board. DPS will pay the initial or annual fee charged for background checks. However, an individual seeking certification by reciprocity must pay the initial background check fee and fee for enrollment in the database. Additionally, an individual seeking certification by reciprocity must ask that the Superintendent request the individual's records from the Federal Bureau of Investigation.

Under the bill, the Board is permitted to adopt rules establishing the standards and procedures for the provision of the background criminal records checks. The results from the background criminal records checks and the reports containing those results are not considered public records.

Department of Transportation (ODOT)

Speed limits

- Expands the Director of Transportation's authority to establish variable speed limits to all highways, and removes prior restrictions that only specific interstate highways are eligible for variable speed limits.
- Requires changes to speed limits established in statute to be based on criteria established by an engineering study, as defined by the Director, rather than by specific types of studies as required under current law.
- Makes clarifying changes to the statutory speed limits, including consolidating a repetitive speed limit and creating consistency in the language and terminology.

Transportation facility access

- Authorizes any agency (meaning any governmental or business entity that is authorized to appropriate property by eminent domain) to enter upon lands, waters, and premises as necessary to access and perform maintenance on transportation facilities.

- Requires the agency to give the owner or possessor of the property reasonable notice of the entry.
- Declares that the entry does not constitute a trespass.
- Applies existing law to an entry that does both of the following:
 - Requires the agency to make restitution or reimbursement for damages caused to the lands, waters, or premises as a result of the entry; and
 - Specifies that if the parties are unable to reach a settlement regarding restitution, damages may be recoverable by civil action.

Highway advertising devices

- Clarifies that a nonconforming advertising device cannot be restored if it is destroyed by an "act of God."
- Authorizes the Director to designate any portion of the state highway system as a scenic byway, therefore requiring advertising devices to conform to special rules for advertising on such byways.

Other changes

- Specifies that the Director need not produce, for evidence in a court, an original electronic record, plan, drawing, or other document (in addition to an exemption for nonelectronic original items, as in current law).
- Eliminates the presumed authorization to depose the Director in all pending lawsuits. (Currently, the Director may be deposed in all such suits as long as the deposition takes place at the Director's office.)
- Permits the Director to provide road salt (at the Director's purchase price) to a political subdivision under specified circumstances.
- Extends, for two years, a current temporary exemption from statutory vehicle size and weight limits that applies to towing vehicles that are traveling to or returning from removing a motor vehicle from an emergency on a public highway.

Speed limits

(R.C. 4511.21)

The bill makes several changes to the Ohio speeding law. First, the bill expands the Director's authority to establish variable speed limits to **all** highways. A variable speed limit is a highway speed limit that can vary from the normal speed limit depending on conditions such as time of day or weather. Under current law, the Director can only establish a variable speed limit on all or portions of Interstate 670, Interstate 275, and Interstate 90 (between Interstate 71 and the Pennsylvania border).

Second, the bill requires changes to speed limits established in statute to occur based on criteria established by an engineering study, as defined by the Director. Current law requires

the changes to statutory speed limits to be based on either a "geometric and traffic characteristic study" or an "engineering and traffic investigation." Current law neither defines the study or the investigation nor specifies the differences, if any, between the two concepts. Thus, the bill standardizes the method of determining whether a change in the statutory speed limit is appropriate for a particular location. Under current law, unchanged by the bill, the Director or a local authority with the Director's approval may raise or lower a speed limit if local conditions make the current speed limit either greater or less than is reasonable or safe.

Finally, the bill makes clarifying changes to the statutory speed limits. The changes include consolidating a repetitive speed limit and creating consistency in the language and terminology.

Transportation facility access

(R.C. 163.03)

The bill authorizes any agency (meaning any governmental entity, corporate entity, or private company that is authorized to appropriate property by eminent domain) to enter upon lands, waters, and premises as necessary to perform maintenance on transportation facilities. The bill does not specify what constitutes a "transportation facility."

An agency that seeks entry must give reasonable notice, to the owner or possessor of the property to be entered, between 48 hours and 30 days before the entry. The agency may provide the notice by any means reasonably available.

Under the bill, this type of entry does not constitute a trespass. Further, the bill applies existing law to an entry that does both of the following:

1. Requires the agency to make restitution or reimbursement for damages caused to the lands, waters, or premises as a result of the entry; and
2. Specifies that if the parties are unable to reach a settlement regarding restitution, damages may be recoverable by civil action.

Highway advertising devices

Nonconforming advertising devices

(R.C. 163.31 and 5516.08, not in the bill)

In the context of highway advertising devices on interstates, national highways, and other specified highways, a "nonconforming advertising device" is a device that does not meet current restrictions on location or design. However, because it existed prior to the adoption of those restrictions, the device is "grandfathered" and can remain on the property. Under federal law, a nonconforming device may not be restored if it is destroyed by an "act of God." The bill aligns Ohio law with this federal restriction.

Devices along scenic byways

(R.C. 5516.05)

The bill authorizes the Director to designate any portion of the state highway system as a scenic byway. Under current law, the Director may designate any portion of the interstate highway, the national highway system, or the primary system as a scenic byway. Thus, the bill

expands the number of highways that may be designated as scenic byways. As a result of this expansion, new advertising devices placed along the new scenic byways will need to conform to the restrictions that ODOT specifies for devices on scenic byways. Advertising devices already placed along newly designated scenic byways will be considered nonconforming advertising devices and can be maintained according to ODOT regulations pertaining to such devices.

Court proceedings

(R.C. 5501.21)

Currently, the Department of Transportation may produce, in lieu of an original, a copy of a **paper** record, plan, drawing, or other document ("document") as evidence in a court, as long as the copy is stamped with the Department's seal. Under the bill, the Department may also produce, in lieu of an original, a copy of an **electronic** document that is stamped with the Department's seal.

Additionally, under current law, any party to any pending lawsuit may depose the Director as long as the deposition takes place in the Director's office. The bill eliminates the presumed authorization that the Director may be a deponent in **any** lawsuit, relevant to the Director or not. (The bill does not prohibit the Director from being deposed – it merely removes this broad grant of authority.)

Excess road salt

(R.C. 5501.41)

The bill permits the Director to provide road salt to a political subdivision if all of the following apply:

1. The Director has excess road salt;
2. The political subdivision is unable to acquire road salt; and
3. The political subdivision is in an emergency situation.

The bill requires the Director to seek reimbursement for any road salt provided to a political subdivision for the same price at which the Director purchased the road salt. Current law permits the Director to remove snow and ice from state highways (including state highways within a municipal corporation, if the Director receives prior consent from the municipal corporation's legislative authority). Otherwise, each political subdivision is responsible for snow and ice removal in its respective jurisdiction (i.e., a board of county commissioners is responsible for county roads, a board of township trustees is responsible for township roads, etc.).

Size and weight exemptions for towing vehicles

(Section 755.30; R.C. 5577.15, not in the bill)

The bill extends, for two years, a temporary exemption from statutory vehicle size and weight limits that applies to certain towing vehicles – ones that are traveling to and returning from removing a motor vehicle from an emergency on a public highway. Specifically, those size and weight limitations do not apply in any of the following circumstances:

1. When a person is engaged in the initial towing or removal of a wrecked or disabled motor vehicle from the site of an emergency on a public highway to the nearest qualified repair facility;
2. When the person is en route to the site of an emergency on a public highway to tow a wrecked or disabled motor vehicle; or
3. When the person is returning from delivering a wrecked or disabled motor vehicle to the nearest qualified repair facility after removing the motor vehicle from the site of an emergency on a public highway.

Prior to the temporary exemption (which, without the bill's extension, is scheduled to expire on June 30, 2019), the law only provided an exemption from the statutory vehicle size and weight limits for a towing vehicle while the vehicle was engaged in the scenario in (1), but not the scenarios in (2) or (3). Thus, a towing vehicle was exempt while towing the wrecked or disabled vehicle, but not while traveling to the emergency or returning back to its "home" location.

Other Provisions

- Eliminates the exemption to the Opened Container Law that allows a person to possess an open container of alcohol in or on a stationary vehicle that is not being operated in a traffic lane and is in an outdoor refreshment area.

Opened container of alcohol exemption

(R.C. 4301.62)

The bill eliminates the exemption to the Opened Container Law that allows a person to possess an opened container of beer or intoxicating liquor in or on a motor vehicle within an outdoor refreshment area (DORA) when the vehicle is stationary and is not being operated in a lane of vehicular traffic. A DORA is a designated area created by a municipal corporation or township in which a person may purchase beer or intoxicating liquor from a designated liquor permit holder and walk around outdoors.

The current exemption is not in compliance with the federal opened container law requirement. As a result, the state is subject to both limitations on the use of some federal transportation funds and to additional procedural requirements. The bill's elimination of this exemption makes Ohio's law compliant with the federal law.

Note on Effective Dates

(Sections 812.10 and 812.20)

The bill includes a default provision stating that, except as otherwise specifically provided, the amendment, enactment, or repeal of a section is subject to the referendum

under the Ohio Constitution and takes effect on the 91st day after the bill is filed with the Secretary of State (barring the filing of a referendum petition).

Article II, Section 1d of the Ohio Constitution states that "appropriations for the current expenses of state government and state institutions" and "[l]aws providing for tax levies" go into immediate effect and are not subject to the referendum. The bill includes a statement that an appropriation of money under the bill is not subject to the referendum if a contemplated expenditure is wholly to meet a current expense within the meaning of the Ohio Constitution and R.C. 1.471. However, the appropriation is subject to the referendum if a contemplated expenditure wholly or partly does not meet a current expense within the meaning of those provisions.

History

Action	Date
Introduced	02-12-19



December 17, 2018

The Honorable Rick Carfagna
Ohio House of Representatives
77 S. High Street
Columbus, OH 43215

RE: Food Labeling and Donation Proposal

Dear Representative Carfagna:

Thank you for the opportunity to provide further comments following the interested party meeting you hosted on October 24.

We understand that – with technical support from faculty of The Ohio State University – you have drafted a legislative proposal to establish in state law “use by” dates. The proposal also amends existing Ohio liability law and addresses some consumer education.

We understand the motivation for the proposal is to reduce food waste, reduce landfill and other environmental waste, and to alleviate consumer confusion. These are worthy goals that food manufacturers largely share.

We have thoughtfully reviewed the draft legislative proposal and related handouts. In short, we cannot support a state-specific label reform initiative. The labeling issues you seek to address are shared nationwide. As you know, food standards and labeling are under the purview of the federal government and significant regulation is on the books of the FDA and USDA. As such, a state-by-state patchwork of label regulations will add complexity, cost, waste and confusion. Many food manufacturers have operations in multiple states. You can appreciate how costly compliance could become with state-specific regulation.

That said, there may be a good opportunity to improve Ohio’s food waste liability laws based on the bill draft. We stand ready to work with Ohio’s foodbanks to help provide clarity as to when food can and cannot be donated or distributed by agencies to parties in need.

Thousands of manufacturers across the country (OMA members included) are actively working in support of improved use-by labeling at the national level. We have actively

supported the development and promotion of the GMA/FMI labeling standard which most manufacturers are already using. You will find that this common standard, which is jointly supported by retailer industry leaders, is widely praised by anti-hunger and anti-food-waste groups. We have provided a link to Feeding America where there is more information about these initiatives (<https://www.feedingamerica.org/>).

If there were a role for Ohio to play when it comes to date labeling, it may be best executed by promoting awareness and utilization of the GMA/FMI standard and awareness of the federal Good Samaritan Food Donation Act. We would be happy to work with you on this.

We thank you for your interest in our perspective. The OMA staff would be able to convene a group of members if you would like a forum in which to review these issues.

Sincerely,

Eric L. Burkland
President
The Ohio Manufacturers' Association

Julia Sabin
Vice President Government Relations & Corporate Sustainability
J.M Smucker Company

Scott Corbitt
Region Vice President
Anheuser-Busch

Robert W. Camp
Vice President of Retail Operations
White Castle

Lee Anderson
Director, Issues Management & State Government Relations
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Director, State Government Relations
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Shelley Roth
President
Pierre's Ice Cream Company

Dustin Dixon Ph.D.
Sr. Vice President of Supply Chain, Food Safety, & Innovation
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MEMORANDUM

TO: Ohio Manufacturers' Association
Government Affairs Committee
FROM: Bricker and Eckler LLP
DATE: March 4, 2019
RE: March 2019 OMA Government Affairs Committee
Report

I. March 2019 Government Affairs Committee Counsel Report.

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

II. Statewide Ballot Issues Overview.

While there are still several statewide ballot issues that could technically still collect the necessary signatures for placement on the November 2019 general election ballot, we are unaware of current initiatives collecting signatures. Proposed Constitutional Amendments for 2019 could still be filed by July 4, 2019.

Later in the counsel's report is an overview of litigation efforts currently pending specifically related to the recently-approved Lake Erie Bill of Rights (LEBOR) that may adversely impact the qualifications for local ballot efforts.

III. Pending Legislation (2019-2020).

The 133rd General Assembly is finally operational, with the legislative calendar filled with committee hearings and full floor sessions. The Governor's general operating budget must be introduced by March 15, 2019, at which point the legislature's attention and focus will shift almost entirely.

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

S.B. 1 – Reduction of Agency Regulations. On February 12, 2019, Senator Rob McColley (R-Napoleon) and Senator Kristina Roegner (R-Hudson) introduced this bill, which requires agencies to reduce the number of regulatory restrictions. The bill was referred to the Senate Government Oversight and Reform where it has had two hearings. During its second

OMA Government Affairs Committee – Counsel Report

March 4, 2019

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hearing, many business groups provided proponent testimony explaining that the bill will support economic growth and business development in Ohio.

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

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

It was introduced on February 12, 2019 and has not yet been assigned to a committee. Previous versions of the bill received strong support from the business community. Many business groups are supportive of the bill because they recognize the importance of diversity in the workplace and believe that improvements should be made to protect against discrimination of any type.

IV. Tort Reform.

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

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

Statute of Limitations on Contracts. Introduced last session as H.B. 694 by Representative George Lang (R-West Chester), this legislation was designed to shorten Ohio’s statute of limitations for actions brought related to contracts and bring Ohio in line with other states to maintain Ohio’s competitiveness with other similarly situated states. The legislation received two hearings in the House Civil Justice Committee. The bill has not been reintroduced yet in the 133rd General Assembly.

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

OMA Government Affairs Committee – Counsel Report

March 4, 2019

Page 3 of 6

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

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

V. Litigation and Amicus Activity Update.

A. Lake Erie Bill of Rights Litigation.

On December 4, 2018, the Toledo City Council passed an ordinance declaring that it had received sufficient petition signatures to submit the Lake Erie Bill of Rights (LEBOR), a proposed amendment to the Toledo Charter, to the voters and certified the measure for a special election on February 26, 2019. Josh Abernathy filed a protest with the Lucas County Board of Elections (BOE) asserting that the LEBOR (1) was “legally ineligible” to appear on the ballot because the City didn’t have authority to enact this amendment, and (2) was barred by res judicata because the City had previously refused to certify it for the ballot. Following the unsuccessful protest, Abernathy sought a writ of prohibition in the Ohio Supreme Co to compel the BOE to remove the LEBOR from the ballot.

The LEBOR purports to endow Lake Erie and its entire ecosystem with judicially enforceable rights. The radical proposal makes lawful conduct -- sanctioned by the state and/or federal government – unlawful and even give rise to criminal liability. All corporate and governmental entities are subject to LEBOR, even if they are not located in Toledo. Because the LEBOR will undoubtedly impact Ohio farmers, particularly those in the part of the State abutting Lake Erie, the Ohio Farm Bureau filed an amicus curiae memorandum in support of Abernathy, urging the Court to remove the LEBOR from the February 26, 2019 special election ballot.

On January 23, 2019, the Ohio Supreme Court denied the writ of prohibition, paving the way for the proposed amendment to be presented to Toledo voters. With only nine percent of the electorate voting in the February 26, 2019 special election in Toledo, the LEBOR passed.

The day after the special election, Drewes Farm filed an action in federal district court in Toledo challenging the LEBOR as unconstitutional. Drewes Farm seeks a preliminary injunction and a declaratory judgment seeking. The case has been assigned to Judge Zhouhary. While this is the first lawsuit challenging the LEBOR, it is unlikely to be the last. In the meantime, there will be much uncertainty around the implications of the LEBOR on farmers and the broader business community.

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We prepared a more thorough analysis to the LEBOR following its approval for possible impacts on manufacturers. That memorandum is attached.

B. Amicus Activities.

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

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

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

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

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

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

In January 2019, this case was assigned to Judge Timothy Hogan, a retired judge from Hamilton County, Ohio. In late February, Plaintiff requested a status conference with the Court

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in late March to address the pending motion to dismiss, the pending motion to intervene, and to discuss a scheduling order. The Court has not yet ruled on this motion.

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

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

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

On August 22, 2018, the trial court denied all motions to dismiss. It also vacated the stay on discovery, allowing discovery to proceed. Defendants have filed answers. The Court has scheduled a status conference for April 5, 2019.

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

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

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

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

In January and February 2019, two defendants filed motions to compel the State to provide discovery responses. These defendants assert that the State's objections to the discovery responses are baseless. As of March 1, 2019, the State has not yet responded to these motions.

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

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

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

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

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

This case has been fully briefed. Oral argument is scheduled for March 5, 2019.



MEMORANDUM

TO: The Ohio Manufacturers' Association
FROM: Bricker & Eckler LLP
DATE: February 28, 2019
RE: Toledo's "Lake Erie Bill of Rights" Charter Amendment

I. What is the LEBOR and how was it enacted?

In a February 26, 2019 special election, Toledo's voters passed the Lake Erie Bill of Rights ("the LEBOR"). This passage followed an appeal to the Ohio Supreme Court regarding whether or not the initiative could be placed on the ballot.¹ The decision that the LEBOR could move forward as a ballot issue raised alarm in Ohio's agricultural community and beyond. It became law this week, passing with a 61% vote in favor.²

The LEBOR is an amendment to the City of Toledo's Charter.³ The Toledo Charter, like a constitution, outlines the city's powers and plans for governance. The Ohio Constitution allows city residents to propose charter amendments through a petition process that requires signatures by 10 percent or more of the electors in order to place a proposal on the ballot.⁴

¹ In *State ex rel. Abernathy v. Lucas County Board of Elections*, Slip Op. No. 2019-Ohio-201, an opponent of the petition argued that the Charter Amendment exceeded Toledo's authority and filed an action for a "writ of prohibition"—a court order that would require the Lucas County Board of Elections to remove the Charter Amendment from the ballot. The Supreme Court did not grant the request and instead determined that the board's decision to place the Charter Amendment on the ballot was not unlawful because "a board of elections has no legal authority to review the substance of a proposed charter amendment and has no discretion to block the measure from the ballot based on an assessment of its suitability."

² <https://www.cleveland.com/news/2019/02/toledoans-approve-first-lake-erie-bill-of-rights-farmer-sues-over-laws-constitutionality.html>

³ Full text available at: "The Lake Erie Bill of Rights Citizens Initiative," TOLEDOANS FOR SAFE WATER (accessed Feb. 27, 2019) <http://lakeerieaction.wixsite.com/safewatertoledo/lake-erie-bill-of-rights>.

⁴ OHIO CONSTITUTION, Article XVIII, Sections 8 and 9.

The LEBOR was enacted in response to what it claims is the “imminent danger of irreversible devastation due to continued abuse by people and corporations enabled by reckless government policies, permitting and licensing activities that unremittingly create cumulative harm, and lack of protective intervention.”⁵ The LEBOR attempts to create a new way for Toledo citizens to exert power over environmental protection, and specifically Lake Erie, by granting new legal rights for Lake Erie and its ecosystem and allowing Toledo and its residents to enforce those legal rights against any government or corporation that violates them. Descriptively, the LEBOR states that one of its objectives is to “shift[] public governance from policies that urge voluntary action, or that merely regulate the amount of harm allowed by law over a given period of time, to adopting laws which prohibit activities that violate fundamental rights[.]”⁶

II. What does it require?

The LEBOR creates a new cause of action and an ambiguous new crime for the violation of any of three rights listed in its Section 1:

- (a) The right of Lake Erie and “the Lake Erie watershed” to “exist, flourish, and naturally evolve”;
- (b) The right of “the people of the City of Toledo... to a clean and healthy Lake Erie and Lake Erie ecosystem”⁷; and
- (c) The right of “the people of the City of Toledo to a system of government that protects and secures their human, civil, and collective rights,” including the “right to self-government in their local community.”

Subparagraph (d) provides that these rights are “self-executing and enforceable against both private and public actors.”

A new cause of action is created in Section 2, which makes it “unlawful for any corporation or government to violate” any of the foregoing rights.⁸

This section also declares invalid “within the City of Toledo” all permits, licenses, or “privileges” issued by Ohio or the federal government “that would violate the prohibitions of this law.” So, for example, any runoff or discharge permits granted by Ohio or federal agencies would not protect a company that has such permits.

⁵ LEBOR Preamble, at ¶1, <http://lakeerieaction.wixsite.com/safewatertoledo/lake-erie-bill-of-rights>.

⁶ *Id.* at ¶ 2.

⁷ Lake Erie ecosystem is broadly defined to include “all natural water features, communities of organisms, soil as well as terrestrial and aquatic sub-ecosystems that are part of Lake Erie and its watershed.”

⁸ The definition of “corporation” is not the model of clarity, defined only as including “any business entity.”

This second source of violation sets up a direct tension between environmental permitting and licensing issued at the State and Federal levels, and what is perceived as a “violation” by the LEBOR. The resulting goal of the second source of violation is seemingly to give the City of Toledo veto power over discharge permits or other authorizations that may impact Lake Erie.

Section 3 presents how the Charter Amendment would be enforced by the City of Toledo, and sets forth a harsh scheme that grants original jurisdiction to the Lucas County Court of Common Pleas over any potential “violations”: “Any corporation or government that violates [the Charter Amendment] shall be guilty of an “offense” and sentenced to pay the maximum fine allowable under State law for that violation.” Per this provision, an action may be initiated by the City or a resident “in the name of the Ecosystem.”

Finally, Section 4 states how the City of Toledo intends for the Charter Amendment to relate to other laws—essentially speaking directly to and addressing the elephant in the room—state and federal preemption. It states that violators of the LEBOR will not possess “any other legal rights that would interfere with the LEBOR” including the right to assert an argument sounding in state or federal preemption.

III. What impacts can we expect on manufacturers and others?

The corporations or entities that could be impacted by LEBOR’s enactment range far and wide. Companies that have an Ohio EPA issued water discharge permit (an “NPDES permit”) authorizing them to discharge into surface waters within the Lake Erie watershed could be affected. For example, manufacturers that have a water discharge permit allowing discharge into the Maumee could run afoul of the new amendment. Even sewage treatment facilities, including that of the City of Toledo itself, have such permits that could be challenged by the LEBOR.⁹

In addition to discharge permits, there are the “general storm water permits” granted to thousands of businesses in the Lake Erie watershed. These general permits allow for runoff at construction and industrial sites. Such activities could also potentially (and likely) run afoul of the LEBOR.

So what should manufacturers in the Lake Erie watershed expect?

1. Will my company be subject to additional regulations?

No additional regulatory oversight will be created by LEBOR. LEBOR’s language does not create regulations that must be followed, nor does it attempt

⁹ An analysis of what has contributed to the algae bloom in Lake Erie identified as a significant contributor the Toledo sewer treatment facility, which has been characterized as significantly lacking in appropriate upgrades.

to give any regulatory authority to any office or organization. It purports to be “self-executing.” On its own, it would only allow the City of Toledo or citizens of Toledo to bring a legal action for an alleged violation of Lake Erie’s legal rights.

2. Will this practice spread statewide?

Community rights initiatives in Ohio have been limited to several local efforts to amend municipal charters or ordinances with community rights language. There are organizations that are willing to help other communities advance similar community rights initiatives, so it is of course possible. In Ohio, there has not been an attempt to expand community rights on a statewide basis. Doing so would require a petition to be put on a statewide ballot or an action by the Ohio General Assembly and the administration of Governor DeWine.

3. What if my company becomes part of a LEBOR suit?

First and foremost, contact your attorney and insurance company as soon as possible whenever faced with a lawsuit. However, also keep in mind that LEBOR is presently subject to at least one legal challenge in federal court, with additional challenges likely to be filed. Keep abreast of what is going on in these cases in order to discern the impact on any claim filed against your company. The OMA will be closely tracking LEBOR-related litigation to discern potential impacts to members.

4. What about my existing permits?

The LEBOR would affect permits, licenses, and other authorizations made by the state and even the federal government. “No permit, license, privilege, charter, or other authorization issued to a corporation, by any state or federal entity, that would violate the prohibitions of this law or any rights secured by this law, shall be deemed valid within the City of Toledo.” LEBOR, Section 2(b). All permits issued by the federal EPA, the Ohio EPA, or the federal or state departments of agriculture would be deemed invalid within Toledo to the extent they conflict with a citizen’s conception of the LEBOR’s provisions. If you presently hold existing permits that you anticipate will run afoul of LEBOR, consult with Ohio EPA or the issuing agency to obtain their recommendation for the impact of LEBOR on your legal rights and permitted activities.

IV. What legal challenges are on the horizon?

The LEBOR initiative is similar to many other community rights proposals that seek to establish rights of natural resources that citizens can protect through legal action. Such efforts have a bad track record in courts nationwide.¹⁰ Courts have

¹⁰ *State ex. rel. Bolzenius v. Preisse*, Slip Opinion No. 2018-Ohio-3708 (A proposed ordinance for a “Community Bill of Rights for Water, Soil, and Air Protection” stated that

consistently determined that the provisions conflict with longstanding constitutional principles that address the relationship between federal, state and local governments; state and local governments cannot eliminate federal rights and local governments cannot deny rights granted by the state. Community rights initiatives also conflict with legal precedent established by the U.S. Supreme Court that guarantees corporate entities constitutional rights. Finally, the State of Ohio holds rights in Lake Erie that Toledo and its residents do not have legal authority to claim. Based upon these legal precedents, it is very possible that an Ohio court would not enforce or uphold a LEBOR action.

In the short time between its passing and now, at least one legal challenge has been filed against LEBOR. On February 27th, *Drewes Farm Partnership v. City of Toledo* was filed in federal court in Toledo, asserting many challenges, including, among others, that the LEBOR: deprives parties of their fundamental right to free speech; violates the equal protection clause by targeting entities based on their status as a business; violates the Fifth Amendment protection against vague laws by exposing parties to strict criminal liability and damages under a “standardless Charter Amendment”; deprives parties of their rights without due process; exceeds Toledo’s limited authority to pass legislation and is in violation of state and federal preemption laws; and creates new causes of action without the authority to do so.

The *Drewes* case seeks a preliminary injunction to stop the LEBOR going into effect before its defects are litigated. These, and other legal challenges, are anticipated in the near future, with industry groups, agricultural interest groups, and businesses all interested in challenging the LEBOR for its overreach and broad declarations. The *Drewes* case has not yet been set for hearing on the preliminary injunction that was requested, but once litigated, this lawsuit will likely give a clear indication of how these challenges may play out in the courts.

natural communities and ecosystems “possess the rights to exist and flourish” within the City of Columbus.” The Ohio Supreme Court determined that the proposal created a new cause of action and was beyond a city’s legislative power); *Spokane Entrepreneurial Center v. Spokane Moves to Amend the Constitution*, No. 91551-2 (Wa. Feb. 4, 2016) (Washington Supreme Court found community rights amendment to city charter exceeded city’s authority when amendment sought to give legal rights to Spokane River); *SWEPI, LP v. Mora County, New Mexico*, 81 F.Supp.3d 1075 (D. N.M. 2015) (Community rights sought to ban oil and gas extraction activities in the County—federal court struck down ordinance for violating Constitution’s Supremacy Clause).

To: OMA Government Affairs Committee
From: Ryan Augsburger / Rob Brundrett
Re: Energy Policy Report
Date: March 6, 2019

Overview

Far-reaching electricity regulation legislation has been considered over recent years in Ohio, but has not been advanced. Utilities have sought law changes to increase earnings on less profitable business activity while customer groups have sought market protection law-changes. January marked the beginning of a new chapter in policymakers with the inauguration of new executive and legislative leaders.

The prospect for legislation to effectively bailout uneconomic nuclear power plants seems more realistic than in past years. Other legislative and regulatory reforms loom large for customers and carry big price tags. In short, the competitive marketplace is under attack. This will be a top issue area for the entire 2019-2020 legislative session.

New Policymakers

Newly inaugurated Governor Mike DeWine and Lt. Governor Jon Husted will have a big say in public policy over the coming years. The gubernatorial campaign did not communicate heavily on energy issues so their positions are less well known. The Governor has appointed lawyer/lobbyist Sam Randazzo to chair the PUCO. Randazzo takes over from Asim Haque who has resigned and will accept a post at PJM.

In the General Assembly returning Senate President Larry Obhof has appointed Senator Steve Wilson to chair the Senate Energy and Public Utilities Committee. New House Speaker Larry Householder has made clear that he believes electricity generation policy should be scrutinized and has created sub-committee on Energy Generation to be co-chaired by Republican Representative Dick Stein (R – Huron County) and Representative Michael O'Brien (D – Warren). That sub-committee will nest under the full Energy and Natural Resources Committee chaired by Representative Nino Vitale. Legislation may also be considered by the House Public Utilities Committee chaired by Representative Jamie Callender (R – Lake County).

Nuke Bailout

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

As was expected, FES filed for bankruptcy protection in March 2018. The company also notified regulators of its intent to shutter the power plants in a few years. A settlement between FE, FES, and the stakeholders is still pending approval. The plant owners together with concerned local government leaders have used the plant closure announcements to lever political support for state and federal bailouts. The beneficiaries of any possible bailout would seem to include speculative investors, former parent FE, and local governments hoping to prevent local job loss and tax revenue. The U.S. Department of Justice recently reminded FE and FES owners of their liability for decommissioning when the plants are shut down. Watch for "responsible parties" to try to shift decommissioning liability onto to customers or taxpayers.

At the time of writing, no bailout bill has been introduced but is expected to be introduced in the Ohio House very soon. Sources say House leadership intends to see the bill pass in the House by late April. Representative Jamie Callender (R - Lake County) is the presumed sponsor. Most observers believe the bill will be considered within the House Energy and Natural Resources Committee chaired by

Representative Nino Vitale (R – Urbana). Recent media reports suggest the justification for the bill is carbon reduction, even though Ohio has seen nearly a 40% reduction in carbon emissions from power plants since 2005 as a result of market preferences for cleaner generation.

The OMA will produce a summary with customer cost-impact as soon as possible. As with past bailout attempts, the per-customer cost is expected to be significant for manufacturers who are more energy intensive than other types of businesses. The OMA strongly opposed the legislation last session and has worked with other opponents to coordinate advocacy.

Trump Administration Favors Nuke and Coal Bailouts

For over a year, some nuclear and coal interests have had success in lobbying the federal government to order nuclear and coal (as specified) power plant bailouts on a national basis. It appears the Trump Administration has backed away from plans to require customers to subsidize unprofitable power plants under the guise of national security or resiliency; however, the development bears continued scrutiny and if approved will subject manufacturers to significant new energy costs.

PJM Opines on Resiliency

Amid news report of a federal government bailout justified under the notion of grid resiliency, grid operator PJM Interconnect had been clear to dispel the myths of poor fuel diversity and electric supply shortages affecting “reliability.” However, more recently, PJM issued a report justifying some possible basis for grid “resiliency.” The OMA has an analysis on current PJM activity but further proceedings at PJM will be needed for clarity.

Utility Seeks to Shift Risk from Shareholders to Customers

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

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

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

Protecting Competitive Electric Markets

In 1999, with the passage of Senate Bill 3, Ohio began a transition to deregulated generation. That transition has delivered customer choice, cost-savings and innovation. One of the main tenets of deregulation was forcing then-integrated utility companies to sell or spin-off their generation. “Stranded costs” and other above-market surcharge constructs enabled the utilities to have their generation paid for by Ohioans for a second time. If approved in some form, the subsidy cases and Nuke bailout legislation would represent yet another above-market payment to utilities by customers who realize no benefit.

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

manufacturers' electric bills. Several noteworthy studies have demonstrated how the market delivers lower prices, choice and innovation without compromising reliability (ask staff for the studies). Competitive markets are under attack in Ohio. Manufacturers can engage policymakers and support a campaign to support the reform. Please contact OMA staff to learn how you can support the cause.

OVEC Bailout

Last session, the OMA opposed legislation to provide over one hundred million dollars per year to the owners of aging coal plants (one in Ohio and one in Indiana) operated by the Ohio Valley Electric Corporation (OVEC). The OMA had also opposed subsidies for OVEC in rate cases at the PUCO. In a decision by the Supreme Court in late 2018, the Court effectively allowed utilities to collect the rider to subsidize OVEC. So the need for the legislation now seems moot.

Federal Tax Reform Driving Down Electric Prices, But Not in Ohio

It took utilities in Ohio longer to pass along savings to customers stemming from federal tax reform last winter. Of the electric utilities, only FirstEnergy remains unresolved. Recently, FirstEnergy proposed to pass along the tax savings to customers if customers will pay over \$500 million in new grid modernization. The case is being litigated at the PUCO. The OMA Energy Group has been active in these proceedings.

PowerForward and Goldplating

Over the past few years, the PUCO undertook a study of future grid technologies. The study and resulting report bear the brand PowerForward. In the months since the report was finalized, a collaborative has been meeting. Utilities are using the findings in PowerForward to justify new mandated customer payment requests to produce "grid modernization." The OMA Energy Group is watching out for goldplating in these proceedings.

Ohio electric utility executives have been announcing to investors their bold new initiatives to upgrade their grid infrastructure touting costs in the tens of billions of dollars. These transmission and distribution costs, if allowed by federal and state regulators, will layer new costs onto customers. The OMA Energy Group will be monitoring utility requests and will be commenting on the need and benefit of improvements to customers. Utility applications for customer cost-recovery that fail to provide offsetting customer benefits will be met with scrutiny and possible objection by this organization.

On-Site Generation Taxed in Ohio

The Ohio Department of Taxation is sending out tax bills to third parties operating on-site generation, be it wind, solar or onsite gas generation. The Department contends that a customer who generates power should pay generation tax the same as a utility. The Department's basis for collecting the tax is tenuous. Legislation was introduced in the prior session but did not advance. The OMA presented proponent testimony and hopes to be able to support a similar bill this session.

OMA Appeals Utility Subsidies

Kim Bojko, Chief Counsel for the OMA Energy Group (OMAEG) recently presented oral argument before the Supreme Court of Ohio challenging customer charges in the FirstEnergy DMR case. Like other recent rate cases and litigation, customer power costs are heavily impacted by these cases. Your company can strengthen the association's efforts. Contact staff for information on joining the OMAEG.

Energy Standards Legislation

After six years of back and forth policy battles, the fun continues and the standards remain in effect. Opponents of the standards hope the new Governor will not block a reduction or repeal. Related issues of opt-out and relaxing siting requirements for large scale generation projects are expected to come up. It seems possible these issues will be incorporated into the upcoming nuclear bailout legislation.

Energy

Nuke Retirement Impact Study Flawed **March 1, 2019**

In April 2018, **The Brattle Group** published a report on the impact of announced nuclear retirements in Ohio and Pennsylvania. This report was published after FirstEnergy Solutions made an appeal to the U.S. Department of Energy for subsidies for the plants and after FirstEnergy Solutions filed for Chapter 11 bankruptcy. In this report, the authors outline reasons that they believe justify state and/or federal subsidies to continue operating uneconomic nuclear power plants in Ohio and Pennsylvania.

This report is being used by proponents of a bailout of the economically failing nuclear plants. Unfortunately, the report is analytically flawed.

The report does not in any way address what the potential cost of a state and/or federal nuclear subsidy to ratepayers would be, so that a cost/benefit analysis cannot be made.

The report fails to recognize the operation of competitive markets for electricity; the report makes the assumption that should these plants retire, the markets in which they operate will not respond accordingly. That is, it assumes that no individual power producer would see an opportunity in increased capacity costs to develop new renewable energy products.

The report ignores the value of competitive markets to provide the most efficient price of electricity for consumers.

And, the report supports a technology over a technology-neutral regulatory system that has served Ohioans for nearly a decade.

Read more. *2/28/2019*

MIT Professors Stump for Nuclear Power Plant Bailout **March 1, 2019**

Appearing before the members of the House Energy and Natural Resources Committee this week, a pair of Massachusetts Institute of Technology (MIT) faculty members provided a presentation on the low-carbon benefits derived from nuclear power.

While their testimony was not related to any specific legislative proposal, it was likely intended as context for anticipated legislation to bailout Ohio's two nuclear power plants owned and operated by FirstEnergy subsidiaries.

The two-year MIT study, "**The Future of Nuclear Energy in a Carbon-Constrained World**," takes looks at the U.S. landscape and the stalled nuclear energy capacity growth. It outlines new policy measures to potentially reverse that trend, but the study did not include an examination of the state of Ohio or its zero-emissions nuclear proposals from the last General Assembly.

Among the recommendations to policymakers: "decarbonization policies should create a level playing field that allows all low-carbon generation technologies to compete on their merits." This, of course, is not what the various bailout proposals would do. *2/28/2019*

AEP to Buy Renewable Energy with Shareholder Money **March 1, 2019**

In mid-February AEP Ohio's parent company, American Electric Power, **announced** that its unregulated subsidiary would invest over a billion shareholder dollars to acquire renewable energy that the company believes will provide additional shareholder value. The announcement is in contrast to AEP Ohio's regulatory proposal pending at the PUCO which would force all AEP customers to subsidize a similar investment on the regulated-side, shifting risk from shareholders to its customers.

"If AEP Ohio wants to build new generation, the company's shareholders – not its customers – should be doing the investing and taking on the risk. We are glad to see they are now doing that and expect they will discontinue efforts to ask the PUCO to approve their filing that would make customers foot the bill to develop renewable generation in Ohio," said Bradley Belden, President, The Belden Brick Company, and chair of the OMA Energy Group. *2/28/2019*

Duke Customers: Look for a Credit **February 22, 2019**

This week the PUCO authorized Duke Energy Ohio to establish a credit on electric customer

bills to reflect the Tax Cuts and Jobs Act (TCJA) of 2017 into its rates. Here are **the details**. This action settles the issue for three out of four of Ohio's regulated-electric utilities, while the fourth is in the settlement process.

The OMA Energy Group intervened in these proceedings in order to ensure that members' interests are protected and that the full benefit of the TCJA is passed back to customers, as required by law. *2/21/2019*

Lawmakers Named to Energy Committees **February 15, 2019**

With the announcement of legislative committee assignments this week, it becomes evident which state representatives and senators will be most involved in crafting anticipated electricity-pricing legislation.

Senator Steve Wilson will chair the **Senate Energy and Public Utilities Committee**. In the House, Rep. Nino Vitale will chair the **Energy and Natural Resources Committee** and Rep. Jamie Callender will chair the **Public Utilities Committee**. *2/14/2019*

Legislators Telegraph Intentions on Power Plant Bailouts **February 15, 2019**

During inaugural meetings of standing House committees this week, we got a glimpse of what is coming down the pike. Statehouse observers believe a legislative proposal is forthcoming that would bailout the uneconomic nuclear power plants in Lake and Ottawa Counties.

Lawmakers on three separate House panels will likely touch the proposal. Rep Dick Stein (R-Norwalk) and Rep. Michael O'Brien (D-Warren) co-chair a subcommittee on Energy Generation. The pair confirmed that preserving the nuclear power plants is a priority. Rep. Stein also expressed support for molten salt, thorium nuclear reactors.

House Energy Committee Chair Nino Vitale (R-Urbana) was quoted in Statehouse news media as saying, "We seriously have to look at generation and the mix of what Ohio's doing." And, "We've had some brownout situations. We've had some issues with PJM Interconnection in terms of how we're putting energy into that. One of the key issues for our

state is if we're an energy producer it helps attract business to the state because our rates will be lower and it also helps your average citizen."

Meanwhile, House Public Utilities Committee Chair Jamie Callender (R-Concord) indicated that nuclear bailout legislation could come to his committee or to the Energy & Natural Resources Committee, and that wind setbacks will also be a likely subject for legislative reform. In an interview following the committee meeting, he expressed concern that Ohio doesn't produce enough power to meet its own needs while conceding the region enjoys a surplus of electricity. *2/14/2019*

PUCO Chairman Haque Steps Down **February 8, 2019**

This week PUCO Chairman Asim Haque submitted his letter of resignation to Governor DeWine.

In a PUCO **press release** that included a list of Haque's significant accomplishments, Haque said: "I would not be doing this experience, nor my feelings about public service to this state any justice by expressing the common refrain of being "honored" to have served. It is of course true that I am deeply honored to have served. I think, however, it is more revealing, more personal for me to say that this experience has been an absolute dream. ..."

Haque described his next position: "... I have accepted a job with PJM Interconnection in suburban Philadelphia. It is the regional transmission organization and wholesale market operator for thirteen states (including Ohio) and the District of Columbia. Its mission is similar to that of the PUCO's, as PJM is tasked with providing reliable power at least cost to a large footprint in this country. ..." *2/4/2019*

DeWine Picks Randazzo to Lead the PUCO **February 8, 2019**

Gov. DeWine this week appointed Columbus attorney and lobbyist, Samuel Randazzo to a seat on the PUCO. At the same time, the governor designated Mr. Randazzo as chairman of the PUCO. His five-year term will begin in April. *2/5/2019*

Customer Bailout of Nuclear Power Plants Debated (Again)

February 8, 2019

This week saw renewed legislative interest in forcing Ohio electric customers to pay to bailout uneconomic nuclear power plants. House Speaker Larry Householder voiced support for preserving the plants lauding their environmental benefits.

Toledo Blade **quoted** the Speaker as saying, "I think it's a benefit to the entire state of Ohio to have those non-emissions plants," perhaps opening the door to new charges on power bills of all Ohio investor-owned utility customers. Meanwhile, the *Columbus Dispatch* ran dueling columns on the topic. Former New Hampshire governor and U.S. Senator Judd Gregg **made the case** for bailing out nuclear power to protect jobs and promote clean fuel, while former Ohio Secretary of State Ken Blackwell **argued** against bailouts calling them crony capitalism. Get ready for another electrifying debate. The OMA Energy Committee will discuss this issue at its **March 12** meeting. *2/7/2019*

PUCO Nominating Council Makes Recommendations to Governor February 1, 2019

The PUCO Nominating Council met this week to interview nine candidates for a commissioner vacancy on the commission.

The nine candidates were selected from a field of twenty-three applicants.

Following the interviews, the council advanced **four finalists**: Gene Krebs, a former state legislator and former board chair of the Office of the Ohio Consumers' Counsel (OCC); Dennis Deters, a court of appeals judge in Cincinnati; Bryce McKenney, an attorney at the OCC; and Sam Randazzo, a lobbyist for the IEU-Ohio. Governor DeWine will consider the slate of four to appoint a new commissioner to a five-year term. *1/31/2019*

23 Applicants Vie for PUCO Seat January 25, 2019

Late last week, persons interested in standing for nomination and appointment to a soon-to-be vacant seat on the Public Utilities Commission of

Ohio (PUCO) submitted applications. Commissioner Tom Johnson announced he will not seek reappointment.

The list of applicants includes politicians, lawyers and lobbyists, an academic and some business people. *Hannah News Service* **lists the applicants**.

Soon a **nominating committee** will hone the list of 23 to four names which will be sent to Governor Mike DeWine; he is expected to choose the new commissioner from among those names. *1/24/2019*

Bankrupt FES Signals Interest in Retaining Power Generation? January 25, 2019

Bankrupt FirstEnergy Solutions (FES) continues to angle for the General Assembly to enact legislation to bailout its uneconomic power plants. In releasing details of its bankruptcy restructuring, the company also announced it had terminated a contract to sell its retail business to Exelon.

John Funk of the *Cleveland Plain Dealer* wrote that a state bailout **might be more feasible** this year due to the election of Speaker Larry Householder, who has announced plans to create a new panel of lawmakers to focus on electric generation.

The OMA has been a leading opponent of bailouts for power plants that are not needed. The OMA Energy Committee will **meet next on March 12** to review this and all energy matters that are relevant to Ohio manufacturers. *1/24/2019*

State Regulators Take Dim View of Customer Subsidized Renewables January 18, 2019

Last week the staff of the PUCO filed comments opposing AEP Ohio's application to charge customers for the development of 900 megawatts of renewable energy. Under the plan, all customers, even customers who purchase power competitively, would have to pay a new charge if they are in the **AEP service territory**. The staff found that competitive markets are adequately supplying capacity and energy to meet the needs of AEP's customers and, therefore, the project is not needed for reliability. The PUCO also expressed concern that requiring customers to subsidize a utility's

renewable generation activity would jeopardize competitive suppliers who are investing in renewable energy to serve customer demand for renewable energy.

While supportive of all forms of generation and fuel sources, the OMA has been an active opponent to the anti-competitive proposal and welcomes the PUCO staff comments. AEP faced similar concerns from state regulators last year in Oklahoma, West Virginia, and Virginia, locations where the company attempted to rate-base large scale renewable projects, but was denied. 1/17/2019

OMA Testifies Against AEP Ohio Plan to Charge Customers for New Renewable-Energy Generation
January 11, 2019

The OMA joined forces with other parties last week in filing **testimony** to oppose AEP Ohio's proposed renewable energy subsidy. AEP Ohio has an application pending with state regulators at the PUCO that would require all AEP customers to subsidize a large scale solar-energy generation site.

While the OMA supports 'all of the above' forms of energy generation, OMA insists that generation be competitively sourced as envisioned by Ohio's electricity deregulation law of 1999.

Also filing testimony was the Office of the Ohio Consumers' Counsel (OCC), Ohio's government-appointed residential consumer advocate. OCC testified: "AEP's regulatory proposal transfers financial and operating risk of power plants from AEP shareholders to AEP Ohio's captive monopoly customers. This is contrary to the General Assembly's plan for Ohio that, with limited exceptions, generating plants (including renewable projects) should be developed in the marketplace, without involvement of monopoly utilities and charges to their captive customers." 1/10/2019

Reject FirstEnergy's So-Called 'Distribution Modernization' Rider!
January 11, 2019

This week, OMA's energy counsel Kim Bojko of Carpenter Lipps & Leland **presented oral argument** to the Supreme Court of Ohio urging

the court to reject a customer-paid 'distribution modernization' rider that the PUCO approved in 2016.

Bojko argued that the PUCO's decision was in error because the rider was used to shore up FirstEnergy's finances, not to support grid modernization.

"Don't let the name fool you. This rider has nothing to do with the distribution service or modernizing the grid," said Bojko. She emphasized the point, saying, "Not one penny is to be spent on distribution. Instead it is a credit support rider."

The court's decision is expected mid- to late 2019. In the meantime customers in FirstEnergy service territory will continue paying this rider, even those who purchase power from a competitive supplier. Customers have already paid approximately \$372 million for the first two years of this rider.

This work is supported by the OMA Energy Group; **learn more here**. 1/10/2019

Energy Legislation

Prepared by: The Ohio Manufacturers' Association
Report created on March 5, 2019

- HB20** **SOLAR PANEL LIMITATIONS** (BLESSING III L) To prohibit condominium, homeowners, and neighborhood associations from imposing unreasonable limitations on the installation of solar collector systems on the roof or exterior walls of improvements.
Current Status: 2/12/2019 - Referred to Committee House State and Local Government
All Bill Status: 2/12/2019 - Introduced
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-20>
- HB55** **OIL AND GAS WELL ROYALTY STATEMENTS** (CERA J) To require the owner of an oil or gas well to provide a royalty statement to the royalty interest holder when the owner makes payment to the holder.
Current Status: 2/26/2019 - House Energy and Natural Resources, (First Hearing)
All Bill Status: 2/12/2019 - Referred to Committee House Energy and Natural Resources
2/12/2019 - Introduced
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-55>
- HB94** **LAKE ERIE DRILLING** (SKINDELL M) To ban the taking or removal of oil or natural gas from and under the bed of Lake Erie.
Current Status: 2/21/2019 - Introduced
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-94>
- HB95** **BRINE-CONVERSION OF WELLS** (SKINDELL M) To alter the Oil and Gas Law with respect to brine and the conversion of wells.
Current Status: 2/21/2019 - Introduced
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-95>
- HB104** **NUCLEAR DEVELOPMENT** (STEIN D) To enact the Advanced Nuclear Technology Helping Energize Mankind (ANTHEM) Act by establishing the Ohio Nuclear Development Authority and the Ohio Nuclear Development Consortium and authorizing tax credits for investments therein.
Current Status: 2/26/2019 - Introduced
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-104>

NEWS RELEASE

February 12, 2019

AEP SIGNS AGREEMENT TO PURCHASE WIND ASSETS FROM SEMPRA

- Company signs agreement to acquire Sempra Renewables business
- Acquisition advances part of planned \$2.2 billion investment by 2023 in contracted renewables

COLUMBUS, Ohio, Feb. 12, 2019 – American Electric Power (NYSE: AEP) today announced that its competitive renewable energy subsidiary has signed an agreement to acquire Sempra Renewables LLC and its 724 megawatts (MW) of operating wind generation and battery assets for approximately \$1.056 billion, including \$551 million in cash, assumption of \$343 million in existing project debt and \$162 million in tax equity obligation. The final acquisition cost will be subject to closing and working capital adjustments.

Sempra Renewables, a subsidiary of Sempra Energy, jointly owns all or part of seven wind farms and one battery installation in seven states. Five of the wind farms are jointly owned with BP Wind Energy. BP Wind Energy will retain its ownership share of those projects.

“Our long-term strategy is focused on diversifying our generation portfolio including expanding our ownership of renewable generation. We targeted \$2.2 billion of capital investment in competitive, contracted renewables by 2023. Adding these high-quality renewable assets to our portfolio will achieve a significant portion of that goal this year. The long-term contracts and attractive returns associated with these existing assets will be immediately accretive to earnings and solidify our projected 5 to 7 percent earnings growth rate. The business also includes a pipeline of development projects that could provide additional value,” said Nicholas K. Akins, AEP chairman, president and chief executive officer.

AEP reaffirms its 2019 operating earnings guidance range of \$4.00 to \$4.20 per share.

The seven operating wind farms have an average capacity factor of 37 percent. They are located in Colorado, Hawaii, Indiana, Kansas, Michigan, Minnesota and Pennsylvania. They all have long-term, power purchase agreements (PPAs) for 100 percent of the energy produced with investment-grade investor-owned utilities, municipal utilities and electric cooperatives. The project PPAs have an average remaining life of 16 years. AEP operating units AEP Ohio, Indiana Michigan Power and Southwestern Electric Power Company have PPAs with two of the wind farms.

AEP expects to finance the acquisition with a combination of debt, equity, and/or equity-linked securities. The transaction is expected to close in the second quarter of 2019 and is subject to approvals from the Federal Energy Regulatory Commission and Hart-Scott-Rodino clearance.

AEP Renewables also recently signed a separate agreement to purchase a 75 percent interest (227 MW) in the Santa Rita East Wind Project currently under construction west of San Angelo, Texas. AEP Renewables will acquire its share of the project upon completion in mid-2019.

AEP's competitive renewable generation portfolio currently includes 351 MW of contracted renewable generation including wind and solar projects in Texas (261 MW wind), California (20 MW solar), Nevada (50 MW solar) and Utah (20 MW solar).

The portfolio will grow to 1,302 MW of renewable generation in 11 states after close of the Sempra transaction and completion of Santa Rita, making AEP the seventh largest utility owner of competitive wind generation in the United States.

AEP has announced a plan to cut its carbon dioxide emissions 60 percent from 2000 emission levels by 2030 and 80 percent from 2000 emission levels by 2050. The company is developing a more balanced portfolio of power generation to help achieve those targets. AEP's generation capacity has gone from 70 percent coal-fueled in 2005 to 47 percent today. Its natural gas capacity increased from 19 percent in 2005 to 28 percent today, and its renewable generation capacity has increased from 4 percent in 2005 to 14 percent today. After closure of the Sempra transaction, AEP's renewable generation portfolio will increase to 16 percent, coal will be 46 percent, natural gas will be 27 percent and nuclear generation will remain the same.

Wells Fargo Securities LLC served as the exclusive financial advisor and Bryan Cave Leighton Paisner served as legal advisor for AEP for the transaction.

More information about the transaction is available at www.aep.com/investors/events.

American Electric Power, based in Columbus, Ohio, is focused on building a smarter energy infrastructure and delivering new technologies and custom energy solutions to our customers. AEP's approximately 18,000 employees operate and maintain the nation's largest electricity transmission system and nearly 220,000 miles of distribution lines to efficiently deliver safe, reliable power to nearly 5.4 million people.



Column: Should legislators help save Ohio nuclear plants? YES: Communities depend on the good jobs and clean fuel

Judd Gregg

Posted Feb 3, 2019 at 4:15 AM

For decades, Ohio communities were built around industries that helped build our country. These days it's a bleaker picture and time is running out for Ohioans to save industries that support communities across the state. Ohio took a gut-punch when General Motors announced that the Mahoning Valley is no longer part of its plans. Amid the fear and confusion, state and local officials and employees and their families are still working hard to preserve two large regional employers along Lake Erie: the state's two nuclear power plants.

To be sure, the electric-power and auto sectors are different. Workers at the financially challenged nuclear power plants produce a commodity — clean, fuel-certain, reliable energy — which a healthy Ohio will always need, while auto buyers want something other than the Chevy Cruze built at Lordstown. But job loss, hardship and loss of hope, either immediate or potential, feels the same for workers and their communities wherever they live.

I've seen the devastating impacts of plant closures when the local Vermont Yankee plant — across the state line from my home state of New Hampshire — closed. Utilities in the surrounding area announced rate increases up to 50 percent in some cases and created a regional dependence on natural gas. The first year after the nuclear facility was shuttered, an additional 3.1 million metric tons of carbon emissions were found in the air supply — the equivalent of adding 650,000 passenger vehicles to the road.

GM's announcement that it will idle the Lordstown plant means approximately 1,600 workers will lose their jobs, the estimated 3,000 auto supplier jobs in the region also could be lost, with a loss of household income certain to be

felt regionwide. Thankfully, the closure of nuclear plants is not something the state has experienced, but the same scale of job losses could occur.

At-risk nuclear plants can be saved with integrated, forward-looking state policies that properly value the nuclear industry's role in Ohio's energy security and environmental integrity. Ohio is facing many challenges, and we need not let nuclear be one of them.

Combined, the Davis-Besse plant near Toledo and the Perry plant near Cleveland generate about 15 percent of Ohio's total electricity and more than 90 percent of its zero-emission electricity. Together, both plants employ more than 1,400 workers. In addition to keeping nuclear power plants running smoothly and safely, these employees are important members of their communities supporting programs such as school mentorship and STEM education.

Nuclear energy is Ohio's most reliable and clean power source, and that is hard to replace once it is gone. Ohio's nuclear power plants contribute more than \$30 million in state and local taxes annually, according to data provided by FirstEnergy. Without that revenue, officials in Ohio would have to decide between raising taxes to finance community services like first responders and infrastructure improvements or scaling those vital programs back. Part of the taxes paid by Ohio's nuclear plants currently goes to the local school districts, which already are struggling with funding issues.

Moreover, closing nuclear power plants will lead to an increase in gross electricity costs for customers by approximately \$400 million, according an April 2018 report by The Brattle Group.

The benefits of nuclear energy are difficult to see and underappreciated because they come in the form of clean air and always-on electricity generation for households across Ohio. But when nuclear power plants close, the disadvantages are like so many others: increased unemployment, declining state revenue and the destruction of local communities.

Please, not again. Ohio has a chance to save these plants and maintain lower-cost energy for all Ohioans and preserve a way of life too often threatened in today's society. The time to take action is now — before it is too late.

Judd Gregg is a member of the Advocacy Council of Nuclear Matters. He is a former governor and senator for the state of New Hampshire.



Column: Should legislators help save Ohio nuclear plants? NO: FirstEnergy bailout would be crony capitalism at its worst

Ken Blackwell

Posted Feb 3, 2019 at 4:00 AM Updated Feb 4, 2019 at 9:19 AM

Crony capitalism is never acceptable and should be always met with public outrage. But more-covert pay-to-play schemes that affect Ohio's long-term economic health are particularly egregious. Take for instance the campaign-contributions scheme from FirstEnergy Solutions over the past year. While transactions to more than a dozen of Ohio policymakers may seem normal to the average voter, recent activity in Columbus reveals a much more calculated operation that seemingly puts FirstEnergy's nuclear agenda ahead of Ohio's future.

In April 2018, FirstEnergy Solutions filed for bankruptcy in the wake of massive financial problems arising from the company's competitive power-generation fleet. The company announced it would shut down its Ohio nuclear plants over a three-year period because continued operation wasn't profitable. FirstEnergy had been unsuccessfully pursuing bailouts from the Public Utilities Commission of Ohio since 2014 and seeking a nuclear subsidy in the legislature since 2016 without success.

So it scrambled desperately for a lifeline, hatching a plan to offer sizable campaign donations to candidates hoping to gather up political allies to support its demand for \$300 million a year to keep its plants operational.

What did FirstEnergy cough up for its legislative lifeline? For starters, the company gave \$172,000 in total to Ohio House candidates, many of whom had no legislative or energy-industry experience. It also donated \$565,000 to the Republican Governors Association, an amount more than five times what the company gave to Governor Mike DeWine's Democratic counterpart.

We can clearly see the pay, but what exactly was the play? Conveniently, on the first day of the new General Assembly a standing committee on power generation was established, setting the stage to justify passage of a

nuclear bailout and help out FirstEnergy. Additionally, FirstEnergy recently announced a debt-restructuring agreement with its creditors. Not coincidentally, this surprise development came on the tails of securing state-lawmaker support to bail out FirstEnergy.

This situation is pay-to-play politicking at its worst, flying in the face of the new administration's promises to be the most innovative administration in Ohio's history. Part of an innovation agenda should include rejecting political favoritism toward uncompetitive and less technologically advanced nuclear power plants. Ohioans need to know that FirstEnergy's attempt to influence a bailout for its failing nuclear plants isn't just bad ethics. It's also awful public policy.

Incidentally, natural gas is fueling jobs and consumer cost savings across America. This is especially true in Ohio, home to the fourth most (by mileage) natural-gas pipelines in the country and 24 natural-gas storage fields that play a key role in ensuring we can efficiently supply the electric grid.

In the Buckeye State, the natural-gas industry sustains 262,000 jobs, billions in wages and millions in tax revenue. In contrast, Ohio only has two nuclear plants with just 4,270 total estimated jobs. Customers nationally benefit significantly from this natural-gas boom, too, saving an estimated average \$1,000 per household by 2020.

The future of energy is changing and natural gas is leading the way. Allowing political manipulation in our state legislature to create public policy that declares the opposite serves only to put Ohio on a path toward the past, not the future. Allowing this pay-to-play scheme to go unchecked also would saddle Ohio's electricity customers with hundreds of millions in costs they don't need to pay.

It would be easy to simply charge Ohio's electricity customers a surcharge to prop up FirstEnergy's nuclear plants. But this new administration should reject the FirstEnergy-backed bailout bill. Instead, it should keep its promise to Ohio voters to keep our state moving forward. After all, implementing bad public policy based on political donations is crony capitalism at its worst. Ohio has had enough of that.

Ken Blackwell is a former Ohio secretary of state, state treasurer and mayor of Cincinnati. He serves on the boards of directors of the National Taxpayers Union and the Club For Growth.

THE BLADE

FEB 1, 2019

New House speaker says saving nuclear plants benefits state



JIM PROVANCE
Blade Columbus Bureau Chief
jprovance@theblade.com

COLUMBUS — New House Speaker Larry Householder (R., Glenford) on Friday voiced support for preserving Ohio's two nuclear power plants as state assets and recognized the narrow window of time to get a rescue plan in place.

"We generate a tremendous amount of zero emissions energy in this state," he said. "And we've got to decide whether we're willing to give that up or whether we're going to try to work to keep that energy source here."

FirstEnergy Solutions, now in bankruptcy court, has said it will close its nuclear power plants on the shores of Lake Erie — the Davis-Besse plant in Ottawa County and the Perry plant east of Cleveland. They've been unable to compete economically with cheap and abundant natural gas as well as increasing access to renewable sources such as wind and solar power.

One of Mr. Householder's top priorities as the newly elected leader of the Republican-controlled House is to create a subcommittee dedicated to energy generation issues in the state. Those issues would also include whether to continue current mandates in state law that utilities find more of their power from renewable sources.

Akron-based FirstEnergy Corp. and its marketing spinoff FirstEnergy Solutions have come up empty in attempts to convince lawmakers to save the plants.



The Ohio Clean Energy Jobs Alliance — consisting of representatives of local government, schools, economic development groups, skilled trade unions, and businesses — has pushed to put the issue in front of the new two-year legislative session.

It's an issue for the state, not just the lakefront communities where the plants are located, Mr. Householder said while meeting with Statehouse reporters.

"I think it's a benefit to the entire state of Ohio to have those non-emission plants," he said. "I think we all benefit from Cincinnati to Cleveland to Toledo to Ironton."

Past discussions about requiring electricity customers to pay for more expensive nuclear power to keep the plants humming have gone nowhere.

Davis-Besse, Ottawa County's largest employer with about 700 workers, is slated to close no later than May 31, 2020 absent intervention from an outside buyer or a rescue plan from the state. Perry and FES' twin-reactor Beaver Valley complex over the Pennsylvania line are phased out before the end of 2021.

"I'm a business person," Mr. Householder said. "I'm no fool. There's a huge investment that's been made on those nuclear plants. You have to look at the whole picture, too — the number of jobs that they provide, the fact that zero emissions allow frankly a lot of our factories that we have in the state to continue the way they continue today ..."

"Look at the school systems alone," he said. "If those plants close down, it affects every single school district in the state of Ohio, because we're going to have to fund them. And when you take money away to pay for something else, it's going to impact all of the rest of the school districts."

First Published February 1, 2019, 3:59pm



MEMORANDUM

Date: February 27, 2019
To: The Ohio Manufacturers' Association
From: Jordan Nader & John Seryak, PE (RunnerStone, LLC)
RE: Review of The Brattle Group Report, "Impacts of Announced Nuclear Retirements in Ohio and Pennsylvania"

In April 2018, The Brattle Group published a report at the request of Nuclear Matters on the impact of announced nuclear retirements in Ohio and Pennsylvania. This report was published after FirstEnergy Solutions made an appeal to the U.S. Department of Energy under Section 202(c) of the Federal Power Act on March 29, 2018¹ and after FirstEnergy Solutions filed for Chapter 11 bankruptcy on March 31, 2018². In this report, the authors outline multiple reasons that they believe justify state and/or federal subsidies to continue operating uneconomic nuclear power plants in Ohio and Pennsylvania.

The plants in question are Davis-Besse, Perry, Beaver Valley, and Three Mile Island, of which FirstEnergy Nuclear Generation, a former subsidiary of FirstEnergy Solutions³, owns the first three and Exelon Nuclear owns the fourth. All four plant owners have announced plant retirements within the next three years due to uneconomic operations^{4,5}. Indeed, PJM's independent market monitor (IMM), Monitoring Analytics, noted in *2018 Quarterly State of the Market Report for PJM: January through March* that of the 19 nuclear plants within PJM, six to nine "did not recover their avoidable costs in two of the last three years." The IMM went on to indicate that based on known forward-looking pricing, "four nuclear plants would not cover their annual avoidable costs on average over the next three years (2018 through 2020)." Included in that tally were Three Mile Island, Davis-Besse, and Perry⁶. In addition, PJM reiterated after running reliability analyses for the requested deactivation time frames that "the lights aren't going to go out; There's not a reliability problem⁷."

These findings indicate that the market system upon which Ohio relies to procure, supply, and create capacity is functioning for the purpose of providing Ohioans with efficient electricity pricing. In contrast, The Brattle Report claims focus primarily on the value of these four specific nuclear

¹ <https://www.utilitydive.com/news/firstenergy-asks-doe-for-emergency-action-to-save-pjm-coal-nuke-plants/520280/>

² <https://cases.primeclerk.com/FES/Home-Index>

³ <https://www.bloomberg.com/research/stocks/private/snapshot.asp?privcapid=27084474>

⁴ <https://www.prnewswire.com/news-releases/firstenergy-solutions-files-deactivation-notice-for-three-competitive-nuclear-generating-plants-in-ohio-and-pennsylvania-300621346.html>

⁵ <http://www.exeloncorp.com/newsroom/exelon-to-retire-three-mile-island-generating-station-in-2019>

⁶ https://www.monitoringanalytics.com/reports/PJM_State_of_the_Market/2018/2018q1-som-pjm.pdf

⁷ <https://www.craigslist.com/article/20170622/news/170629944/regardless-whether-firstenergy-nuke-plants-receive-subsidies>

plants, while ignoring the value of competitive markets to provide the most efficient price of electricity for consumers. Prior to addressing The Brattle Report’s three primary arguments, it is important to note that the original model of the analysis was based on the “entire Eastern Interconnection” and was not focused on the impacts to Ohio specifically. This suggests a degree of generalization that may overstate or understate the value of results of their model due to its original applicability to a much larger geographic area than PJM. The three primary arguments made in the report are:

- A significant amount of CO₂ emissions are avoided annually due to the operation of nuclear generators;
- Current rates of renewable additions are not high enough to offset the CO₂-less generation that would fill the hole left by these nuclear plants closing; and
- Electricity prices will rise if these nuclear plants were to retire.

The first point, while true, ignores the fact that Ohio’s electric generation emissions have been falling steadily since 2005, at an annual rate of 4.95 million metric tons of CO₂ for an absolute reduction of 51.98 million metric tons of CO₂⁸, a 39.2% drop. The report asserts that the emissions avoided from these nuclear plants are worth \$921 million per year, based on an approximate output of 39 million MWh. This would equate to approximately \$44/metric ton CO₂ which is a significantly higher valuation than that of a recent auction carried out by the Regional Greenhouse Gas Initiative (RGGI) of \$5.35/ metric ton of CO₂.

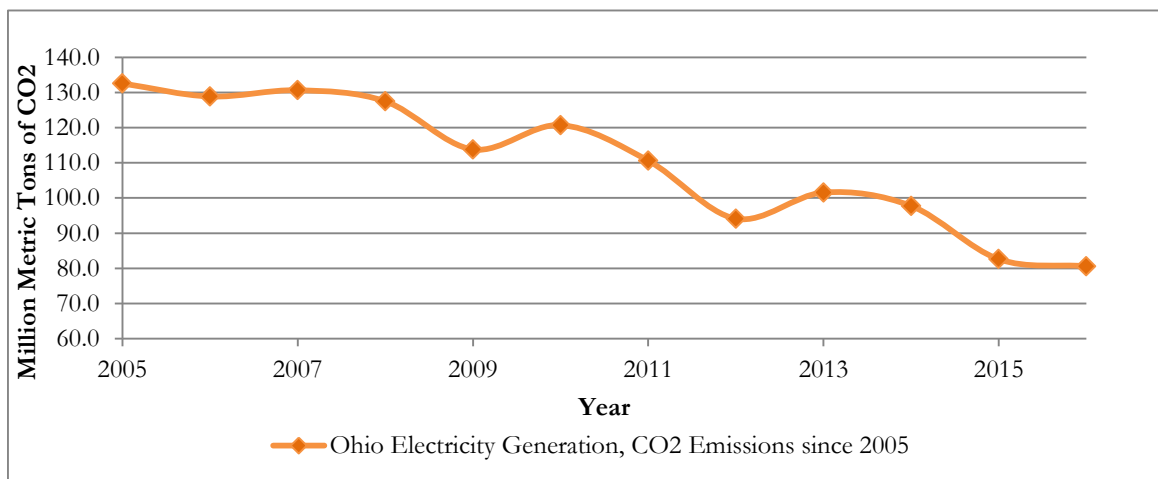


Figure 1: Ohio Electricity Generation, CO₂ Emissions since 2005

Secondly, the report makes the assumption that should these plants retire, the markets in which they operate will not respond accordingly. That is, it assumes that no individual power producer would see an opportunity in increased capacity costs to develop new renewable energy products. As a result, the report authors assume that the implementation rate of wind and solar resources in 2018

⁸ <https://www.eia.gov/environment/emissions/state/analysis/>



would remain the same in future years. This ignores that PJM markets are designed to encourage investment in future generation and thus would provide an incentive to increase the current rate of renewable energy resource adoption. In contrast to the report's assumptions, it is reasonable to expect that more generation resources, including low- to no-carbon resources, would enter the market, and, the rate of new renewable energy additions has been increasing with time. Moreover, the report authors compare the total CO₂ emissions of wind and solar to nuclear, but do not include hydroelectric plants in their emissions comparison, which they acknowledge would bring the value of 'zero-emissions' generation from existing renewables much closer to nuclear generation.

Finally, the combined sector cost of electricity in Ohio during November 2018 was \$0.0973/kWh according to the EIA⁹. At the same time, the report claims that without these nuclear plants, prices would rise \$0.00243 in Ohio, which represents a less than 2.5% increase assuming that no other generator entered PJM's market in order to take advantage of the exceptionally small increase in wholesale capacity and energy market value. This degree of change in prices presumes a high degree of rigidity within the consumer class and that deployment of distributed generation resources by customer-generators will not accelerate in any way. The report does not in any way address what the potential cost of a state and/or federal nuclear subsidy to ratepayers would be, so that a cost/benefit analysis cannot be made.

The key takeaway is that The Brattle Report supports a technology over a technology-neutral regulatory system that has served Ohioans for nearly a decade. Additionally, the authors rely on previous work and apply it too narrowly to these specific plants. And finally, the evidence that reliability will not be compromised and the lights will still turn on exists and is validated by PJM.

⁹ https://www.eia.gov/electricity/monthly/epm_table_grapher.php?t=epmt_5_6_a



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

OCT 30 2018

United States Environmental Protection Agency
EPA Docket Center
Attn: Docket ID No. EPA-HQ-OAR-2017-0355

RE: Ohio EPA Comments on U.S. EPA's August 31, 2018 Proposed "Emission Guidelines for Greenhouse Gas Emissions from Existing Electric Utility Generating Units; Revisions to Emission Guideline Implementing Regulations; Revisions to New Source Review Program" [83 FR 44746]

Dear Acting Administrator Wheeler:

The Ohio Environmental Protection Agency (Ohio EPA) appreciates the opportunity to comment on the above referenced U.S. EPA proposed rulemaking regarding Clean Air Act (CAA) Section 111(d) to address greenhouse gas emissions from existing fossil fuel-fired electric generating units (EGUs). U.S. EPA previously finalized an emission guideline under this CAA Section 111(d) for these sources commonly referred to as the Clean Power Plan (CPP). Ohio EPA submitted comments indicating substantial concerns with the proposed CPP on December 1, 2014.¹ U.S. EPA proposed to repeal the CPP on October 16, 2017. [82 FR 48035] Ohio EPA supported such a repeal and provided comments on the proposal on April 25, 2018. And lastly, U.S. EPA provided an advanced notice of this proposed rulemaking (ANPRM) with an opportunity to comment on December 28, 2017. [82 FR 61507] Ohio EPA submitted comments on the ANPRM on February 26, 2018.

The CPP called for the unprecedented overhaul of the power generation, transmission and distribution system to limit carbon dioxide emissions by the federal government under the stationary source control program of CAA Section 111(d). Ohio disagreed with the legal underpinnings of this plan and we support the proposed changes that align the program

¹ Ohio EPA's comments on the proposed repeal does not include all the comments it made on the original proposal (docket ID No. EPA-HQ-OAR-2013-0602) and Ohio EPA does not waive any of the comments previously made that are not repeated here.

with the congressional intent of the CAA. In addition, wholly without intervention from the federal government, Ohio is undergoing a transformation in the energy and electric sector that is market driven. For example, Ohio's generation mix is being positively influenced by shale gas, renewables and energy efficiency which is keeping costs low, as well as reducing emissions. This is being accomplished without additional regulatory burden or other regulatory drivers. Specifically, Ohio utilities have reduced carbon dioxide emissions from electric generation by 38% from 2005 levels without a federal mandate or a multistate agreement.

Make no mistake, Ohio believes we have an obligation to be good stewards of the environment by having an energy policy that is protective of public health and air quality. Ohio EPA requests that U.S. EPA proceed to replace the CPP with ACE. Ace is, in our opinion, lawful, technically sound, and workable and will help Ohio continue to achieve our goal to protect Ohioans and the air we breathe. This is an opportunity for U.S. EPA to correct the significant flaws and illegality of the CPP. Please find attached our comments on the proposed rulemaking to replace the CPP with the Affordable Clean Energy (ACE) rule.

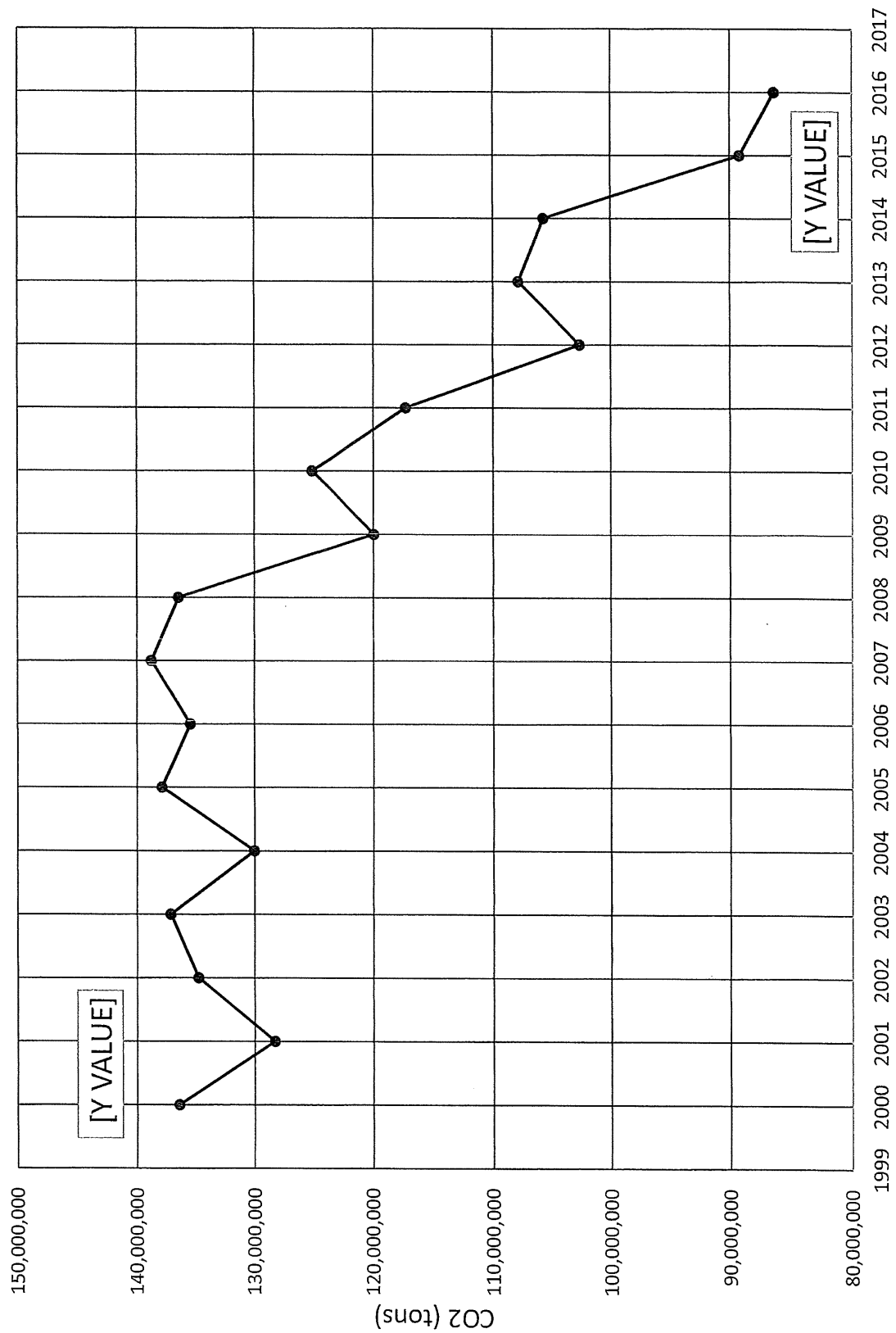
Sincerely,

A handwritten signature in black ink, appearing to read "Craig W. Butler". The signature is fluid and cursive, with the first name "Craig" being the most prominent.

Craig W. Butler
Director, Ohio EPA

Cc: Robert Hodanbosi, Chief, Ohio EPA Division of Air Pollution Control

Ohio EGU CO2 Emissions: All Fuels



LAZARD'S LEVELIZED COST OF ENERGY ANALYSIS—VERSION 12.0

LAZARD

Introduction

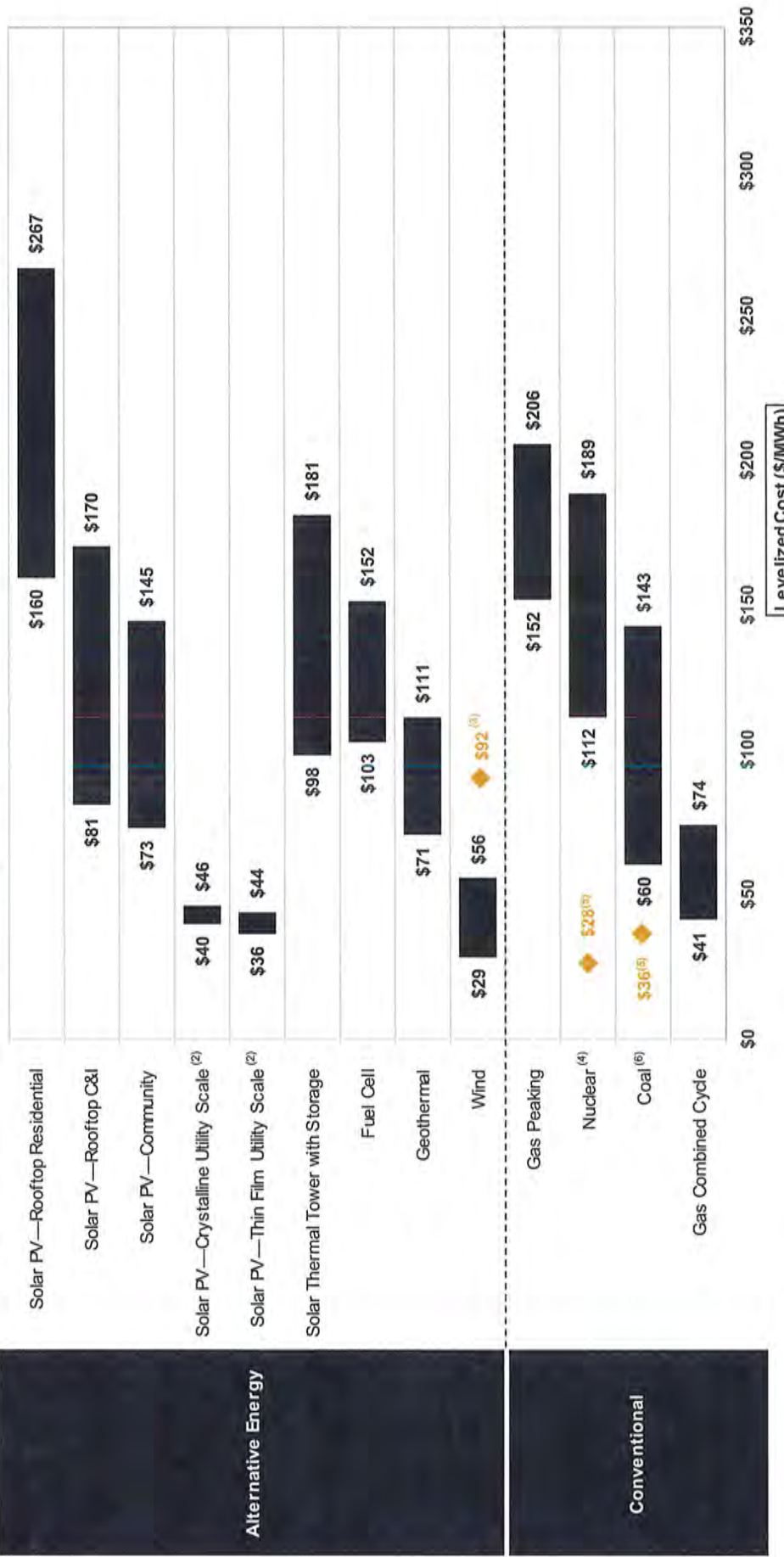
Lazard's Levelized Cost of Energy ("LCOE") analysis addresses the following topics:

- Comparative LCOE analysis for various generation technologies on a \$/MWh basis, including sensitivities, as relevant, for U.S. federal tax subsidies, fuel prices and costs of capital
- Illustration of how the LCOE of wind and utility-scale solar compare to the marginal cost of selected conventional generation technologies
- Historical LCOE comparison of various utility-scale generation technologies
- Illustration of the historical LCOE declines for wind and utility-scale solar technologies
- Illustration of how the LCOE of utility-scale solar compares to the LCOE of gas peaking and how the LCOE of wind compares to the LCOE of gas combined cycle generation
- Comparison of assumed capital costs on a \$/kW basis for various generation technologies
- Decomposition of the LCOE for various generation technologies by capital cost, fixed operations and maintenance expense, variable operations and maintenance expense and fuel cost, as relevant
- A methodological overview of Lazard's approach to our LCOE analysis
- Considerations regarding the usage characteristics and applicability of various generation technologies
- An illustrative comparison of the cost of carbon abatement of various Alternative Energy technologies relative to conventional generation
- Summary assumptions for Lazard's LCOE analysis
- Summary of Lazard's approach to comparing the LCOE for various conventional and Alternative Energy generation technologies

Other factors would also have a potentially significant effect on the results contained herein, but have not been examined in the scope of this analysis. These additional factors, among others, could include: import tariffs; capacity value vs. energy value; stranded costs related to distributed generation or otherwise; network upgrade, transmission, congestion or other integration-related costs; significant permitting or other development costs, unless otherwise noted; and costs of complying with various environmental regulations (e.g., carbon emissions offsets or emissions control systems). This analysis also does not address potential social and environmental externalities, including, for example, the social costs and rate consequences for those who cannot afford distributed generation solutions, as well as the long-term residual and societal consequences of various conventional generation technologies that are difficult to measure (e.g., nuclear waste disposal, airborne pollutants, greenhouse gases, etc.)

Levelized Cost of Energy Comparison—Unsubsidized Analysis

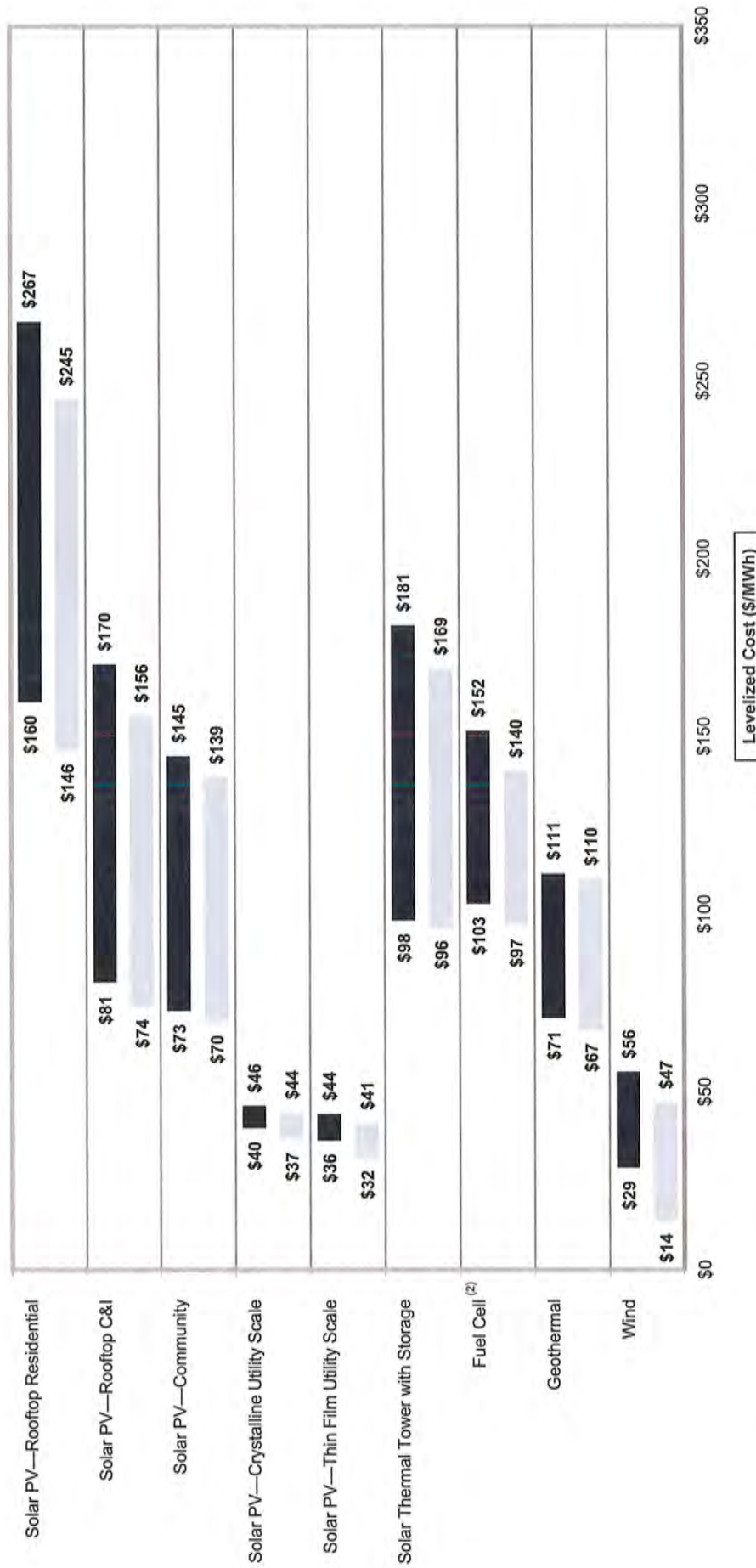
Certain Alternative Energy generation technologies are cost-competitive with conventional generation technologies under certain circumstances⁽¹⁾



Source: Lazard estimates.
 Note: Here and throughout this presentation, unless otherwise indicated, the analysis assumes 60% debt at 8% interest rate and 40% equity at 12% cost. Please see page titled "Levelized Cost of Energy Comparison—Sensitivity to Cost of Capital" for cost of capital sensitivities.
 Such observation does not take into account other factors that would also have a potentially significant effect on the results contained herein, but have not been examined in the scope of this analysis. These additional factors, among others, could include: import tariffs; capacity value vs. energy value; stranded costs related to distributed generation or otherwise; network upgrade, transmission or other integration-related costs; significant permitting or other development costs, unless otherwise noted; and costs of complying with various environmental regulations (e.g., carbon emissions offsets or emissions control systems). This analysis also does not address potential social and environmental externalities, including, for example, the social costs and rate consequences for those who cannot afford distribution generation solutions, as well as the long-term residual and societal consequences of various conventional generation technologies that are difficult to measure (e.g., nuclear waste disposal, airborne pollutants, greenhouse gases, etc.).
 Unless otherwise indicated herein, the low end represents a single-axis tracking system and the high end represents a fixed-tilt design.
 Represents the estimated implied midpoint of the LCOE of offshore wind, assuming a capital cost range of approximately \$2.25 – \$3.60 per watt.
 Unless otherwise indicated, the analysis herein does not reflect decommissioning costs or the potential economic impacts of federal loan guarantees or other subsidies.
 Represents the midpoint of the marginal cost of operating fully depreciated coal and nuclear facilities, inclusive of decommissioning costs for nuclear facilities. Analysis assumes that the salvage value for a decommissioned coal plant is equivalent to the decommissioning and site restoration costs. Inputs are derived from a benchmark of operating, fully depreciated coal and nuclear assets across the U.S. Capacity factors, fuel, variable and fixed operating expenses are based on upper and lower quartile estimates derived from Lazard's research. Please see page titled "Levelized Cost of Energy Comparison—Alternative Energy versus Marginal Cost of Selected Existing Conventional Generation" for additional details.
 Unless otherwise indicated, the analysis herein reflects average of Northern Appalachian Upper Ohio River Barge and Pittsburgh Seam Rail coal. High end incorporates 90% carbon capture and compression. Does not include cost of transportation and storage.

Levelized Cost of Energy Comparison—Sensitivity to U.S. Federal Tax Subsidies⁽¹⁾

Given the extension of the Investment Tax Credit (“ITC”) and Production Tax Credit (“PTC”) in December 2015 and resulting subsidy visibility, U.S. federal tax subsidies remain an important component of the economics of Alternative Energy generation technologies



Source: Lazard estimates.

Note: The sensitivity analysis presented on this page also includes sensitivities related to the U.S. Tax Cuts and Jobs Act (“TCJA”) of 2017. The TCJA contains several provisions that impact the LCOE of various generation technologies (e.g., a reduced federal corporate income tax rate, an ability to elect immediate bonus depreciation, limitations on the deductibility of interest expense and restrictions on the utilization of past net operating losses). On balance, the TCJA reduced the LCOE of conventional generation technologies and marginally increased the LCOE for Alternative Energy technologies.

(1) The sensitivity analysis presented on this page assumes that projects qualify for the full ITC/PTC and have a capital structure that includes sponsor equity, tax equity and debt.

(2) The ITC for fuel cell technologies is capped at \$1,500/0.5 kW of capacity.

CARPENTER LIPPS & LELAND LLP

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

MEMORANDUM

TO: Ohio Manufacturers' Association Energy Group

FROM: Kim Bojko, Carpenter Lipps & Leland LLP

DATE: November 27, 2018

SUBJECT: Supreme Court of Ohio Blesses Subsidies to AEP Ohio for the OVEC Coal Plants.

Today, the Supreme Court of Ohio denied two appeals relating to recovery from customers by the Ohio Power Company (AEP Ohio) of costs associated with the Ohio Valley Electric Corporation's (OVEC) generating plants. In an unfortunate anti-competitive decision, the Court affirmed the Public Utilities Commission of Ohio's (PUCO) ruling that approved customer-paid subsidies to AEP-Ohio for its OVEC generating plants. Specifically, over the appeals of OMAEG and the Office of the Ohio Consumers' Counsel, the Court authorized AEP Ohio's third electric security plan (ESP) and allowed AEP Ohio to implement a Power Purchase Agreement Rider (PPA Rider), which includes cost recovery for the OVEC generating plants. In doing so, the Court determined that the PPA Rider, which either charges or credits customers based on how OVEC's costs compare to the market, is permissible under Ohio law and was properly approved by the PUCO.

OMAEG opposed this rider because it is paid for by captive distribution customers and is related to AEP Ohio's ownership stake in a competitive generating facility. Instead of recognizing this as a subsidy to AEP Ohio for its ownership interest in competitive generation, the Court agreed with the claim, advanced by AEP Ohio and the PUCO, that the PPA Rider satisfies the statutory requirements as it will provide customers with rate stability and is, therefore, a rate stability charge that acts as a financial hedge. The Court also ignored its prior rulings and concluded that the PPA Rider was not an unlawful transition charge. The Court failed to recognize that the PPA Rider does not benefit customers and is counter to the state policy of avoiding anticompetitive subsidies and advancing competitive markets.

This decision means that AEP Ohio (as well as other utilities) will be able to continue charging customers for the OVEC generating plants through May 31, 2024. Although the PUCO found that even though the PPA Rider would operate as a charge initially, it would eventually become a credit to customers and customers would receive a projected net credit of \$110 million. The PUCO anticipated the PPA Rider to become a credit by 2019. Although we are quickly approaching 2019, the PPA Rider remains a charge to customers and the purported credit remains illusory.

The Court's acceptance of the PUCO's interpretation of the ESP statute and rationalization of how a charge to customers for costs associated with old coal plants will somehow stabilize rates in the competitive retail market, act as a financial hedge to customers, and provide benefits to customers renders the state policy envisioned by the General Assembly to support competitive markets meaningless. It also deprives customers of the protections embedded in the 1999 restructuring law. In order to foster competitive markets envisioned by the restructuring law and protect customers from above-market charges, the ESP provisions added to the law through Senate Bill 221 must be eliminated—reform is necessary. HB 247 is the perfect vehicle to correct the errors that occurred today and to protect customers from subsidizing monopoly utility companies.

House Energy and Natural Resources

- [House Energy and Natural Resources Agendas and Reports](#)
- [Bills Pending in House Energy and Natural Resources](#)
- **NEXT MEETING:** No meeting currently scheduled.
- **BILLS TO BE HEARD:**

[Representative Nino Vitale](#) (Chair)

85
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[Representative Brian Baldrige](#)

[Representative David Leland](#)



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SENATE Energy and Public Utilities Committee

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Senator Sean J. O'Brien

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TO: OMA Government Affairs Committee
FROM: Ryan Augsburger / Rob Brundrett
RE: Environment Public Policy Report
DATE: March 6, 2019

Overview

Long time Ohio EPA staffer Laurie Stevenson was appointed to the lead the agency by new Governor Mike DeWine in January. Ohio EPA is expected to be the point agency during operating budget discussions regarding Ohio water quality and Lake Erie. The DeWine administration is expected to take a different approach to Lake Erie and the algal bloom issues than the previous administration. Governor DeWine has said Lake Erie remains one of his top priorities as Governor.

General Assembly News and Legislation

Senate Bill 2 – Statewide Watershed Planning

The bill creates and funds a comprehensive statewide watershed planning structure to be implemented by local soil and water conservation districts to encourage efficient crop growth, soil conservation and water protection methods.

Senate Bill 50 – Increase Solid Waste Disposal Fee

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

Toledo Passes Lake Erie Bill of Rights – Choppy Waters Ahead

In a February 26, 2019 special election, Toledo's voters passed the Lake Erie Bill of Rights (the LEBOR). The LEBOR is an amendment to the City of Toledo's Charter that creates a new cause of action for the violation of the right of Lake Erie and its watershed to "exist, flourish, and naturally evolve."

The LEBOR initiative is similar to many other community rights proposals that seek to establish rights for natural resources that citizens can protect through legal action.

The corporations or entities that could be impacted by the LEBOR's enactment range far and wide. Generally, companies that have an Ohio EPA issued water discharge permit authorizing them to discharge into surface waters within the Lake Erie watershed could be affected.

On February 27th, Drewes Farm Partnership v. City of Toledo was filed in federal court in Toledo, asserting many challenges to the LEBOR, including the argument that the LEBOR exceeds Toledo's limited authority to pass legislation and is in violation of state and federal preemption laws. The Drewes case seeks a preliminary injunction to stop the LEBOR going into effect before its defects are litigated.

These, and other legal challenges, are anticipated in the near future, with industry groups, agricultural interest groups, and businesses all interested in challenging the LEBOR for its overreach and broad declarations.

Regulations

OMA Comments on Ohio EPA Biocriteria

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

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

Ohio EPA Proposes New TMDL Rules

Ohio EPA proposed amendments to three Implementation of Water Quality Standards (Modeling) Program Rules in Ohio Administrative Code Chapter 3745-2:

3745-2-04: Determinations preliminary to development of water quality-based effluent limitations

3745-2-10: Waste load allocation for ammonia-nitrogen toxicity

3745-2-12: Total maximum daily loads

These rules are being proposed in order to comply with the five-year rule review requirement and to incorporate revisions consistent with new requirements for Total Maximum Daily Load (TMDL) limits passed in last year's state budget bill.

That bill specifically requires the agency to adopt rules that establish procedures for providing notice to stakeholders and criteria for determining significant public interest in TMDL development.

OMA Comments on Ohio EPA Large River Nutrient Rule

The OMA submitted comments on Ohio EPA's Early Stakeholder Outreach (ESO) — Nutrient Water Quality Standards for Ohio's Large Rivers (OAC 3745-1-36).

This would be a new rule intended to contain Ohio's standards for eutrophication endpoints in Ohio's Large River Assessment Units. Large rivers are those that drain over 500 mi².

This new proposed rule would establish nutrient standards for these large rivers. In addition, a target phosphorus concentration is being considered for river segments that are over-enriched as demonstrated by the standard.

OMA's comments dove into the technical aspects of the proposal and questioned portions of the ESO. OMA requested that Ohio EPA convene a stakeholder group to provide interested-party feedback, expert support, and industry analysis as part of the rulemaking process for this important nutrient rule.

OMA also submitted more general comments in conjunction with the Ohio AgriBusiness Association.

Thank you to the member companies which submitted comments on this issue. And thank you to the OMA nutrient working group members for your help and feedback with the comments.

Ohio EPA Announces Final Rule for Hazardous Waste Wipes and Apparel Exclusion

Last fall, Ohio EPA announced via public notice a final rule for hazardous waste wipes and apparel exclusions. The final rule concerns an Ohio-specific rule to conditionally exclude

contaminated wipes and apparel (that are not currently excluded under the solvent wipe rule) from regulation under the hazardous waste regulations when certain conditions are met.

The apparel would include, but not be limited to, gloves, uniforms, smocks, and coveralls that are laundered and intended for reuse.

OMA sent in several sets of comments during the rulemaking process including this final set of comments submitted in July. The EPA improved the rule from its initial draft, but the rule is still more complicated than it need be.

Ohio EPA Agency News

Stevenson Named Ohio EPA Director

In January, Governor-elect Mike DeWine appointed Laurie Stevenson as the new director of Ohio EPA. Stevenson, who has worked for the agency for more than 20 years in various capacities, most recently held the position of Deputy Director of Business Relations. In that role she served as the front door of the agency, working closely with the regulated community including manufacturers.

Stevenson also lead the agency's E3 Sustainability Awards program, which was started under outgoing director Craig Butler.

Director Stevenson has been a longtime friend of the OMA and has presented to our Environment Committee and at other OMA events dozens of times over the years. We are excited to work with Laurie, and her team, in her new role at Ohio EPA.



February 4, 2019

Attn: Rule Coordinator
Ohio EPA, Division of Surface Water
P.O. Box 1049
Columbus, Ohio 43216-1049
Via Email (dsw_rulecomments@epa.ohio.gov)

Re: Early Stakeholder Outreach: Application of Biological Survey Data to Development of Water Quality Based Effluent Limitations (OAC 3745-2-03)

Dear Rule Coordinator:

The Ohio Manufacturers' Association (OMA) is dedicated to protecting and growing manufacturing in Ohio. The OMA represents over 1,300 manufacturers in every type of manufacturing industry across Ohio. For more than 100 years, the OMA has supported reasonable, necessary, and transparent environmental regulations that promote the health and well-being of Ohio's citizens. We appreciate the opportunity to comment on the Early Stakeholder Outreach on the Application of Biological Survey Data to Development of Water Quality Based Effluent Limitations (OAC 3745-2-03).

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

Biocriteria is a significant issue to many of our members and Ohio manufacturers at large. Therefore, we look forward to providing our perspectives as the rulemaking process proceeds. We will submit formal comments when the agency provides its detailed proposal.

We appreciate the opportunity to convey our interest in the topic and look forward to being involved in Ohio EPA's rulemaking process on this subject. We welcome the opportunity to work with Ohio EPA to create a mutually acceptable approach to this issue.

As Ohio EPA develops biocriteria rules or convenes work groups or interested-party meetings, please include the OMA in these developments, including me and OMA's

environmental counsel Frank L. Merrill of Bricker & Eckler. We look forward to working with Ohio EPA on this issue.

Sincerely,

A handwritten signature in blue ink that reads "Rob Brundrett". The signature is written in a cursive style with a blue highlight effect.

Rob Brundrett
Director, Public Policy Services



Laurie A. Stevenson, Director

In Jan. 2019, Governor Mike DeWine appointed Laurie A. Stevenson as director of the Ohio Environmental Protection Agency. She most recently served as Deputy Director for Business Relations where she served as a primary contact for regulated entities to help coordinate permitting activities within the Agency, particularly for complex projects requiring multiple permits. She also served as chief of Ohio EPA's Division of Environmental and Financial Assistance. DEFA provides financial and technical assistance to businesses and communities to help achieve compliance with the environmental regulations.

A public servant of 29 years, she previously served as the industrial liaison in the Director's Office and managed Ohio EPA's Small Business Assistance Office (SBAO). She held previous positions in Ohio EPA's Division of Hazardous Waste Management, starting in the Southeast District Office as a hazardous waste field inspector.

Laurie earned a B.S. in Environmental Health from Bowling Green State University and an M.S. in Public Health from The Ohio State University.

Environment

Toledo Passes Lake Erie Bill of Rights – Choppy Waters Ahead **March 1, 2019**

In a February 26, 2019 special election, Toledo's voters passed the **Lake Erie Bill of Rights** (the LEBOR). The LEBOR is an amendment to the City of Toledo's Charter that creates a new cause of action for the violation of the right of Lake Erie and its watershed to "exist, flourish, and naturally evolve."

The LEBOR initiative is similar to many other community rights proposals that seek to establish rights for natural resources that citizens can protect through legal action.

The corporations or entities that could be impacted by the LEBOR's enactment range far and wide. Generally, companies that have an Ohio EPA issued water discharge permit authorizing them to discharge into surface waters within the Lake Erie watershed could be affected.

On February 27th, ***Drewes Farm Partnership v. City of Toledo*** was filed in federal court in Toledo, asserting many challenges to the LEBOR, including the argument that the LEBOR exceeds Toledo's limited authority to pass legislation and is in violation of state and federal preemption laws. The Drewes case seeks a preliminary injunction to stop the LEBOR going into effect before its defects are litigated. These, and other legal challenges, are anticipated in the near future, with industry groups, agricultural interest groups, and businesses all interested in challenging the LEBOR for its overreach and broad declarations.

More information can be found in this **memorandum** from OMA environmental counsel Bricker & Eckler LLP. 2/28/2019

Ohio EPA Offers Compliance Help with Conditional Exemption for Hazardous Waste Contaminated Wipes and Apparel **March 1, 2019**

The Ohio EPA has established a **web page** to help manufacturers interested in taking advantage of the recently introduced conditional exemption for hazardous waste contaminated

wipes and apparel that are laundered and returned for reuse.

The exemption includes – but is not limited to – rags, mops, drop cloths, and apparel (for example, gloves, uniforms, smocks and coveralls), which can be made of woven or unwoven and natural or synthetic materials (fabric, leather or rubber-like material).

Because many of these contaminated textiles are intended to be cleaned onsite or sent to a laundry or similar facility for cleaning, they may be excluded from the hazardous waste regulations provided the facility that generated the material meets all conditions of the exclusion. 2/28/2019

Water Takes Priority in the Senate **February 22, 2019**

Senate Bill 2 introduced by Senators **Bob Peterson** (R-Sabina) and **Matt Dolan** (R-Chagrin Falls) focuses on improving the health of Lake Erie and Ohio's waters.

The **bill** creates and funds a comprehensive statewide watershed planning structure to be implemented by local soil and water conservation districts to encourage efficient crop growth, soil conservation and water protection methods.

Governor DeWine has indicated that his state budget would take a comprehensive look at Lake Erie and ways to reduce the impacts of agricultural runoff and the resulting nutrient loading of Lake Erie.

OMA members remain heavily involved in water quality issues and are working to protect manufacturers' interests in any Ohio water quality plan. If you are interested in water issues, please contact OMA's **Rob Brundrett**. 2/21/2019

Reminder: EPA Reports Due Soon **February 22, 2019**

A number of Ohio EPA reports are due in the first half of 2019. Ohio EPA sent letters on January 30th to regulated facilities to remind them of these annual reporting requirements. The reports coming due in April include:

- Annual Emissions Report, due April 15

- Title V Compliance Certification, due April 30
 - Quarterly Compliance Report, due April 30
- If you need assistance, please use these links and contacts:

- **Emissions Reporting Guidance & Training**
- **Training Videos**
- **Customer Support Center FAQ** – Search for answers or ask new questions
- Air Services Access: **Linda Lazich**, (614) 644-3626
- Air Services Software Support, Emissions Reporting or Facility Profile: **Safaa El-Oraby**, (614) 644-3571
- eBusiness Center PIN or Password: eBiz Helpdesk, (877) 372-2499
2/21/2019

OMA Sits Down with Ohio EPA Leadership
February 15, 2019



This week OMA President Eric Burkland and Public Policy Director Rob Brundrett sat down with the new **Ohio EPA Director Laurie Stevenson** and Assistant Director Laura Factor. Director Stevenson is no stranger to the manufacturing community. The director has worked at Ohio EPA in a wide variety of positions including the head of business relations.

Director Stevenson will be at the OMA Environment Committee meeting on April 10 to discuss the agency’s priorities and any state budget issues. All members welcome; you can **register here**. 2/14/2019
New Ohio EPA Director Laurie Stevenson (center) with Assistant Director Laura Factor, and OMA’s Rob Brundrett

OMA Comments on Ohio EPA Biocriteria
February 8, 2019

This week the OMA submitted general **comments** in response to Ohio EPA’s Early Stakeholder Outreach for its Application of Biological Survey Data to Development of Water Quality Based Effluent Limitations (OAC 3745-2-03). The new rule is intended to provide clarification and additional detail regarding when and how the biocriteria narrative should be used, as well as define what information is needed by Ohio EPA in order evaluate a request to use the biocriteria narrative.

OMA’s **Rob Brundrett** is following the issue; contact him if you have questions. 2/7/2018

Ohio EPA webinar: Conditional Exemption for Hazardous Waste Contaminated Wipes and Apparel
February 8, 2019

This webinar will explain the new Ohio-specific rule to conditionally exclude contaminated wipes and apparel (that are not currently excluded under the solvent wipe rule) from regulation under the hazardous waste regulations when certain conditions are met. The apparel would include, but not be limited to, gloves, uniforms, smocks, and coveralls that are laundered and intended for reuse.

The webinar is on February 20 at 10:00 a.m. **Register here**. 2/4/2019

Jones Day Releases Winter Climate Report
February 8, 2019

OMA Connections Partner Jones Day just published its Winter 2019 **Climate Report**. The publication includes regulatory, litigation and transactional climate updates. 2/7/2019

Stevenson Named Ohio EPA Director
January 11, 2019

This week, Governor-elect Mike DeWine appointed **Laurie Stevenson** as the new director of Ohio EPA. Stevenson, who has worked for the agency for more than 20 years in various capacities, most recently held the position of Deputy Director of Business Relations. In that role she served as the front door of the agency, working closely with the regulated community including manufacturers. Stevenson also lead the agency's E3 Sustainability Awards program, which was started under outgoing director Craig Butler.

Director Stevenson has been a longtime friend of the OMA and has presented to our Environment Committee and at other OMA events dozens of times over the years. We are excited to work with Laurie, and her team, in her new role at Ohio EPA. *1/10/2018*

Environment Legislation
Prepared by: The Ohio Manufacturers' Association
Report created on March 5, 2019

- HB94** **LAKE ERIE DRILLING** (SKINDELL M) To ban the taking or removal of oil or natural gas from and under the bed of Lake Erie.
Current Status: 2/21/2019 - Introduced
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-94>
- HB95** **BRINE-CONVERSION OF WELLS** (SKINDELL M) To alter the Oil and Gas Law with respect to brine and the conversion of wells.
Current Status: 2/21/2019 - Introduced
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-95>
- SB2** **STATEWIDE WATERSHED PLANNING** (PETERSON B, DOLAN M) To create a statewide watershed planning structure for watershed programs to be implemented by local soil and water conservation districts.
Current Status: 2/20/2019 - Referred to Committee Senate Agriculture and Natural Resources
All Bill Status: 2/12/2019 - Introduced
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-2>
- SB50** **INCREASE SOLID WASTE DISPOSAL FEE** (EKLUND J) To increase state solid waste disposal fee that is deposited into the Soil and Water Conservation District Assistance Fund, and to make an appropriation.
Current Status: 2/20/2019 - Referred to Committee Senate Finance
All Bill Status: 2/12/2019 - Introduced
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-50>

To: OMA Government Affairs Committee
From: Ryan Augsburger / Rob Brundrett
Re: Human Resources Report
Date: March 6, 2019

Overview

With a new General Assembly and new leadership in the House, it has yet to be determined how the legislature will proceed with pro-business human resource bills and issues. Unemployment compensation remains a leadership talking point in the Senate however it appears any major reforms would stall in the House. Unions continue to wield an oversized influence on many issues important to manufacturers.

The OMA remains laser focused on workforce development and has propped up a network of manufacturing led industry sector partnerships throughout Ohio. Lt. Governor Husted who is operating as point man on workforce issues for the new administration, has taken notice to what the OMA has created and is actively support the OMA partnerships. The OMA encourages all manufacturers to participate to help solving the workforce shortage.

General Assembly News and Legislation

Senate Bill 9 – Health Plan Claim Information

The bill requires a health plan issuer, beginning in July 2020, to release specific information to a requesting group policyholder. This information includes, net claims data paid or incurred by month, monthly enrollment data, monthly prescription claims information, and, for paid claims over \$30,000, the amount paid toward each claim and claimant health condition. The bill had its first hearing last month.

Senate Bill 11 – Ohio Fairness Act

The bill prohibits discrimination on the basis of sexual orientation or gender identity or expression. The bill adds mediation to the list of informal methods by which the Ohio Civil Rights Commission may use to induce compliance with Ohio's Civil Rights Law before instituting a formal hearing. The bill also upholds existing religious exemptions under Ohio's Civil Rights Law. OMA was supportive of the House version in the previous General Assembly.

House Bill 21 – Unemployment Comp: Mass Layoffs

The bill would grant an additional 25 weeks of unemployment benefits to an individual who was laid off or separated from their most recent employment as part of a group of 75 or more individuals who were laid off or separated by the same employer within a seven-day period due to lack of work. The bill is a major concern for manufacturers and other businesses who fund the unemployment system.

House Bill 34 – State and Local Minimum Wage Increase

The bill would increase the state minimum wage and to allow municipalities, townships, and counties to establish higher minimum wage requirements.

House Bill 91 – Family Medical Leave

The bill would establish family and medical leave insurance benefits.

Medical Marijuana

After a delay on January 16, 2019 medical marijuana officially went on sale across the state of Ohio for patients who have a recommendation from their physician. Manufacturers should make

sure their drug and smoking policies are up to date and should work with an expert if they have questions on how they should comply with the new law and program.

Workforce Services

Ohio Manufacturers' Workforce Summit 2019 – Inviting Sponsors Now

Organizations that are committed to the skill and talent development of Ohio's manufacturing industry can show their support by sponsoring Ohio Manufacturers' Workforce Summit 2019.

The summit – now in its third year – attracts 500 Ohio manufacturers, policymakers, K-12, community college and university leaders, economic development professionals and workforce development suppliers. It is a day of networking, learning, exchanging and building Ohio's manufacturing talent system.

This year, the summit will be held on Tuesday, October 29, 2019 at the Greater Columbus Convention Center.

Contact OMA's Dan Noreen to discuss your sponsor options and benefits. There is a package for every budget.

2019 OMA Workforce Roadmap

To address Ohio manufacturers' number one concern, OMA has committed to making Ohio the recognized national leader in talent development.

The change strategy is systemic, statewide change centered on **industry-led sector partnerships**: local or regional organizations – led by manufacturers – that include state and local partners from education, economic development and workforce organizations. The sector partners collaborate to create customer-driven alignment around their priority workforce issues. A system of three committees guides and informs the work:

- Leadership Committee, made up of OMA board member company representatives and invited industry leaders, charged with driving the OMA workforce agenda.
- Intermediary Committee, which includes a representative from each manufacturing sector partnership in Ohio.
- State Agency Committee, which includes representatives from the Governor's Office of Workforce Transformation, Ohio Department of Higher Education (ODHE), Ohio Department of Education (ODE), Ohio Department of Veterans Services, Ohio Development Services Agency, and the Ohio Department of Jobs and Family Services (ODJFS) and JobsOhio.

The committees organize work in four major areas:

- Leadership / Sector Partnership Capacity Building: Through technical assistance and best practices sharing, increase industry champions' and partnerships' abilities to drive systems change

- Policy Development: Amplify the voice of manufacturers with lawmakers and public officials
- Marketing and Communication: Leverage the **Making Ohio** brand to elevate awareness and interest in manufacturing careers
- Education Innovation: Increase public/private collaborations that train and educate the manufacturing workforce of tomorrow

Making Ohio: Ohio Manufacturing Careers Get Their Own Brand/Website

Last year the OMA debuted Making Ohio, a new website designed to help Ohioans understand that exciting, secure and fulfilling manufacturing careers are available.

OMA recently undertook comprehensive research to understand working-age Ohioans' attitudes and beliefs about Ohio manufacturing jobs and careers. We learned:

- Perceptions of manufacturing are generally favorable, but lack clarity.
- Job seekers expect detailed information.
- Pay, benefits, and job stability messages are well-received.

Ohio Manufacturers' Workforce Summit 2019

SPONSOR PACKAGES



WHAT: The 2019 Ohio Manufacturers' Workforce Summit

WHEN: Tuesday, October 29, 2019

WHERE: Greater Columbus Convention Center

WHO: Expected attendance of 500 Ohio manufacturers; policymakers; K-12, community college and university leaders; economic development professionals; and statewide workforce development suppliers

WHY: The purpose of the event is to provide resources, tools and support to manufacturers and their regional workforce partners/suppliers to improve the skills and supply of workers in Ohio's manufacturing industry.

THANK YOU! Your generous support will help develop and support the appropriately skilled workforce essential to Ohio manufacturing, for now and for the future.

PLATINUM - \$25,000

Platinum Sponsors will receive:

- Eight (8) complimentary registrations to the Summit
- Reserved table with logo signage
- Opportunity for a company executive to make remarks
- Recognition as Platinum Sponsor during the opening and closing remarks
- Primary placement of your company's name or logo on all pre-Summit communications, including invitations and reminder e-blasts that will be widely distributed throughout the state
- Primary recognition as Platinum Sponsor in Summit registration packet
- Opportunity to include corporate literature in materials provided to all Summit participants
- Opportunity to display corporate banner near the main stage (company to provide banner, dimensions to be determined by venue)
- Recognition as Platinum Sponsor on free-standing signs at Summit
- Primary placement of your company's logo on the Post-Summit Briefing Report

GOLD - \$15,000

Gold Sponsors will receive:

- Eight (8) complimentary registrations to the Summit
- Reserved table with logo signage
- Recognition as Gold Sponsor during the opening and closing remarks
- Placement of your company's name or logo on all pre-Summit communications, including invitations and reminder e-blasts that will be widely distributed throughout the state
- Recognition as Gold Sponsor in Summit registration packet
- Opportunity to include corporate literature in materials provided to all Summit participants
- Opportunity to display corporate banner (company to provide banner, dimensions to be determined by venue)
- Recognition as Gold Sponsor on free-standing signs at Summit
- Placement of your company's logo on the Post-Summit Briefing Report

From a 2018 Summit Participant:

"We love hearing about changing the misconceptions of the manufacturing industry and methods for creating talent pipelines early."

To secure your sponsor package, please contact:

Dan Noreen, Managing Director, Development • The Ohio Manufacturers' Association
dnoreen@ohiomfg.com • (614) 629-6816 • (800) 662-4463

SILVER - \$10,000

Silver Sponsors will receive:

- Eight (8) complimentary registrations to the Summit
- Reserved table with logo signage
- Recognition as Silver Sponsor during the opening and closing remarks
- Placement of your company's name or logo on all pre and post-Summit communications, including invitations and reminder e-blasts that will be widely distributed throughout the state
- Recognition as Silver Sponsor in Summit registration packet
- Opportunity to include corporate literature in materials provided to all Summit participants
- Recognition as Silver Sponsor on free-standing signs at Summit
- Placement of your company's logo on the Post-summit Briefing Report

BRONZE - \$5,000

Bronze Sponsors will receive:

- Eight (8) complimentary registrations to the Summit
- Reserved table with logo signage
- Recognition as Bronze Sponsor during the opening and closing remarks
- Placement of your company's name or logo on all pre and post-Summit communications, including invitations and reminder e-blasts that will be widely distributed throughout the state.
- Recognition as Bronze Sponsor in Summit registration packet
- Opportunity to include corporate literature in materials provided to all Summit participants
- Recognition as Bronze Sponsor on free-standing signs at Summit

LUNCH SPONSOR - \$10,000

Lunch Sponsor will receive:

- Eight (8) complimentary registrations to the Summit
- Reserved table with logo signage
- Recognition as a Lunch Sponsor during the opening and closing remarks
- Placement of your company's name or logo on all pre-Summit communications, including invitations and reminder e-blasts that will be widely distributed throughout the state
- Recognition as Lunch Sponsor in Summit registration packet
- Opportunity to include corporate literature in materials provided to all Summit participants
- Opportunity to display corporate banner near the lunch set-up (company to provide banner, dimensions to be determined by venue)
- Recognition as a Lunch Sponsor on free-standing signs near lunch set-up
- Placement of your company's logo on the Post-Summit Briefing Report

BREAKFAST SPONSOR - \$5,000

Breakfast Sponsor will receive:

- Five (5) complimentary registrations to the Summit (open seating)
- Recognition as Breakfast Sponsor during the opening remarks
- Placement of your company's name or logo on all pre-Summit communications, including invitations and reminder e-blasts that will be widely distributed throughout the state
- Recognition as Breakfast Sponsor in Summit registration packet
- Opportunity to include corporate literature in materials provided to all Summit participants
- Recognition as Breakfast Sponsor on free-standing signs near breakfast set-up

From a 2018 Summit Participant:

"I have enjoyed the large group speakers and panel discussions both years."

AFTERNOON BREAK SPONSOR - \$2,500

Afternoon Break Sponsor will receive:

- Five (5) complimentary registrations to the Summit (open seating)
- Recognition as Break Sponsor during the closing remarks
- Recognition as Break Sponsor in Summit registration packets
- Opportunity to include corporate literature in materials provided to all Summit participants
- Recognition as Break Sponsor on free-standing signs near break set-up

RESERVED TABLE SPONSORS - \$2,000

Limited to 10

Table Sponsors will receive:

- Eight (8) complimentary registrations to the Summit
- Reserved table with logo signage
- Company name listed in materials provided to all Summit participants

From a 2018 Summit Participant:

"I really enjoyed learning about the partnership and how manufacturers are getting involved with schools to educate on different avenues of jobs and career paths ... AWESOME stuff!!!"

RESERVE NOW!



2019 WORKFORCE ROADMAP:

Priorities for Systems Change in Workforce Development

INTRODUCTION

ACKNOWLEDGEMENTS

We would like to recognize our partners at Ohio TechNet and The Ohio Manufacturing Institute at The Ohio State University who contribute significantly to OMA's workforce strategy. We would also like to express our appreciation to the manufacturers, educators and workforce stakeholders who helped to identify the priorities and themes discussed in these pages.

RECOGNITION OF SUPPORT

We thank these organizations that provided leadership-level support for OMA's Workforce Services:



PURPOSE OF THIS ROADMAP

The roadmap is intended to document OMA's 2019 workforce services strategy and action steps to facilitate skill development and talent acquisition among Ohio manufacturers.

OMA uses this roadmap to help communicate its strategy and plans with stakeholder audiences in order to facilitate collaboration, execution and learning.

THE PROBLEM

Manufacturing is the top private sector for employment in Ohio.¹ And, it is growing.² The biggest constraint to this growth, however, continues to be a significant disparity between the number of available jobs in manufacturing and the number of qualified applicants for them. The talent gap is driven by—at least—these key factors:

- A shrinking labor pool and increasing baby boomer retirements
- Rapid technology change that requires training for today's systems and tomorrow's
- Competitive recruitment tactics from other sectors

In addition, manufacturing is still suffering from the misperception (or lack of awareness altogether) among young people, their parents and educators that it is not a thriving industry with challenging career opportunities and competitive pay. Further severing the connection between the workforce and the manufacturing industry is the absence of an efficient statewide training and recruiting system that brings together manufacturers, educators, community leaders and the public workforce system.

Many industry leaders, post-secondary and K-12 institutions are still working in isolation, focusing on their individual niches rather than in a larger collective system. Regionally, while a growing number of Ohio manufacturers have implemented industry-led regional sector partnerships to address workforce challenges, many manufacturers are missing opportunities to collaborate with one another and with training providers to close the skill and talent gap. In order to meet the demands of the manufacturing sector and skill up the workforce, industry leaders must work with service and training providers to align local, regional and statewide assets to their requirements.

Partnerships like Ohio TechNet (OTN), a consortium of Ohio's post-secondary institutions focused on accelerating the readiness of adults for Ohio's manufacturing careers, are making incredible progress in this kind of alignment, and, as such, are an integral part of OMA's workforce strategy.

¹Source: Ohio Department of Job and Family Services, Office of Workforce Development, Ohio Labor Market Information, <http://ohiolmi.com/ces/lmr.htm>

²Source: Ohio Manufacturing Institute

THE SOLUTION

OMA has embraced Industry Sector Partnerships (sector partnerships), as a model for addressing workforce development challenges through collaboration. Sector partnerships put employers in the driver's seat and have demonstrated effectiveness across the country. Twenty-nine states have adopted state policies in support of sector partnerships.³ Manufacturers within a regional labor market work together to influence alignment around common solutions with education and training, economic and workforce development and community organizations. The key elements of sector partnerships include:

- Industry leadership (CEO/executive level) drives the agenda
- Manufacturers identify and collectively address priority workforce issues
- Workforce, economic development and education partners work as a system to meet industry needs
- All stakeholders pitch in to align resources and strengthen the community

Over the last two years, OMA has worked with manufacturers and their partners across the state to create a network of sector partnerships and to help establish partnerships where none exists. Through OMA's efforts, the network of sector partnerships is becoming a collective voice for—and system of—the manufacturing industry's workforce development priorities and solutions.

OMA does not seek to usurp any workforce activity underway, overtake any organizations or diminish existing efforts; it seeks to facilitate employer-led workforce development in Ohio's manufacturing industry where there are favorable conditions. For example, small- to medium-sized manufacturers are often unable to individually address their talent shortages, thus collaboration in outreach and alignment are critical to support the industry. OMA will help facilitate collaboration among partners with an eye toward eliminating duplicate services and creating alignment where the sector is fragmented, but not by fiat.

OMA has developed proven strategies and tools to assist parties in forming and operating sector partnerships to address the manufacturing talent shortage. This is systems-level change that is intended to ultimately lead to a more effective way for everyone to approach the workforce shortage:

- A machine operator who understands why he needs to spend time talking to young people and their parents about the job he loves—even though it makes him nervous to speak in front of groups.
- A high school math teacher who understands what great career opportunities exist within modern manufacturing and knows his students will someday be responsible for the safe assembly of an airplane engine.
- A CEO who believes her company's current and future profits are more secure when she engages her industry peers and education and workforce partners to develop common strategies.

³Source: National Skills Coalition. "Skills in the States: Sector Partnership Policy 50-State Scan." October 2017. <https://www.nationalskillscoalition.org/resources/publications/file/Sector-Partnership-Scan-1.pdf>

OMA'S APPROACH

EDUCATE AND ENGAGE

Through regional meetings, webinars, and an annual statewide summit, OMA has presented manufacturers information about the benefits of sector partnerships and showcased best practices in sector partnerships. Through it all, OMA has emphasized the importance of approaching the workforce problem from the systems level so that every program, every initiative and every individual can be working toward the same goal: a coordinated talent system that helps ensure that Ohio manufacturers have access to the skilled workforce they need today and tomorrow.

To this end, the OMA has formed three workforce committees:

- Leadership Committee, made up of OMA board member company representatives and invited industry leaders, charged with driving the OMA workforce agenda.
- Intermediary Committee, which includes a representative from each manufacturing sector partnership in Ohio.
- State Agency Committee, which includes representatives from the Governor's Office of Workforce Transformation, Ohio Department of Higher Education (ODHE), Ohio Department of Education (ODE), Ohio Department of Veterans Services, Ohio Development Services Agency, and the Ohio Department of Jobs and Family Services (ODJFS) and JobsOhio.

Through ongoing briefings and planning meetings, these committees and OMA collaborate and facilitate alignment with manufacturing industry requirements.

IMPLEMENT

Through online resources such as case studies, worksheets, webinars, and technical assistance, the OMA provides industry champions and their partners with tools to increase participation in, and impact of, industry sector partnerships. Together with the committees described above, these activities are designed to foster a network of sector partnerships that share best practices and work through challenges together. In 2019, the OMA will begin to measure sector partnership progress using Key Performance Indicators developed by the Leadership Committee (see Appendix).

IMPROVE

Drawing on the Baldrige 'Performance Excellence' framework, OMA is committed to helping manufacturers and manufacturing sector partnerships embrace continuous improvement by basing workforce programming on the dimensions of:

- Leadership
- Strategy
- Customers
- Measurement, analysis, and knowledge management
- Workforce
- Operations
- Results⁴

One way OMA has done this is through the Sector Partnership Self-Assessment tool, which asks sector partnerships to identify improvement plans in critical areas of success, as well as to benchmark best practices. Again, the idea is to embed a workforce system in Ohio, and not a disjointed set of unrelated programs.

⁴For more information on the 7 Baldrige Criteria, visit: <https://www.nist.gov/baldrige/baldrige-criteria-commentary>

SUMMARY OF PRIORITIES

At the 2017 Ohio Manufacturers' Workforce Summit, regional breakout sessions and follow-up surveys allowed participants to identify concerns and potential solutions. From those, four key themes emerged. These priorities continue to drive OMA's workforce strategy:

- **Leadership / Sector Partnership Capacity Building:** Through technical assistance and best practices sharing, increase industry champions' and partnerships' abilities to drive systems change
- **Policy Development:** Amplify the voice of manufacturers with lawmakers and public officials
- **Marketing and Communication:** Leverage the Making Ohio brand to elevate awareness and interest in manufacturing careers
- **Education Innovation:** Increase public/private collaborations that train and educate the manufacturing workforce of tomorrow

NEW IN 2019: THEMES

The OMA Workforce Community will continue to be organized around the four priorities described. However, based upon the evolving needs of the community, in 2019, the following themes will be reflected in each priority:

- **Industry-Recognized Credentials (and Industry-Recognized Apprenticeship):** Expand awareness and attainment of industry-recognized credentials by educating manufacturers, intermediaries, and education providers on the value of credentials; advocate for policies that award credit for credentials; and align earn-and-learn programs with credentials
- **Career Pathways:** Adopt statewide pathways to ensure that programs and initiatives are aligned with industry demand and offer predictable transitions for students
- **Partner Engagement:** Support industry champions and emerging sector partnerships as they ensure workforce, economic development, and education systems are fully engaged in sector partnership strategy
- **Fund Development and Sustainability:** Expand outreach to sponsors and philanthropic funders; build regional sector partnerships' ability to secure their own funding

PRIORITY 1 – LEADERSHIP/SECTOR PARTNERSHIP CAPACITY BUILDING

Through technical assistance and best practices sharing, increase industry champions’ and sector partnerships’ abilities to drive systems change.

STRATEGIC ACTIONS	STATUS
<p>Create a work process for manufacturer engagement that organizes and communicates available sector partnership assets and benefits to manufacturers while streamlining opportunities for manufacturers to provide feedback and shape programming.</p>	<p>COMPLETE OMA formed three standing committees representing key stakeholder groups: manufacturers (Leadership Committee), sector partnerships (Intermediary Committee), and their workforce, education, and economic development partners (State Agency Committee). This committee structure creates clear communication channels that put manufacturers front-and-center in decision making while simultaneously ensuring that information, resources, and best practices are shared with sector partnerships and workforce stakeholders.</p>
<p>Provide leadership training for industry champions participating in sector partnerships, including webinars on topics such as organizational governance and succession planning.</p>	<p>ONGOING The OMA supports industry champions with customized technical assistance and coaching. Additionally, webinars covering sector partnership strategic planning as well as education and work-based learning best practices are offered to the workforce community.</p>
<p>Create a structure and process for best practice sharing and networking across sector partnerships, intermediaries and other manufacturing workforce stakeholders.</p>	<p>ONGOING The Intermediary Committee meets regularly to share best practices and address Leadership Committee input and requests. This group also serves as subject matter experts for webinars and case studies which are available to the entire workforce community.</p>
<p>Provide webinars, workshops and events for sector partnerships and other workforce stakeholders.</p>	<p>ONGOING Webinars launched in 2018 will continue in 2019, focusing on topics prioritized by the workforce community at large. Eight webinars are planned in 2019.</p>
<p>Create and track sector partnership Key Performance Indicators.</p>	<p>ONGOING Working closely with the Leadership Committee, OMA developed Key Performance Indicators and began the process of collecting sector partnership data for benchmarking. Results will be available beginning in Q1 2019.</p>
<p>Create a process that will categorize sector partnerships by level of development. The purpose of this is to:</p> <ul style="list-style-type: none"> • Raise self-awareness of where a sector partnership is along a continuum of development • Facilitate continuous improvement • Introduce Baldrige concepts • Build capacity to think in systems and process terms vs. initiatives or programs • Provide technical assistance and networking to help partnerships advance 	<p>IN PROGRESS Categories were drafted in 2018. This will become a greater focus in 2019 as the OMA refines and communicates the process.</p>

NEW ACTIONS FOR 2019

- Educate manufacturers about the value and uses of industry-recognized credentials
- Provide training for leadership and intermediaries on how to customize and use statewide career pathways
- Educate industry champions on the role of various partners in sector partnerships and support emerging sector partnerships as they engage their local workforce development board, OhioMeansJobs staff, education partners, economic development agencies, community-based organizations, and other important stakeholders
- Support industry sector partnerships as they conduct opportunity scans in search of local funding sources

PRIORITY 2 – POLICY DEVELOPMENT

Amplify the voice of manufacturers with lawmakers and public officials.

STRATEGIC ACTIONS	STATUS
<p>Increase opportunities to leverage private investment with public and otherwise available funds. Conduct an ongoing opportunity scan for grant opportunities and leverage the roadmap to assess requests for support and partnership with external partners.</p>	<p>ONGOING In 2018, OMA partnered with Ohio TechNet and others to pursue grants from the U.S. DOL, the Joyce Foundation, and Strada Education Network, among others. Fund development continues to be a priority in 2019.</p>
<p>Develop policy papers for governor's administration and key public officials.</p>	<p>COMPLETE Policy recommendations were provided to both major-party gubernatorial candidates during the 2018 campaign. Policy recommendations have since been documented in <i>"Transforming the Ohio Manufacturing Workforce Development System."</i> OMA is now working with the DeWine administration to coordinate interests.</p>
<p>Work with state agencies and service providers to align funding and reduce duplication of services; continue coordinating the Leadership Committee, Intermediary Committee, and State Agency Committee. This will include periodic briefings and ad hoc meetings to address priorities, opportunities and issues.</p>	<p>ONGOING Through meetings of the State Agency Committee, the OMA was able to establish the Leadership Committee as an advisory council to the Ohio Department of Education's SuccessBound initiative. In addition, the OMA partnered with the ODHE to explore opportunities to improve student tracking and data collection. ODJFS provided matching funds to provide technical assistance to qualifying emerging sector partnerships.</p>
<p>Leverage OMA's advocacy expertise to amplify the voice of manufacturers; identify those areas where manufacturers' needs are not being considered and identify common barriers facing sector partnerships. Serve as the statewide advocate for manufacturing sector partnerships.</p>	<p>ONGOING The Leadership and Intermediary Committees offer a forum for OMA to collect this feedback, which is then shared with the State Agency Committee. In addition, members of the OMA workforce community provide feedback to their legislators and candidates, making sure they understand the issues that matter to manufacturers.</p>
<p>Position OMA's Leadership Committee as a statewide advisory board for education; centralize the source of manufacturers' and intermediaries' feedback and requests to education partners.</p>	<p>ONGOING The Leadership Committee has taken on this role for the ODE. In 2019, the OMA will continue to advocate for centralizing the flow of information using the committee structure.</p>

NEW ACTIONS FOR 2019

- Ensure manufacturers' preferred credentials are recognized by ODE and ODHE; explore opportunities to apply federal workforce funding to the cost of credentials
- Gain support of State Agency Committee and other key partners in the adoption of statewide manufacturing career pathways
- Engage local workforce development boards and OhioMeansJobs staff, as well as economic development and other public partners, in sector partnership activity
- Identify opportunities to tap into local workforce development and economic development funds and create alignment in local policies to address talent needs and sector partnership strategies

PRIORITY 3 – MARKETING AND COMMUNICATION

Leverage the Making Ohio image assets to elevate awareness and interest in manufacturing careers.

STRATEGIC ACTIONS	STATUS
<p>Create a plan to launch the Making Ohio brand assets beyond the 2017 pilot; include common practices, standards and messaging.</p>	<p>COMPLETE A revised Making Ohio website was launched in October 2018. Through it, OMA provides partnerships with a “How to Guide” and Making Ohio assets that can be used in local career awareness and recruiting initiatives. Those who are approved to receive the Making Ohio branded assets receive the results of OMA-commissioned market research conducted by Fahlgren Mortine that explore working-age Ohioans’ attitudes about manufacturing careers. In 2019, OMA will continue to partner with Fahlgren Mortine to develop regional marketing assets as funding is secured.</p>
<p>Explore opportunities to attract underrepresented populations to the manufacturing industry including women, disabled and veterans.</p> <ul style="list-style-type: none"> • Partner with the National Association of Manufacturers (NAM) to create Ohio-specific campaign for women • Partner where practical with NAM’s Creators Wanted initiative 	<p>IN PROGRESS The OMA is working with Ohio TechNet to launch open-education resources for engaging women in manufacturing through the OMA SkillsCommons.org portal. Other efforts to engage targeted populations will be evaluated in 2019.</p>
<p>Create processes and operations to monitor and measure the impact of the Making Ohio campaign</p> <ul style="list-style-type: none"> • Provide technical assistance to regional partnerships interested in using Making Ohio assets; create a playbook to guide effective use of campaign assets • Collect analytics through website and social media platforms • Execute social media campaigns to targeted populations • Train regional partners (including human resources representatives, college navigators, guidance counselors, and workforce service providers) to gather data about job seekers through their outreach efforts • Define metrics of success, e.g. tracking enrollment in education and training programs related to manufacturing 	<p>IN PROGRESS The Making Ohio asset application includes a request to report outcomes and a commitment to provide data following the campaign; the OMA expects partners to provide case studies and quantitative results of their marketing efforts. At the same time, JobsOhio and the Mahoning Valley Manufacturers Coalition are investing in early efforts to launch strategic campaigns at the regional level. Results and related processes will be recorded and available for use by other partners.</p>

NEW ACTIONS FOR 2019

- Where applicable, include information about industry-recognized credentials in the job profiles and career pathways on MakingOhio.com
- Update career pathways content on MakingOhio.com to reflect statewide manufacturing career pathways
- Encourage sector partnerships to engage their partners in deploying regional Making Ohio campaigns
- Explore growing sponsorships to fund outreach initiatives

PRIORITY 4 – EDUCATION INNOVATION

Increase in public/private collaborations to train and educate the manufacturing workforce of tomorrow.

STRATEGIC ACTIONS	STATUS
<p>Continue to support Ohio TechNet and its education, workforce and industry partners as it engages employers, accelerates learning, expands work-based learning and provides supportive services for adults interested in manufacturing careers. Foster innovative collaborations among higher education institutions (high school, career tech, community college and universities) and industry that facilitate upskilling and degree or credential attainment of Ohioans aligned to in-demand manufacturing careers.</p>	<p>ONGOING OMA worked closely with OTN throughout 2018 and will continue to do so in 2019. Most notably, the organizations partnered to submit a \$12 million grant application to the U.S. DOL. If awarded, the grant will support the expansion of the OMA’s workforce community and the use of Industry Recognized Apprenticeship Programs (IRAP) across the state. OTN is strategically expanding to include other segments of the education system (beyond higher education) and to encourage statewide collaboration among training providers.</p>
<p>Engage education providers (K-16) in industry-led sector partnerships and increase alignment between employer needs and available programs</p> <ul style="list-style-type: none"> • Develop metrics to measure program alignment to industry needs • Improve best practice and resource sharing among providers • Create template(s) for capturing/sharing best practices • Adopt, curate, and promote Skills Commons resources 	<p>IN PROGRESS Initial metrics were identified and included in the Key Performance Indicators developed by the Leadership Committee, and a sub-committee worked with OTN to curate the best-of-the-best resources available for the Skills Commons portal. The OMA will work with OTN and others to determine the best process for collecting and recording performance metrics and additional best practices and resources.</p>
<p>Form action teams/committees to develop and implement work-based, project-based, and experiential learning for students of all ages, which may include the following based upon the priorities of local sector partnerships:</p> <ul style="list-style-type: none"> • Apprenticeships and other forms of innovative ‘earn and learn’ models (e.g. create resource map of existing manufacturing apprenticeships and apprenticeship / earn and learn resources) • Internships • Summer camps • MakerMinded program 	<p>IN PROGRESS In 2018, OMA and its partners explored and documented various ‘earn and learn’ models to further investigate and perhaps implement in 2019. The focus of OMA’s action teams in 2019 will be contingent upon the successful receipt of the U.S. DOL IRAP grant.</p>

NEW ACTIONS FOR 2019

- Establish processes to award college credit for industry-recognized credentials and to provide on-the-job training aligned to them as well
- Work with ODE, ODHE, and local education providers to align manufacturing curricula to statewide manufacturing career pathways
- Encourage K-12 and post-secondary institutions to engage with Ohio TechNet and join their local sector partnerships
- Support collaborative relationships between sector partnerships and education providers related to philanthropic and grant-funded programs

CALL TO ACTION

While OMA is committed to making Ohio the recognized national leader in talent development, there are a number of actions any interested party can take. Please consider doing one or more of the following:

- Email workforce@ohiomfg.com to opt in to the Workforce Community to receive ongoing information, including webinar announcements
- Join your [local sector partnership](#)
- Request access to the Making Ohio image assets by visiting makingohio.com/partners
- Become a sponsor of OMA's workforce initiatives. Contact Dan Noreen, Managing Director, Development at dnoreen@ohiomfg.com
- Explore the sector partnership tools available at www.ohiomfg.com/workforce-services
- Contribute a [case study](#)
- Participate in an [upcoming webinar](#)

APPENDIX

Key Performance Indicators: Priorities for Systems Change in Workforce Development.

PRIORITY 1 – LEADERSHIP/ SECTORS PARTNERSHIP CAPACITY BUILDING	PRIORITY 2 – POLICY DEVELOPMENT	PRIORITY 3 – MARKETING AND COMMUNICATION	PRIORITY 4 – EDUCATION INNOVATION
Through technical assistance and best practice sharing, increase industry champions' and sector partnerships' abilities to drive systems change.	Amplify the voice of manufacturers with lawmakers and public officials.	Leverage the Making Ohio brand to elevate awareness and interest in manufacturing careers.	Increase in public/private collaborations to train and educate the manufacturing workforce of tomorrow.
Number of sector partnerships <i>(OMA data point)</i>	Number of interactions with state leaders <i>(Intermediary and member surveys)</i>	Creation of best practices repository on ohiofmfg.com <i>(OMA data point)</i>	New or revised training programs aligned to manufacturer needs <i>(Intermediary survey)</i>
County coverage <i>(OMA data point, Intermediary survey)</i>	Inclusion of funding for sector partnerships in state budget	<ul style="list-style-type: none"> • Increased traffic to website • Increased social media activity <i>(Data points to be provided by Park Bench Digital, et. al.)</i>	Number of students enrolled in prioritized occupational training programs: <ul style="list-style-type: none"> • OTN programs (credit and non-credit) • Ohio Technical Center adult programs • K-12 <i>(Data point collection piloted in cooperation with ODHE/ODE)</i>
Number of manufacturers involved <i>(Intermediary survey)</i>	Development of policy papers for key candidates and public officials <i>(OMA data point)</i>	Number of students/ potential applicants engaged through: <ul style="list-style-type: none"> • Speaking engagements • Tours • Summer camps • MakerMinded • Robotics competition • MFG Day • Other <i>(Intermediary survey)</i>	Number of industry-recognized credentials <i>(NAM Student Clearinghouse)</i>
Number and composition of partner members <i>(Intermediary survey)</i>	Joint projects/grants supporting sector partnerships <i>(OMA data point and Intermediary survey)</i>		Number of work-based, project-based, and experiential learning opportunities <ul style="list-style-type: none"> • Apprenticeships • Internships • Summer camps • MakerMinded program <i>(Intermediary, member survey)</i>
Manufacturer Investment <i>(Intermediary and member surveys)</i> <ul style="list-style-type: none"> • Financial • In-kind 			Enrollment, completion, and wage data <i>(Provided by education partners)</i>



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Human Resources

EEO-1 Submission Date Delayed **February 15, 2019**

Because of the government shutdown, the **EEOC has postponed** its collection of EEO-1 data until early March 2019. The deadline to submit this data is extended to May 31, 2019. All private employers with 100 or more employees, federal government contractors, and first-tier subcontractors with 50 or more employees and a federal contract, subcontract or purchase order \$50,000 or more must file the EEO-1 report. 2/12/2019

Deadlines to Furnish Forms 1095-C and 1095-B to Employees are Coming Up **February 8, 2019**

This from OMA Connections Partner One Source Advisors (OSA): “The IRS deadlines to furnish Forms **1095-C** and **1095-B** to employees in early 2019 are as follows:

- Employers with 50 or more full-time employees (including full-time equivalent employees) generally must furnish a Form 1095-C to all full-time employees no later than March 4, 2019.
- Self-insured employers with fewer than 50 or more full-time employees (including full-time equivalent employees) generally must furnish a Form 1095-B to all responsible individuals—typically the primary insured, an employee or former employee, or other related person named on the application for insurance—no later than March 4, 2019.

The deadline for employers to file all Forms 1095-C and 1095-B with the IRS remains February 28, 2019 (or April 1, 2019, if filing electronically).

Cheri Gillfillan, president of OSA, said: “The forms are to document the employee was offered minimum essential benefits that meet affordability guidelines. The IRS then uses the forms to confirm eligibility for subsidy payments

if an employee chooses to be insured through the federal marketplace.”

Questions? **Contact OSA.** 2/1/2019

Organization Commits to Elevate Opioid Solutions **February 8, 2019**



This week an alliance of local, state, and national organizations came together to launch the Rx Abuse Leadership Initiative (RALI) of Ohio. RALI Ohio intends to address the challenges and needs of the state’s opioid and substance misuse epidemic.

From its **press statement**: “... RALI Ohio worked closely with its partners to identify gaps in support for vital programs that help those struggling with substance use disorder and those at risk for opioid misuse. Based on these learnings, the partnership began educating communities about proper disposal options for unused medications, providing tools to facilitate in-home disposal, and raising awareness of addiction prevention and education programs led by organizations throughout the state.” You can **learn more here**. And find drug **take-back locations** here. 2/6/2019

Rep. Scott Ryan participates in the launch of the Rx Abuse Leadership Initiative (RALI).

Immigration Compliance: What’s Coming in 2019 **February 1, 2019**

From OMA Connections Partner Dinsmore: “... In 2018, the Trump administration held true to its Buy American, Hire American policy. As a result, worksite investigations, I-9 audits, and criminal

and administrative worksite-related arrests surged by 300 to 750 percent over 2017. The administration has signaled that immigration enforcement will continue to be a priority this year, and employers should be prepared for three ways they may be contacted related to their compliance records. ...”

Read the **post** from Dinsmore with tips for employers to evaluate their current worksite and immigration policies. 1/30/2019

NLRB Revises Independent Contractor Test **February 1, 2019**

From OMA Connections Partner Calfee: “On January 25, 2019, in *SuperShuttle DFW, Inc. and Amalgamated Transit Union Local 1338*, the National Labor Relations Board ... overturned a 2014 decision and made it easier for employers to demonstrate that their workers are independent contractors who can’t unionize. The issue in this case was whether approximately 88 van drivers are employees of a company and could therefore be represented by a union; or whether, as the Board found, they are independent contractors of the company and therefore could not. “The decision overturned a 2014 Obama-era ruling ...”

You can read more **here**. 1/31/2019

Trending: Salary-History Bans **February 1, 2019**

From OMA Connections Partner Frantz Ward: “As of January 1, 2019, Connecticut and Hawaii have joined ... California, Delaware, Massachusetts, New Jersey, New York, Oregon, Pennsylvania, and Vermont by adopting state-wide bans against salary history inquires. State and local governments across the country are increasingly introducing and passing legislation prohibiting employers from asking candidates their salary history information, with the aim of ending pay inequity. ...

“Ohio has not passed a salary history ban (yet), so Ohio employers are in the clear for now. ... Accordingly, multi-state employers need to be aware of how bans may affect their businesses and should regularly review and update hiring processes to ensure compliance with the many differing state and local bans.”

More here. 1/25/2019

DOL Comments on Improper Overtime Rates **January 25, 2019**

From OMA Connections Partner Frantz Ward: “Administering payroll for employees with variable work schedules and hourly rates can cause major headaches for employers. In an effort to simplify and reduce administrative costs, employers are oftentimes tempted to set a standard overtime rate to be paid at a set dollar amount to all employees regardless of variations in compensation rates and actual weekly compensation earned. However, as a recent Department of Labor **Opinion Letter** explains, employers must adhere to the FLSA’s overtime calculation rules when setting such rates.... “This letter reminds employers that, when calculating overtime compensation, the regular rate of pay cannot be arbitrarily selected, especially when the selected amount is potentially less than the employee’s actual hourly wage rate. Rather, overtime must be based on the actual rate of pay the employee earns.”

More here. 1/18/2019

Statewide Opioid Campaign Rolling Out in Dayton **January 25, 2019**

Dayton Mayor Nan Whaley invites OMA members to meet with representatives of the Ohio Opioid Education Alliance, which has rolled out a new public education campaign to prevent abuse of prescription opioids.

The campaign, **Denial Ohio**, is rolling out across the state and representatives of the Alliance will be in Dayton on Monday, January 28 at 10:00 a.m. for a presentation and discussion with Community Overdose Action Team members and local stakeholders.

The meeting will be at Public Health – Dayton & Montgomery County, 117 South Main Street, Dayton, Ohio 45422, in the 3rd floor conference room. If you park in the parking garage on the corner of Fifth and Main Street (entrance to the garage is on Fifth Street, across from Spaghetti Warehouse), parking will be validated.

Please RSVP by responding to **this email** or call (937) 225-5700 for more information. 1/23/2019

Union Membership: Up in Ohio, Down Nationwide
January 25, 2019

Ohio's union membership climbed in 2018 while union membership overall decreased nationwide according to a recently **released report** from the Bureau of Labor Statistics.

Ohio had 639,000 union members in 2018. This was up from 635,000 in 2016. The 4,000 member uptick raised the membership rate from 12.5% of Ohio workers in 2017 to 12.6% in 2018.

Overall across the country union membership declined in 2018. In 2018, 14.7 million workers were part of a union, which was down from 14.8 million workers in 2017.

For a historical comparison: In 1983, around 17.7 million workers belonged to a union, which was 20.1% of U.S. workers. Today's national percentage is half of that number with 10.5% of workers affiliated with a union. 1/24/2019

Medical Marijuana Goes Live in Ohio
January 18, 2019

This week Ohio's first medical marijuana dispensaries opened, four months behind schedule.

Four medical marijuana dispensaries opened across the state: one in Sandusky, two in Wintersville, near Steubenville, and one in Canton.

Dee Mason, CEO of OMA Connections Partner, **Working Partners^(R)**, offered this **op-ed** in the *Columbus Dispatch* (**PDF version**) reminding employers of the workplace challenges medical marijuana presents. Mason wrote: "Under the law, employers are not required — yet not prohibited — to accommodate an employee's use of marijuana as medicine. Each employer must decide their stance on the issue and be positioned to respond to employee questions or to the employee who tests positive for marijuana.

"This position must be articulated in the company's drug-free workplace policy and communicated with employees in writing and through ongoing discussions. Simply updating a policy is not enough; those changes must be

communicated clearly and consistently. The more everyone understands, the better prepared they can be if a situation involving marijuana arises." 1/17/2018

Federal Court Upholds Attorneys' Fee Award Against Former Employees in Ohio Non-Compete Case
January 18, 2019

From OMA Connections Partner Frantz Ward: "Although some departing employees are willing to risk violating their non-competes when they leave a company, a recent court decision reinforced one of the significant dangers that those employees can face in doing so. In this decision, a federal appeals court in Ohio ruled that a former employee who violates a non-compete can be forced to pay the employer's legal fees, even if the former employer does not prevail on all of the issues raised."

Read **more about this** from Frantz Ward. 1/17/2019

Health FSA Limit Increased in 2019
January 11, 2019

The ACA imposes a dollar limit on employees' salary reduction contributions to health flexible spending arrangements (health FSAs) offered under cafeteria plans. This dollar limit is indexed for cost-of-living adjustments.

In November 2018, the IRS increased the health FSA contribution limit from \$2,650 to \$2,700 for taxable years beginning in 2019.

Employers should ensure that their health FSA will not allow employees to make pre-tax contributions in excess of \$2,700 for 2019, and they should communicate the 2019 limit to their employees.

Questions? Contact **One Source Advisors**, OMA's endorsed health care broker. 1/6/2019

H-1B Visa Filing Season Starts April 1
January 11, 2019

From OMA Connections Partner Dinsmore: "April 1, 2019 is the first day U.S. Citizenship and Immigration Services (USCIS) may accept

H-1B specialty worker petitions for the next fiscal year, which begins October 1, 2019. ...

“Due to the overwhelming demand for the annual allotment of 85,000 new H-1B slots, employers who wish to file new H-1B petitions for current or future employees should do so April 1. ... Last year, USCIS received 190,098 petitions within the first week of the petition period, then conducted a random lottery to determine which petitions would take the 85,000 slots.”

More from Dinsmore. *1/7/2019*

You May be Able to Save More for Retirement In 2019
January 11, 2019

Our friends at OMA Connections Partner GBQ recap the 2019 contribution limits for 401(k) and other retirement savings plans **here**. *1/10/2019*

Human Resources, Health Care & Employment Law Legislation
Prepared by: The Ohio Manufacturers' Association
Report created on March 5, 2019

- HB21** **MASS LAYOFFS-UNEMPLOYMENT COMP** (HOLMES G, MILLER A) Regarding notices, resources, and benefits under the Unemployment Compensation Law when a mass layoff occurs.
Current Status: 2/12/2019 - Referred to Committee House Commerce and Labor
All Bill Status: 2/12/2019 - Introduced
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-21>
- HB34** **STATE-LOCAL MINIMUM WAGE** (KELLY B) To increase the state minimum wage and to allow municipalities, townships, and counties to establish higher minimum wage requirements.
Current Status: 2/12/2019 - Referred to Committee House Commerce and Labor
All Bill Status: 2/12/2019 - Introduced
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-34>
- HB38** **COMMERCIAL CREDIT REPORTING** (HILLYER B) To require a commercial credit reporting agency to provide credit reports to businesses and to establish a procedure whereby a business may dispute statements on the report.
Current Status: 2/12/2019 - Referred to Committee House Financial Institutions
All Bill Status: 2/12/2019 - Introduced
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-38>
- HB78** **PREVAILING WAGE-PUBLIC IMPROVEMENTS** (RIEDEL C, MANCHESTER S) To allow political subdivisions, special districts, and state institutions of higher education to elect to apply the Prevailing Wage Law to public improvement projects.
Current Status: 2/20/2019 - Referred to Committee House Commerce and Labor
All Bill Status: 2/14/2019 - Introduced
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-78>
- HB91** **FAMILY-MEDICAL LEAVE** (BOGGS K, BOYD J) To establish family and medical leave insurance benefits.
Current Status: 2/21/2019 - Introduced
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-91>
- SB9** **HEALTH PLAN CLAIM INFORMATION** (HUFFMAN M) To require health plan issuers to release certain claim information to group plan policyholders.
Current Status: 2/13/2019 - Referred to Committee Senate Insurance and Financial Institutions
All Bill Status: 2/13/2019 - Senate Insurance and Financial Institutions, (First Hearing)
2/12/2019 - Introduced
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-9>

SB11

PROHIBIT DISCRIMINATION-SEXUAL ORIENTATION, GENDER IDENTITY (ANTONIO N) To enact the Ohio Fairness Act to prohibit discrimination on the basis of sexual orientation or gender identity or expression, to add mediation as an informal method that the Ohio Civil Rights Commission may use, and to uphold existing religious exemptions under Ohio's Civil Rights Law.

Current Status: 2/12/2019 - Introduced

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-11>

TO: OMA Government Affairs Committee
FROM: Ryan Augsburger / Rob Brundrett
RE: Safety and Workers' Compensation Report
DATE: March 6, 2019

Overview

2019 brings change to the BWC. Governor DeWine appointed Stephanie McCloud to the lead the Bureau. Former Administrator Morrison will continue to work for the agency in an advisory capacity until she is formally confirmed by the U.S. Senate and takes her seat on the federal bench. The Bureau recently passed a 20% private employer rate cut that will start in the summer. With a new legislature seated, the BWC and IC budget bills will begin the legislative process. Those bills are required to be signed by the Governor by the end of June.

Legislation and Rules

House Bill 79 – Industrial Commission Budget

The IC budget will get its first hearing this week in the House. Traditionally the IC budget is non-controversial and usually only contains operating appropriations. The bill must be passed and signed by the end of June.

House Bill 80 – Bureau of Workers' Compensation Budget

Administrator McCloud provided testimony on the budget last week in front of the House Insurance Committee. The budget bill has a 7% increase in funding due to the extra pay period in 2019. The bill traditionally does not contain much policy in the introduced versions. However the General Assembly has been known to make substantive changes to BWC law when debating the bill. Like the IC budget, this bill must be passed and signed in to law by the end of June.

BWC Agency Notes

BWC Board Approves Largest Private Employer Rate Decrease in 60 Years

This week the Ohio Bureau of Workers' Compensation (BWC) Board of Directors approved a 20% reduction in the average premium rate it charges private employers, which is the largest rate cut in nearly 60 years.

Fewer workplace injuries and falling estimates of future medical costs are driving the recommendation.

The rate reduction is effective July 1 and is projected to save private employers \$244 million over premiums for fiscal year 2019.

Premiums paid to BWC not only cover health care and wages for injured workers, they support BWC's Safety & Hygiene Division, which offers grants, training, consultations and other services to help employers improve workplace safety.

The 20% rate cut represents an average statewide change. The actual premium paid by individual private employers depends on a number of factors, including the expected future claims costs in their industry, their company's recent claims history and their participation in various BWC rebate programs.

BWC Board Releases MCO Study

The board of directors recently heard a presentation on a second phase of a study of managed care organization (MCO) performance in the Ohio system.

Unlike 20 years ago when Governor Voinovich called the Ohio workers' compensation system the "silent killer of jobs," the Ohio system today is a national leader on any number of metrics, including medical.

However, that success comes at a cost. The study indicates that MCOs are paid 27% of total medical costs; meanwhile, benchmarks in from other programs are 15% of total costs for administrative costs.

That suggests a possible overpayment of \$70 to \$80 million for MCO services. Those costs, of course, are born by employers.

The BWC has established work groups to study this matter in detail.

BWC Launches Opioid Workplace Safety Program

BWC's pilot program to support employers willing to hire workers struggling to overcome an addiction to opioids and other dangerous substances launched last fall in three counties.

The Opioid Workplace Safety Program will provide up to \$5 million over two years to help employers in Montgomery, Ross and Scioto counties hire, manage and retain workers in recovery.

BWC is partnering with county Alcohol, Drug Addiction and Mental Health boards to coordinate the pilot program. The boards will identify eligible employers and employees, disperse funding and measure results.

Former Administrator Morrison Nominated for Judgeship

President Trump nominated BWC Administrator Sarah Morrison to serve as U.S. Federal District Court Judge for the Southern District of Ohio. Both U.S. Senators Rob Portman and Sherrod Brown recommended the President nominate Administrator Morrison for the vacancy in Columbus, Ohio, which was created upon the retirement of the Honorable Gregory L. Frost. The nomination will now be vetted by the Senate Judiciary Committee before being considered for confirmation by the full U.S. Senate. The Southern District has court locations in Cincinnati, Columbus, and Dayton and serves more than five million Ohioans in 48 counties. Her official confirmation remains pending.

Safety Issues

OSHA Relieves Some Reporting for Employers with 250+ Employees

The U.S. Department of Labor's Occupational Safety and Health Administration (OSHA) has issued a final rule that eliminates the requirement for establishments with 250 or more employees to electronically submit information from OSHA Form 300 (Log of Work-Related Injuries and Illnesses) and OSHA Form 301 (Injury and Illness Incident Report) to OSHA each year.

OSHA indicates it made this ruling to protect worker privacy.

The final rule does not alter an employer's duty to maintain OSHA Forms 300 and 301 on-site, and OSHA will continue to obtain these forms as needed through inspections and enforcement actions.

Covered establishments are still required to electronically submit information from OSHA Form 300A (Summary of Work-Related Injuries and Illnesses). The deadline for submission is March 2, 2019.

OSHA Penalties Increase in 2019

OSHA's civil penalties amounts for violations of workplace safety and health standards will increase in 2019 to adjust for inflation. The adjusted maximum penalty amounts will take effect upon publication in the Federal Register.

The cost-of-living adjustment multiplier for 2019, based on the Consumer Price Index (CPI-U) for the month of October 2018, not seasonally adjusted, is 1.02522. In order to compute the 2019 annual adjustment, the Department of Labor multiplied the most recent penalty amount for each applicable penalty by the multiplier, 1.02522, and rounded to the nearest dollar.

New penalties for willful and repeat violations will be \$132,598 per violation; serious, other-than-serious, and posting requirements are \$13,260 per violation; and failure to abate violations are \$13,260 per day beyond the abatement date.

OSHA Releases Silica FAQs for General Industry

Occupational Safety and Health Administration (OSHA) recently published a set of Frequently Asked Questions (FAQs) to provide guidance to general industry employers on application of OSHA's final rule regulating occupational exposure to respirable crystalline silica in general industry (the "silica rule").

OSHA developed the FAQs in consultation with the National Association of Manufacturers (NAM) and the American Foundry Society. Since OSHA published its final silica rule in 2016, the NAM has continued to make the case to OSHA about the rule's heavy burden on manufacturers and the need for reliable guidance to make the rule more workable. These long-awaited FAQs are a good step forward for the industry.

Budget Recommendations for Bureau of Workers' Compensation and Industrial Commission Released

February 14, 2019

Governor DeWine Recommends Additional Funding for Ohio Bureau of Workers' Compensation's Substance Use Recovery and Workplace Safety Program

(COLUMBUS, Ohio) – Ohio Governor Mike DeWine today submitted to the General Assembly his recommendations for funding the Ohio Bureau of Workers' Compensation (BWC) and the Ohio Industrial Commission (OIC) for the upcoming 2020-2021 budget biennium.

"This budget reflects our commitment to make Ohio a safe and productive place to work and to ensure those injured on the job receive excellent service and care," said Governor DeWine.

"Our number one goal is to create a culture of safety throughout Ohio," said BWC Administrator/CEO Stephanie McCloud. "This budget helps keep Ohio workplaces safe while keeping costs in check for Ohio employers."

The recommended two-year, \$645 million budget for BWC takes into consideration the proposed 20 percent reduction in the average premium rate BWC charges private employers, the largest rate reduction in nearly 60 years.

The appropriated budgets for BWC and OIC cover the agencies' administrative operations and are supported by workers' compensation premiums paid by Ohio employers. Benefits, including lost wages and medical benefits for injured workers, are paid separately from the State Insurance Fund.

As part of BWC's proposed budget, Governor DeWine is recommending a multi-million dollar increase to BWC's Substance Use Recovery and Workplace Safety Program, which helps employers hire and retain workers recovering from substance use disorders. BWC launched the program in October to support employers in Scioto, Ross, and Montgomery counties. Governor DeWine's proposal would appropriate \$15 million to the program over the biennium to help employers in other parts of the state. The proposed budget also includes \$3 million over the biennium for a statewide safety awareness and education campaign to help make employers aware of the program.

"The Substance Use Recovery and Workplace Safety Program aligns with my RecoveryOhio Plan to empower employers to help workers with substance use

disorders,” said Governor DeWine. “By expanding this program, we hope to help more businesses throughout the state maintain their workforce, help suffering employees, and reduce workplace risks.”

The recommendations also reflect Governor DeWine’s commitment to ensuring workplace safety by proposing \$2 million to create a new Safety and Health Center of Excellence. The proposed center would utilize and expand on BWC’s existing occupational safety and health infrastructure to test and deploy advances in science and technology to prevent occupational accidents, injuries, and illnesses.

In addition, the budget proposes \$40 million over the biennium for safety grants, including grants to purchase equipment and improve processes to make workplaces safer; grants to enhance safety and security in schools; and grants and programs to protect firefighters and law enforcement.

The recommended budget for the Ohio Industrial Commission maintains its current staffing levels. OIC conducts over 108,000 hearings annually regarding disputed workers’ compensation claims, providing a forum for fair and impartial claims resolution.

“I thank Representative Scott Oelslager for sponsoring the bills, and I look forward to working with Speaker Householder, Senate President Obhoff, and the rest of the legislature on the upcoming budget process,” said Governor DeWine.

Ohio Revised Code Section 101.532 requires that the budgets for BWC and the Industrial Commission be enacted in distinct bills, separate from the main appropriations bill. Governor DeWine will submit recommendations for the main operating budget to the General Assembly for consideration on March 15, 2019. The new state fiscal year begins on July 1.

Established in 1912, the Ohio Bureau of Workers’ Compensation is the exclusive provider of workers’ compensation insurance in Ohio and serves 242,000 public and private employers. With 1,800 employees and assets of approximately \$27 billion, BWC is the largest state-run insurance system in the United States.

Legislative Budget Office of the Legislative Service Commission

BWC & OIC Budgets in Brief

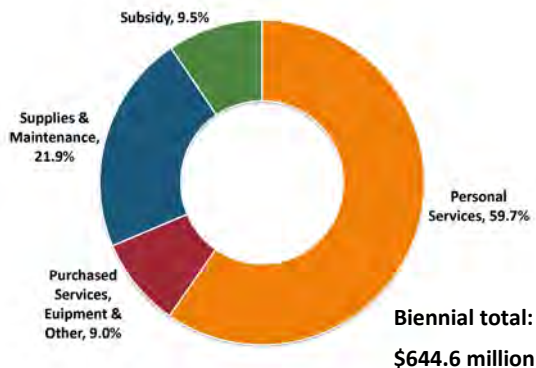
House Bills 79 & 80 – As Introduced

[www.lsc.ohio.gov/Budget Central](http://www.lsc.ohio.gov/BudgetCentral)

- ◇ R.C. 101.532 requires the Bureau of Worker’s Compensation (BWC) and the Ohio Industrial Commission (OIC) each have its own budget bill, separate from the main operating budget bill.
- ◇ BWC and OIC budgets receive no GRF funding. They are primarily funded by administrative assessments charged to employers. A small portion of the BWC budget is supported by federal grants.
- ◇ BWC administers the largest *exclusive workers’* compensation system in the country. Under such a system, the state, not private insurers, provides workers’ compensation insurance to all public and private employers except for those that qualify for self-insurance.
 - * Insuring approximately 240,600 Ohio employers, BWC policies cover about 60% of the state’s workforce.
 - * The bulk of medical and lost-time benefits paid to injured workers are made from the State Insurance Fund, a trust fund that is not subject to appropriations by the General Assembly.
 - * BWC is governed by an 11-member Board of Directors who are appointed by the Governor.
- ◇ OIC hears appeals of workers’ compensation claim decisions made by BWC and self-insured employers.
 - * OIC is governed by a panel of three commissioners who are appointed by the Governor.

BWC Budget by Expense Category

FY 2020-FY 2021 Biennium



- ◇ As of January 2019, BWC employed 1,714 full-time permanent staffers. Personal services or payroll comprises the largest share of its budget, accounting for 59.7% of the FY 2020-FY 2021 biennial budget.
- ◇ In FY 2018, BWC paid \$1.46 billion in total benefits, consisting of \$0.53 billion in medical and \$0.94 billion in lost time benefits.
- ◇ At the end of FY 2018, BWC had about 672,000 pending claims, including about 85,000 claims that were filed in that year.

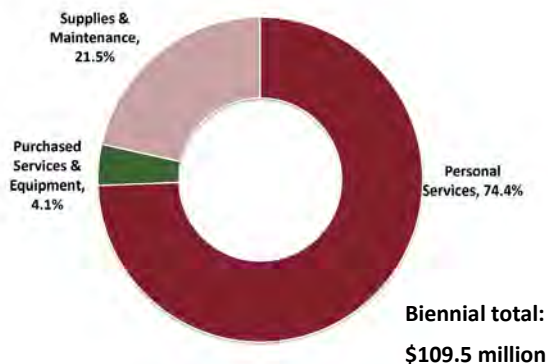
Workplace health and safety grant (subsidy) funding totals \$28.1 million in FY 2020 and \$33.1 million in FY 2021, including the following:

- ◇ Substance Use Recovery and Workplace Safety Program (ALI 855618): Funding for this grant program is increased from \$2.5 million in FY 2019 to \$5.0 million in FY 2020 and \$10.0 million in FY 2021.
- ◇ Safety Grants (ALI 855610): This appropriation item is flat funded at \$20.0 million per year.

Safety and Health Center of Excellence: The new center of excellence is funded at \$2.0 million in FY 2020 (ALI 855619) and will be located within the Ohio Center of Occupational Safety and Health.

OIC Budget by Expense Category

FY 2020-FY 2021 Biennium



- ◇ As of January 2019, OIC employed 330 full-time permanent staffers. Personal services or payroll is the largest area of its budget, accounting for 74.4% of the FY 2020-FY 2021 biennial budget.
- ◇ OIC operates five regional and seven district offices across the state to adjudicate disputed claims through three levels of hearings: district hearing officers, staff hearing officers, and the Commission.
- ◇ In FY 2018, OIC heard 112,250 claim appeals, of which 79,055 were heard by district hearing officers (first level), 32,936 by staff hearing officers (second level), and 259 by the Commission. The majority of appeal claims were filed through the Industrial Commission Online Network (ICON).
- ◇ In FY 2018, on average, it took 38 days for a first-level hearing to occur and 35 days for a second-level hearing to occur while the statutory requirement is 45 days to adjudicate the first- and second-level appeals.

Legislative Budget Office of the Legislative Service Commission

BWC & OIC Budgets in Brief

House Bills 79 & 80 – As Introduced

www.lsc.ohio.gov/Budget Central

Fund	ALI	ALI Title	FY 2018 Actual	FY 2019 Estimate	FY 2020 Introduced	FY 2021 Introduced
H.B. 80, As Introduced - BWC budget						
Dedicated Purpose Fund Group						
7023	855407	Claims, Risk and Medical Management	\$107,957,594	\$119,353,057	\$120,939,816	\$124,329,031
7023	855408	Fraud Prevention	\$12,802,628	\$12,945,330	\$14,095,916	\$14,231,413
7023	855409	Administrative Services	\$104,133,380	\$110,241,072	\$117,250,236	\$116,025,396
7023	855410	Attorney General Payments	\$4,621,850	\$4,621,850	\$4,621,850	\$4,621,850
8220	855606	Coal Workers' Fund	\$150,931	\$162,931	\$186,632	\$188,487
8230	855608	Marine Industry	\$48,396	\$65,140	\$78,188	\$78,698
8250	855605	Disabled Workers Relief Fund	\$49,097	\$174,332	\$193,419	\$195,709
8260	855609	Safety and Hygiene Operating	\$21,080,114	\$22,317,031	\$24,079,350	\$23,745,661
8260	855610	Safety Grants	\$9,127,504	\$20,000,000	\$20,000,000	\$20,000,000
8260	855611	Health and Safety Initiative	\$1,245,189	\$6,000,000	\$6,000,000	\$6,000,000
8260	855612	Safety Campaign	\$843,000	\$1,624,355	\$1,500,000	\$1,500,000
8260	855613	Research Grants	\$0	\$2,000,000	\$2,000,000	\$2,000,000
8260	855618	Substance Use Recovery and Workplace Safety Program	\$0	\$2,500,000	\$5,000,000	\$10,000,000
8260	855619	Safety and Health Center of Excellence	\$0	\$0	\$2,000,000	0
Dedicated Purpose Fund Group subtotal			\$262,059,683	\$302,005,098	\$317,945,407	\$322,916,245
% change			--	15.2%	5.3%	1.6%
Federal Fund Group						
3490	855601	OSHA Enforcement	\$1,630,654	\$1,676,000	\$1,676,000	\$1,676,000
3FW0	855614	BLS SOII Grant	\$132,393	\$195,104	\$195,104	\$195,104
3FW0	855615	NIOSH Grant	\$150,347	\$200,000	\$24,995	\$0
Federal Fund Group sub-total			\$1,913,394	\$2,071,104	\$1,896,099	\$1,871,104
% change			--	8.2%	-8.4%	-1.3%
BWC all-funds budget total			\$263,973,077	\$304,076,202	\$319,841,506	\$324,787,349
% change			--	15.2%	5.2%	1.5%
H.B. 79, As Introduced - OIC budget						
Dedicated Purpose Fund Group						
5W30	845321	Operating Expenses	\$41,276,260	\$47,223,650	\$49,697,274	\$49,885,128
5W30	845402	Rent - William Green Building	\$1,017,838	\$1,150,000	\$1,150,000	\$1,150,000
5W30	845410	Attorney General Payments	\$3,793,650	\$3,793,650	\$3,793,650	\$3,793,650
OIC budget total			\$46,087,747	\$52,167,300	\$54,640,924	\$54,828,778
% change			--	13.2%	4.7%	0.3%
H.B. 79 & H.B. 80, As Introduced						
BWC & OIC budget grand total			\$310,060,824	\$356,243,502	\$374,482,430	\$379,616,127
% change			--	14.9%	5.1%	1.4%



NEWS RELEASE

Feb. 22, 2019

Average private employer workers' comp rates to drop 20 percent

COLUMBUS — The Ohio Bureau of Workers' Compensation (BWC) Board of Directors today approved a 20 percent reduction in the average premium rate it collects from private employers. The reduction is BWC's largest in nearly 60 years.

"We're pleased to continue the trend of falling rates with a reduction that will save Ohio private employers more than \$200 million next year," said BWC Administrator/CEO Stephanie McCloud.

McCloud said safer workplaces resulting in fewer and less costly workplace injury claims and continued lower inflation of medical costs are among the factors that make the reduction possible. Claims have fallen 18 percent since 2010 to 85,136 in 2018.

The cut follows a 12 percent reduction last July for private employers and 12 percent rate reduction for public employers — counties, cities, schools and others — that went into effect Jan. 1. Overall, the average rate levels for the 242,000 Ohio employers in the BWC system are at their lowest in at least 40 years.

The 20 percent rate cut represents an average statewide change. The actual total premium paid by individual private employers depends on a number of factors, including the expected future claims costs in their industry, their company's recent claims history, participation in various BWC rebate programs as well as assessments collected to fund the operations of the system. The board will consider these assessment rates during its next meeting in March.

The reduction will be effective beginning July 1.

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Summary: OSHA's Occupational Exposure to Respirable Crystalline Silica Frequently Asked Questions for General Industry

On January 18, 2019, the Occupational Safety and Health Administration (OSHA) published Frequently Asked Questions (FAQs) to provide guidance to general industry employers on application of OSHA's final rule regulating occupational exposure to respirable crystalline silica in general industry. OSHA developed the FAQs in consultation with the National Association of Manufacturers and the American Foundry Society. This provides a short summary of the key interpretations from the FAQs. Members are encouraged to review the entire document.

Scope and Application (29 C.F.R. § 1910.1053(a))

The standard applies to all occupational exposures to respirable crystalline silica, except the standard does not apply to: (1) construction work; (2) agricultural operations; and (3) exposures that result from the processing of sorptive clays. In addition, the standard does not apply where the employer has objective data demonstrating that employee exposure to silica will remain below the action level (AL) of 25 $\mu\text{g}/\text{m}^3$ measured as an 8-hour TWA under any foreseeable conditions.

The FAQs clarify that:

- In assessing whether certain activities are outside the scope of the standard, an employer does not necessarily need to assess exposures in the *complete* absence of controls. The intent of the standard is to exempt conditions where employees will be exposed to minimal levels of silica under any foreseeable conditions. Although engineering controls are usually a reliable means of limiting employee exposures, equipment does occasionally fail. As a result, OSHA considers the failure of most controls to be a foreseeable condition and thus employers should consider this when making their assessments. However, OSHA states that failure of some types of controls (e.g., substitution of non-silica-containing materials, fixed walls) is not possible or so improbable that it is not a foreseeable condition, and therefore employers need not account for the potential failure of such controls when determining coverage.
- In determining whether the standard applies, employers also do not need to disable, remove, or otherwise account for the potential failure of measures that may contribute, in a limited fashion, to reducing silica exposures, but that are not adopted for that specific purpose, i.e., general building ventilation or HVAC systems.

Exposure Assessments (29 C.F.R. § 1910.1053(d))

The standard requires employers to ensure that no employee is exposed to an airborne concentration of silica in excess of the permissible exposure limit (PEL) of 50 $\mu\text{g}/\text{m}^3$, calculated as an 8-hour TWA. Employers must assess the exposure of each employee who is or may reasonably be expected to be exposed to respirable crystalline silica at or above the AL using either a performance option or a scheduled monitoring option.

The FAQs clarify that:

- In assessing exposures, the employer has the option of switching from the scheduled monitoring option to the performance option, and can use air monitoring data generated during scheduled monitoring to fulfill the performance option assessment requirements.

- The term “objective data” means information demonstrating employee exposure to silica associated with a particular product or material or a specific process, task, or activity. Types of data that may qualify include: data from industry-wide surveys, equipment manufacturers, or trade associations; exposure mapping; calculations based on substance composition or chemical and physical properties; and historical air monitoring data.
- Employers do not need to sample every employee when using the scheduled monitoring option. Where several employees perform the same tasks on the same shift and in the same work area, employers may sample a representative fraction of these employees.
- The standard does not prohibit employers from requiring employees to wear personal samplers as a condition of employment, however, other state or federal laws or regulations, or collective bargaining agreements, may apply.

Regulated Areas (29 C.F.R. § 1910.1053(e))

The standard requires employers to establish regulated areas wherever an employee’s exposure to airborne concentrations of respirable crystalline silica is, or can reasonably be expected to be, in excess of the PEL. Employers must demarcate regulated areas from the rest of the workplace and post signs with a specified legend at all entrances to regulated areas. Employers must limit access to regulated areas and provide, and require the use of, an appropriate respirator for each employee and designated representative who enters a regulated area.

The FAQs clarify that:

- If an employer has, and adequately enforces, work rules precluding employees from entering a particular area, then the employer does not need to treat that location as a regulated area. An area also does not need to be designated as a regulated area if the employer has and enforces work rules limiting employees’ time in the area so that there is no reasonable expectation that their 8-hour TWA exposures will exceed the PEL.
- In some facilities, exposures above the PEL may be associated with an intermittent activity. Employers do not need to treat an area as a regulated area on days when employee exposures are not reasonably expected to exceed the PEL. In such cases, employers may elect to demarcate the regulated area on just a temporary basis.

Methods of Compliance (29 C.F.R. § 1910.1053(f))

The standard requires employers to use engineering and work practice controls to reduce and maintain employee exposure to silica to or below the PEL, unless they can demonstrate that such controls are not feasible. Wherever feasible engineering and work practice controls are not sufficient to reduce employee exposure to or below the PEL, the employer must reduce exposures to the lowest feasible level through these methods, and then provide appropriate respiratory protection.

The FAQs clarify that:

- Administrative controls are an acceptable means of reducing employee exposures under the standard. An employer could reduce an employee’s exposures by scheduling high-exposure

tasks to be conducted when that employee will not be working in an adjacent area. The standard also does not prohibit the rotation of employees to limit employee exposures.

Written Exposure Control Plan (29 C.F.R. § 1910.1053(f)(2))

The standard requires employers to implement a written exposure control plan that contains: (1) a description of the tasks in the workplace that involve exposure to silica; (2) a description of the engineering controls, work practices, and respiratory protection used to limit employee exposure; and (3) a description of the housekeeping measures used. The plan must be reviewed and evaluated for effectiveness at least annually and updated as necessary.

The FAQs clarify that:

- Tasks that are not covered by the standard, e.g., because the employer has objective data demonstrating that employee exposures will remain below the AL under any foreseeable conditions, do not need to be included in the written exposure control plan.
- Employers may develop a single comprehensive plan for each worksite that includes all of the silica-generating tasks that employees will perform at the worksite (i.e., employers do not need separate exposure control plans for different operations).

Housekeeping (29 C.F.R. § 1910.1053(h))

Under the standard, employers must not allow dry sweeping or dry brushing “where such activity could contribute to employee exposure to respirable crystalline silica unless wet sweeping, HEPA-filtered vacuuming or other methods that minimize the likelihood of exposure are not feasible.” In addition, employers must not allow compressed air to be used to clean clothing or surfaces where such activity could contribute to employee exposure to respirable crystalline silica unless (1) the compressed air is used in conjunction with a ventilation system that effectively captures the dust cloud created, or (2) no alternative method is feasible.

The FAQs clarify that:

- If an employer has objective data demonstrating that employee exposure will remain below the AL under any foreseeable conditions, the prohibition on dry sweeping, dry brushing, and the use of compressed air for cleaning clothing and surfaces does not apply
- Drivable powered industrial sweepers are not prohibited. When these types of sweepers are equipped with HEPA filters, their use is considered ‘HEPA-filtered vacuuming’ for purposes of the standard. When these types of sweepers are *not* equipped with HEPA filters, their use is considered an ‘other [housekeeping] method,’ and they are also not prohibited.
- The standard does not require employers to demonstrate that wet methods, a HEPA-filtered vacuum, or other methods are *impossible* to use in order to establish “infeasibility.” The “infeasibility” exceptions are intended to encompass situations where wet methods, HEPA-filtered vacuuming, and other exposure-minimizing methods are not effective, would cause damage, or would create a hazard in the workplace.
- In some cases, *wet sweeping* may be infeasible where the water could: make an elevated surface slick and create a fall hazard; come into contact with electrical panels or pose an

electrical hazard; come into contact with molten metal; cause the dust to harden; or adversely affect the quality of the final product. In some cases, *HEPA-filtered vacuuming* may be infeasible where: tight or obstructed spaces prevent a vacuum, hose, or nozzle from accessing or effectively cleaning the space (such as around some pipes, meters, and gauges); or very large amounts of silica-containing materials must be cleaned, and the volume of material cannot effectively be cleaned by vacuuming.

Medical Surveillance (29 C.F.R. § 1910.1053(i))

The standard requires employers to make medical surveillance available at no cost, and at a reasonable time and place, to any employee who will be occupationally exposed to respirable crystalline silica at or above the PEL (or AL after June 23, 2020) for 30 or more days a year. The examinations must include a medical and work history, a physical examination, a chest x-ray, a pulmonary function test, a test for latent tuberculosis infection (initial exam only), and any other tests deemed appropriate by the health care professional.

The employee will receive a written medical report that includes: (1) the results; (2) any recommended limitations on the employee's use of respirators; (3) any recommended limitations on the employee's exposure to silica; and (4) a statement, if applicable, that the employee should be examined by a specialist. The employer must also obtain a written medical opinion from the health care professional. This opinion contains the date of the examination, a statement that the examination has met the requirements of the standard, and any recommended limitations on the employee's use of respirators. If the employee gives written authorization, the written opinion for the employer may also contain any recommended limitations on the employee's exposure to silica and/or a statement that the employee should be seen by a specialist (if applicable).

The FAQs clarify that:

- The standard limits only the information that can be included in the health care professional's written medical opinion for the employer following an examination performed for purposes of compliance with the medical surveillance provisions of the standard. If an employer receives the information through another means (e.g., workers compensation), then the prohibition does not apply.

Safety & Workers' Compensation

BWC 20% Rate Reduction is Official March 1, 2019

At its meeting last week, the Ohio Bureau of Workers' Compensation (BWC) board of directors **approved** a 20 percent reduction in the average premium rate it collects from private employers. The reduction is BWC's largest in nearly 60 years.

Overall, the average rate levels for the 242,000 Ohio employers in the BWC system are at their lowest in at least 40 years.

The 20 percent rate cut represents an average statewide change. The actual total premium paid by individual private employers depends on a number of factors, including the expected future claims costs in their industry, their company's recent claims history, participation in various BWC rebate programs as well as assessments collected to fund the operations of the system. The board will consider these assessment rates during its next meeting in March.

The reduction will be effective beginning July 1. 2/25/2019

McCloud Goes to Work to Sell BWC Budget March 1, 2019



This week new Bureau of Workers' Compensation (BWC) Administrator/CEO Stephanie McCloud **testified** in front of the House Insurance Committee in support of the BWC's budget bill, **House Bill 80**.

McCloud testified: "In comparison to our last budget, this budget reflects an 8.7% increase over the adjusted appropriations for fiscal years 2018 and 2019. This increase can largely be attributed to the 27th additional pay period in

fiscal year 2020, the 2.75% increase in wages due to the last collective bargaining agreement and additional support for our Substance Use Recovery and Workplace Safety Program. The increase would support expanding the program to other counties and providing support staff to ensure the program is running efficiently and appropriately."

The bill, which is mainly an appropriations bill, will become a political football over the next several months as business and labor work to make changes to the agency that benefit their constituencies. 2/28/2019

BWC Administrator/CEO Stephanie McCloud was a special guest presenter at OMA's Safety & Workers' Compensation committee meeting this week. Shown with committee chairman, Larry Holmes, Vice President – Finance & Administration, Fort Recovery Industries, Inc.

Industrial Commission Chairman Testifies in Support of Agency Budget March 1, 2019

This week Tim Bainbridge, Chairman of the Industrial Commission of Ohio (OIC), **provided testimony** in support of his agency's budget, **House Bill 79**. Bainbridge testified: "In order to accommodate statutory payroll adjustments and an increase in wages due to the last collective bargaining agreement, the Industrial Commission is requesting an increase in its total budget of 5.7%."

The function of the OIC is to adjudicate contested workers' compensation claims. Bainbridge said this in testimony: "In calendar year 2018, our 82 hearing officers, all of whom are licensed attorneys, adjudicated over 114,000 claims. "

The bill appropriates funding for the agency of 335 staff over the next two years and is required to be passed and signed into law by the end of June. 2/28/2019

BWC Drops OxyContin from Formulary March 1, 2019

Last week the Ohio Bureau of Workers' Compensation (BWC) **announced** that the

painkiller OxyContin, widely blamed for the nation's opioid crisis, will no longer be newly prescribed for injured workers in the BWC system starting July 1.

Following a recommendation from BWC Chief Medical Officer Terry Welsh, the agency's board of directors voted to drop the drug from the BWC formulary and replace it with what Welsh calls "an equally effective but harder-to-abuse drug" named Xtampza ER.

Welsh added the move was recommended by BWC's Pharmacy and Therapeutics Committee, a diverse group of pharmacists and prescribing physicians who advise the bureau on matters regarding appropriate prescription and authorization of medicines. 2/22/2019

Strengthen Your Drug-free Policy & Practices at Safety Congress Sessions **March 1, 2019**



OMA Connections Partner *Working Partners*^(R) is scheduled to present **four sessions** at next week's Ohio Safety Congress that will help you strengthen your drug-free workplace policy and practices:

- Audit your drug-free workplace policy and program
- Ask the experts: Running a best-practice drug-free program
- New drug trends threatening Ohio's workforce and workplace
- Medical marijuana and your workplace: How are you responding?

And while you're there, say hi to the OMA team at booth #304! We have snacks courtesy of OMA member Pepperidge Farm! 2/28/2019

DeWine Submits BWC Budget Proposal – Includes Premium Reduction and Investments in Safety **February 22, 2019**

Governor Mike DeWine last week submitted to the General Assembly **his recommendations** for funding the Ohio Bureau of Workers' Compensation (BWC) and the Ohio Industrial Commission (OIC) for the upcoming 2020-2021 budget biennium.

The appropriated budgets for BWC and OIC cover the agencies' administrative operations and are supported by workers' compensation premiums paid by Ohio employers. Benefits, including lost wages and medical benefits for injured workers, are paid separately from the State Insurance Fund.

The BWC's recommended operating budget reflects the previously announced proposal to reduce the average premium rate BWC charges private employers by 20%, effective July 1, 2019.

Governor DeWine is also recommending these priority investments:

- A multi-million dollar increase to BWC's Substance Use Recovery and Workplace Safety Program, which helps employers hire and retain workers recovering from substance use disorders.
- \$2 million to create a new Safety and Health Center of Excellence to test and deploy advances in science and technology to prevent occupational accidents, injuries, and illnesses.
- \$40 million over the biennium for safety grants. 2/16/2019

BWC Safety Innovation Award Finalists Announced **February 22, 2019**

BWC created the **Safety Innovation Award** program to recognize innovations that result in risk reduction, cost savings, and potential application to other workplaces, industries or operations. Innovations can range from a newly-created piece of equipment, tool, process or method to an existing one that an employer has improved or uses in a new or creative way.

This year's finalists are:

- Francis Manufacturing Company (Russia)
– Hapman Sand Conveyance System
- J&R Farms (Mount Vernon) – Grain Engulfment Prevention/Retrieval System
- TERYDON Inc. (Navarre) – Touch-Screen Tablet Wireless Control (a.k.a. “Lunch Box”)
- Yoder Drilling & Geothermal Inc. (Sugarcreek) – Geothermal Grouter Pipe/Loop Reel

Read **summaries of the award-winning projects here**. The finalists will be on hand at the Safety Innovation Awards booth at the **Ohio Safety Congress & Expo 2019** (OSC19) March 6-8 in Columbus. Stop by to learn more about the innovations when you're at OSC19. (And visit the OMA team at booth #304!) 2/20/2019

BWC Board Voting 20% Rate Reduction Today **February 22, 2019**

At its meeting today, the board of the Ohio Bureau of Workers' Compensation (BWC) is voting a proposed 20% reduction in the average premium rate charged to private employers. It would be the largest rate cut in nearly 60 years.

Fewer workplace injuries and falling estimates of future medical costs are credited with the proposed rate reduction.

If approved, the rate reduction would be effective July 1 and is projected to save private employers \$244 million over premiums for fiscal year 2019. 2/21/2019

BWC Employer Webinar is Feb. 28 **February 22, 2019**

BWC's next employer webinar will be Thursday, Feb. 28 at 11:30 a.m.

The webinar will cover policy reminders and important dates, the *Better You, Better Ohio!* health and wellness program, the Policy Activity Rebate program, buying and/or selling a business, an Ohio Industrial Commission overview and the monthly safety tip. Register to attend **here**. 2/16/2019

Two OSHA Recordkeeping Reminders **February 15, 2019**

First, employers are reminded of their obligation to post a copy of OSHA Form 300A, which summarizes job-related injuries and illnesses logged during 2018. Each year, from February 1 through April 30, the summary must be displayed in a common area where notices to employees are usually posted.

Second, covered establishments are required to electronically submit to OSHA information from OSHA Form 300A. The deadline for submission is March 2, 2019. More info **here**. 2/11/2019

Less Than 3 Weeks to Safety Congress **February 15, 2019**



Register now for the FREE Ohio Safety Congress, the largest and longest-running regional occupational safety, health and workers' compensation conference in the U.S. 2/14/2019

New BWC Administrator Headlines
Upcoming OMA Meeting
February 1, 2019

Stephanie McCloud, Gov. DeWine's recent appointment to lead the Ohio Bureau of Workers' Compensation, is scheduled to be a guest presenter at the OMA's upcoming Safety & Workers' Compensation committee meeting.

The meeting will be on Wednesday, February 27 and starts at 10:00 a.m. The meeting includes lunch, and there is a call-in option.

You can find and **register for the meeting here**. 1/31/2019

Supreme Court of Ohio Rules on VSSR Case in Favor of Employer
February 1, 2019

From OMA Connections Partner Calfee: "In a 4-3 decision, the Ohio Supreme Court recently decided a case with potentially far-reaching implications for Ohio Workers' Compensation Violation of a Specific Safety Requirement (VSSR) Law. *State ex rel. Jackson Tube Serv., Inc. v. Indus. Comm.*, ... held that the "impossibility defense" to violation of an OSHA standard could be imported into Ohio Workers' Compensation Law as an affirmative defense to an alleged VSSR where an employer shows: (1) it would have been impossible to comply with the specific safety requirement or that compliance would have precluded performance of the work; and (2) that no alternate means of employee protection existed or were available. ..."

Read **more** about this case from Calfee. 1/28/2019

BWC Recommends Largest Private Employer Rate Decrease in 60 Years
January 25, 2019

This week the Ohio Bureau of Workers' Compensation (BWC) proposed a 20% reduction in the average premium rate it charges private employers, which would be the largest rate cut in nearly 60 years if approved by the agency's board of directors.

Fewer workplace injuries and falling estimates of future medical costs are driving the recommendation.

The board will vote the measure at its February 22 meeting.

If approved, the rate reduction would be effective July 1 and is projected to save private employers \$244 million over premiums for fiscal year 2019.

Premiums paid to BWC not only cover health care and wages for injured workers, they support BWC's Safety & Hygiene Division, which offers grants, training, consultations and other services to help employers improve workplace safety.

The proposed 20% rate cut represents an average statewide change. The actual premium paid by individual private employers depends on a number of factors, including the expected future claims costs in their industry, their company's recent claims history and their participation in various BWC rebate programs. 1/24/2019

OSHA Relieves Some Reporting for Employers with 250+ Employees
January 25, 2019

The U.S. Department of Labor's Occupational Safety and Health Administration (OSHA) has **issued a final rule** that eliminates the requirement for establishments with 250 or more employees to electronically submit information from OSHA Form 300 (Log of Work-Related Injuries and Illnesses) and OSHA Form 301 (Injury and Illness Incident Report) to OSHA each year. OSHA indicates it made this ruling to protect worker privacy.

The final rule does not alter an employer's duty to maintain OSHA Forms 300 and 301 on-site, and OSHA will continue to obtain these forms as needed through inspections and enforcement actions.

Covered **establishments** are still required to electronically submit information from OSHA Form 300A (Summary of Work-Related Injuries and Illnesses). The deadline for submission is March 2, 2019. 1/24/2019

OSHA Penalties Increase in 2019
January 25, 2019

OSHA's civil penalties amounts for violations of workplace safety and health standards will increase in 2019 to adjust for inflation. The adjusted maximum penalty amounts will take effect upon publication in the **Federal Register**. The cost-of-living adjustment multiplier for 2019, based on the Consumer Price Index (CPI-U) for the month of October 2018, not seasonally adjusted, is 1.02522. In order to compute the 2019 annual adjustment, the Department of Labor multiplied the most recent penalty amount for each applicable penalty by the multiplier, 1.02522, and rounded to the nearest dollar.

New penalties for willful and repeat violations will be \$132,598 per violation; serious, other-than-serious, and posting requirements are \$13,260 per violation; and failure to abate violations are \$13,260 per day beyond the abatement date. *1/18/2019*

OSHA Releases Silica FAQs for General Industry
January 25, 2019

Occupational Safety and Health Administration (OSHA) recently published a set of Frequently Asked Questions (FAQs) to provide guidance to general industry employers on application of OSHA's final rule regulating occupational exposure to respirable crystalline silica in general industry (the "silica rule").

OSHA developed the FAQs in consultation with the National Association of Manufacturers (NAM) and the American Foundry Society. Since OSHA published its final silica rule in 2016, the NAM has continued to make the case to OSHA about the rule's heavy burden on manufacturers and the need for reliable guidance to make the rule more workable. These long-awaited FAQs are a good step forward for the industry.

To read the FAQs, **click here**.
To read NAM's brief summary of the FAQs, **click here**. *1/22/2019*

Online Database Provides Information on Workplace Injury Trends
January 25, 2019

The National Safety Council posted an **online version of the Injury Facts reference book** for safety statistics. The free resource features a section on workplace safety that includes work-related injury and fatality trends, and how to benchmark an organization's injury and illness incidence rates with national averages. The information is organized into safety topics, such as falls, work-related fatigue, and forklifts. *1/24/2019*

BWC Welcomes New Administrator/CEO Stephanie B. McCloud
January 18, 2019



Governor Mike DeWine nominated **Stephanie B. McCloud** administrator/CEO of the Ohio Bureau of Workers' Compensation (BWC) last week.

According to the BWC, "Administrator McCloud is a seasoned workers' comp professional who cares passionately about BWC and its mission. She is a former BWC staff attorney and has a strong legal resumé, including as principal of a small business in Reynoldsburg.

"After beginning her career at BWC, she served as legal counsel to both former Governor George Voinovich and the Ohio Department of Transportation. She later joined the office of former Attorney General Jim Petro, first as senior deputy attorney general before advancing to chief counsel.

“McCloud is also a former Truro Township Trustee and active community leader. She is a graduate of Capital University Law School and Ohio University, where she earned a journalism degree and studied political science in graduate school.” 1/15/2019

Get Ready to Post Your OSHA 300A by Feb.

1

January 18, 2019

Each February through April, employers with 11 or more employees must post a summary (OSHA 300A) of the injuries and illnesses recorded the previous year.

A company executive must certify that he or she has examined the OSHA 300 Log and that he or she reasonably believes, based on his or her knowledge of the process by which the information was recorded, that the annual summary is correct and complete.

The company executive who certifies the log must be one of the following persons: an owner of the company (only if the company is a sole proprietorship or partnership); an officer of the corporation; the highest ranking company official working at the establishment; or the immediate supervisor of the highest ranking company official working at the establishment.

OSHA records must be maintained at the worksite for at least five years.

Also, if requested, copies of the records must be provided to current and former employees, or their representatives.

OMA's safety consultant, **Safex**, presented a webinar on January 10, 2019, *New to OSHA Recordkeeping?* Access the **recorded webinar here**. 1/14/2019

Deadline to Electronically File Your 300A is

March 2

January 18, 2019

March 2, 2019, is the deadline for electronically **reporting your OSHA form 300A data** for calendar year 2018. Collection began January 2, 2019.

Special note for establishments with 250 or more employees: Under the current recordkeeping rule, the initial deadline for

electronic submission of information from OSHA Forms 300 and 301 by covered establishments with 250 or more employees was July 1, 2018. However, OSHA has published a Notice of Proposed Rulemaking (NPRM) to amend its recordkeeping regulation to remove the requirement to electronically submit to OSHA information from the OSHA Form 300 (Log of Work-Related Injuries and Illnesses) and OSHA Form 301 (Injury and Illness Incident Report) for establishments with 250 or more employees which are required to routinely keep injury and illness records. OSHA will not enforce this deadline for these two forms without further notice while this rulemaking is underway. More **here**. 1/14/2019

BWC's Next Employer Webinar is Jan. 24 **January 18, 2019**

BWC's next monthly employer webinar is Thursday, Jan. 24 at 11:30 a.m. Topics will include the July 1, 2019 premium adjustment factors, My Policy page improvements, enrolling in required electronic notifications for your policy, important account deadlines and program reminders and the monthly safety tip.

Register **here to attend online**, or you can **opt to visit your local office** and view the webinar with BWC staff. 1/15/2019

Small Employers Can Save up to \$2K with **BWC PAR Program** **January 18, 2019**

BWC has developed the Policy Activity Rebate (PAR) to raise employers' awareness and increase understanding of some of the most important aspects of workers' compensation, including safety, claims and policy management.

PAR provides employers a chance to earn a 50% premium rebate up to \$2,000.

PAR allows employers to choose from 33 activities to earn a rebate. Employers must complete 11 credits during the enrolled policy year. The PAR program is not for employers participating in group-experience rating, group-retrospective rating, individual-retrospective rating, claim cost deductible, 100-percent EM capping or One Claim Program.

The enrollment deadline is January 31, 2019 and employers have until May 31, 2019, to

complete their activities. You can **learn more here**. *1/16/2019*

McCloud Appointed to Lead the BWC
January 11, 2019

This week Governor-elect Mike DeWine appointed attorney Stephanie McCloud as the next administrator of the Ohio Bureau of Workers' Compensation (BWC).

McCloud has served in a variety of legal roles under former Attorney General Jim Petro and Governor George Voinovich. She has also worked for CompManagement and been in private legal practice.

She will be replacing current BWC Administrator/CEO Sarah Morrison who is awaiting confirmation from the U.S. Senate for the position of U.S. Federal District Court Judge for the Southern District of Ohio. *1/10/2018*

Workers' Compensation Legislation
Prepared by: The Ohio Manufacturers' Association
Report created on March 5, 2019

- HB79** **INDUSTRIAL COMMISSION BUDGET** (OELSLAGER S) To make appropriations for the Industrial Commission for the biennium beginning July 1, 2019, and ending June 30, 2021, and to provide authorization and conditions for the operation of Commission programs.
- Current Status:** 3/5/2019 - House Commerce and Labor, (Second Hearing)
- All Bill Status:** 2/27/2019 - House Commerce and Labor, (First Hearing)
 2/20/2019 - Referred to Committee House Commerce and Labor
 2/14/2019 - Introduced
- State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-79>
-
- HB80** **BWC BUDGET** (OELSLAGER S) To make appropriations for the Bureau of Workers' Compensation for the biennium beginning July 1, 2019, and ending June 30, 2021, and to provide authorization and conditions for the operation of the bureau's programs.
- Current Status:** 2/26/2019 - House Insurance, (First Hearing)
- All Bill Status:** 2/20/2019 - Referred to Committee House Insurance
 2/14/2019 - Introduced
- State Bill Page:** <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-80>

TO: OMA Government Affairs Committee
FROM: Ryan Augsburger / Rob Brundrett
SUBJECT: Tax Public Policy Report
DATE: March 6, 2019

Overview

At the beginning of the year, new Governor Mike DeWine appointed former legislator Jeff McClain as the newest Commissioner for the Ohio Department of Taxation. The OMA has a long history of working with Commissioner McClain both as a legislator and in the private sector. Transformational tax proposals were the budget norm under the Kasich administration. The DeWine administration has indicated it would take a different approach with tax laws. The Transportation Budget is currently being debated in the legislature. The Governor's proposal includes an 18 cent increase in the motor fuel tax. Finally the OMA Tax Committee has been working with the Senate on ways to keep Ohio manufacturing competitive and to increase the opportunities for manufacturers to participate in the Job Retention Tax Credit.

Tax Legislation

Senate Bill 8 – Ohio Opportunity Zone Tax Credits

The bill would authorize tax credits for investments in an Ohio Opportunity Zone. Federal law allows states to designate economically distressed areas. Once the zone is certified by the Secretary of the Treasury, certain investments made to benefit the zone are eligible for preferential federal tax treatment that meet certain criteria as "opportunity zones." The bill would allow state tax incentives to compliment the federal tax treatment. The CAT is not an included tax credit. The bill has its third hearing this week in the Senate Ways and Means Committee.

Senate Bill 37 – Motion Picture Tax Credit

The bill makes a variety of changes to the current motion picture tax credit and expands it to allow for more types of entertainment productions. There is no new money tied with this bill, however its sponsor, Senator Schuring has indicated he would like to see the credit more than double to \$100 million.

House Bill 19 – Pink Tax Exemption

The bill would exempt from sales tax the sale of tampons and other feminine hygiene products associated with menstruation. The bill has had one hearing in the House Ways and Means Committee.

House Bill 60 – Diaper Sales Tax Exemption

The bill exempts from sales and use tax the sale of child and adult diapers. It has had two hearings in the House Ways and Means Committee.

House Bill 62 – Transportation Budget

The bill make appropriations for programs related to transportation and public safety for the biennium beginning July 1, 2019, and ending June 30, 2021, and to provide authorization and conditions for the operation of those programs. The most important recommendations coming from the budget bill impacting manufacturers are the increase

in the motor vehicle fuel tax by 18 cents and the indexing of the motor vehicle fuel tax beginning in 2020. Other proposals being discussed are registration fee increases for electric vehicles, and charging different tax amounts for different types of fuel. The House and Senate has sent different signals on the need for the tax increase and what bill will carry any such tax increase. The Speaker has stated that the transportation budget will be the vehicle for any new tax, while the Senate President is skeptical about the increase and has indicated he would like an offsetting income tax cut with any increase included in the operating budget.

House Bill 92 – County Sales Tax Voting

The bill would require voter approval of any increase in the rate of a county sales tax.

OMA – Capital Investment Tax Credit

The OMA is working with the Senate and DeWine Administration to increase opportunities to allow the manufacturers to benefit from the currently under-utilized Job Retention Tax Credit.

Manufacturing Sales and Use Tax Exemption – Regulation Update

This week JCARR has the updated sales and use exemption on its calendar. OMA worked closely with the Ohio Department of Taxation to ensure the rule provided the proper updates while at the same time not allowing the Department become more aggressive in the their audits.

Tax News

Former State Rep. McClain Appointed Ohio Tax Commissioner

Just after the new year, Governor-elect Mike DeWine appointed former State Representative Jeff McClain as the next Ohio Department of Taxation Commissioner.

Most recently, McClain had been serving as director of tax and economic policy for the Ohio Chamber of Commerce. He served in the state legislature for nearly eight years and was the long-serving Wyandot County auditor for 26 years.

While in the legislature McClain chaired the powerful House Ways and Means Committee which oversaw tax policy and legislation in that chamber.

The OMA has worked closely with McClain both as a state representative and in his most current role. We are excited to continue our working relationship as he takes over the Department of Taxation. Congratulations to Jeff and best of luck

Court Upholds Constitutionality of Streamlined Muni Income Tax Collections

Earlier this year the 10th District Court of Appeals ruled 2-1 that the municipal tax reform provisions of House Bill 49 and House Bill 5 are constitutional. The provisions had been challenged by more than 100 municipalities.

The legislation streamlined municipal income tax reporting and collections for businesses across the state. The OMA participated in a coalition that supported the changes.

It has yet to be determined if the municipalities will appeal the ruling to the Supreme Court of Ohio

Leased Employee Case Decided

On December 12, 2018, the Supreme Court of Ohio issued a much-anticipated decision in the case of Seaton Corp. v. Testa, 2018 WL 6628481, 2018-Ohio-4911, which interprets the definition of “employment services” for Ohio sales and use tax purposes.

This case offers critical insight to manufacturers when structuring a new leased-employee arrangement.



Jeff McClain, Tax Commissioner

Jeff McClain was appointed Ohio Tax Commissioner by Governor Mike DeWine in January 2019.

Commissioner McClain comes to the Ohio Department of Taxation from the Ohio Chamber of Commerce where he served for three years (2016-19) as Director of Tax & Economic Policy. Prior to that Mr. McClain was elected to four, two-year terms (2009-2016) as state representative from the 87th House District. In the General Assembly, he was actively involved in budget and tax issues, particularly as Chair of the Ways and Means Committee. He also served as Vice-Chairman of Finance Committee, and Chairman of Finance Medicaid subcommittee.

Before serving in the state legislature, Mr. McClain was the Wyandot County Auditor for more than 26 years (1982-2008). He earned a Bachelor of Business Administration degree (Accounting) from Tiffin University (OH). He is a lifetime Ohioan and a graduate of Upper Sandusky high school.

Commissioner McClain, and his wife, Barb, have three children, two daughters and a son, and eight grandchildren.



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MEMORANDUM

TO: The Ohio Manufacturers' Association

FROM: Justin D. Cook
Bricker & Eckler LLP

DATE: December 20, 2018

RE: *Seaton Corp. v. Testa*, 2018 WL 6628481, 2018-Ohio-4911

On December 12, 2018, the Ohio Supreme Court issued a much-anticipated decision in the case of *Seaton Corp. v. Testa*, 2018 WL 6628481, 2018-Ohio-4911, which interprets the definition of “employment services” for purposes of Ohio sales and use taxation.

A taxable “employment service” is defined as “providing or supplying personnel, on a temporary or long-term basis, to perform work or labor *under the supervision or control of another*, when the personnel so provided or supplied receive their wages, salary, or other compensation from the provider or supplier of the employment service.” R.C. 5739.01(JJ).

In *Seaton Corp.*, Seaton contracted with Kal Kan to “furnish, manage, and supervise” supplemental staffing in Kal Kan’s pet food operation. The Tax Commissioner assessed sales tax against Seaton and use tax against Kal Kan for the purchase and use of employment services. The Board of Tax Appeals sided with the taxpayers, concluding the arrangement between Seaton and Kal Kan was not a sale of taxable employment services within the meaning of R.C. Chapter 5739.

On appeal, the Ohio Supreme Court upheld the BTA’s determination. The Court found that Seaton retained control and supervision over personnel provided to Kal Kan by managing the schedule of workers, determining the need for each shift, assigning jobs, monitoring work production, and managing performance of the workers. Importantly, the Court noted that to be a taxable employment service, a manufacturer acquiring labor must exercise control “specific to the work or labor performed by the provided personnel—not [with respect] to an overall production process.” Thus, the Court concluded that “the BTA correctly determined that Kal Kan’s control over the manufacturing process and the

The Ohio Manufacturers' Association
December 20, 2018
Page 2

production lines did not equate to control over the Seaton workers themselves.” Consequently, Seaton did not provide Kal Kan with a taxable employment service.

Ultimately, *Seaton Corp.* provides invaluable guidance to manufacturers looking to establish leased employee arrangements.

Tax

New Standard Applies to Private Companies in 2019

February 22, 2019

From OMA Connections Partner GBQ: “While we all have been distracted discussing the implementation of the new accounting standards for leases and revenue recognition, there is another Accounting Standards Update (ASU) sneaking in that is effective for fiscal years beginning after December 15, 2018. The update impacts private companies including not-for-profits and employee benefit plans that hold financial assets or owe financial liabilities.”

Read **more from GBQ here**. 2/20/2019

Lease Accounting FAQs

February 15, 2019

From OMA Connections Partner Clark Schaefer Hackett: “In February 2016, the Financial Accounting Standards Board (FASB) issued new lease accounting standards. These standards change the way leased real estate and equipment are reported by both public and private companies.

“It’s estimated that the total impact of this change will result in more than \$2 trillion of operating lease commitments reflected as a liability on corporate balance sheets.”

Learn **more here**. 2/12/2019

2019: Tax Opportunities and Challenges for Manufacturers

February 8, 2019

Here is a recent one-hour **recorded webinar** from OMA Connections Partner RSM that explains the potential tax challenges and opportunities in 2019, articulates key tax and business issues facing businesses today, and discusses the latest updates to federal, state and local tax. 2/4/2019

Court Upholds Constitutionality of Streamlined Muni Income Tax Collections

February 1, 2019

This week the 10th District Court of Appeals **ruled 2-1** that the municipal tax reform

provisions of House Bill 49 and House Bill 5 are constitutional. The provisions had been challenged by more than 100 municipalities. The legislation streamlined municipal income tax reporting and collections for businesses across the state. The OMA participated in a coalition that supported the changes.

It has yet to be determined if the municipalities will appeal the ruling to the Supreme Court of Ohio. 1/31/2019

IRS Provides Final QBI Deduction Regs & Guidance

February 1, 2019

From OMA Connections Partner Clark Schaefer Hackett: “When President Trump signed into law the Tax Cuts and Jobs Act (TCJA) in December 2017, much was made of the dramatic cut in corporate tax rates. But the TCJA also includes a generous deduction for smaller businesses that operate as pass-through entities, with income that is “passed-through” to owners and taxed as individual income.

“The IRS issued proposed regulations for the qualified business income (QBI), or Section 199A, deduction in August 2018. Now, it has released final regulations and additional guidance, just before the first tax season in which taxpayers can claim the deduction. Among other things, the guidance provides clarity on who qualifies for the QBI deduction and how to calculate the deduction amount.”

Read **more here**. 1/30/2019

Withholding Taxes on Payments to Foreign Individuals

January 25, 2019

From OMA Connections Partner GBQ: “As many middle market businesses are forced to adapt to the increasing globalization of the marketplace, they are not always properly equipped to deal with the variety of regulatory and compliance-related issues they will face as their business crosses borders. One prevalent issue is the withholding tax requirement imposed by the U.S. on payments to foreign persons. Two common payment types are payments to foreign individuals for personal services, which include:

- Payments to foreign individuals as independent contractors
- Wages paid to nonresident aliens as employees

“The company making these payments is considered the “withholding agent” and is required to withhold taxes on these amounts and remit the tax to the IRS, similar to the way that taxes are withheld on a U.S. employee’s W-2 wages.”

More from GBQ here. 1/22/2019

Former State Rep. McClain Appointed Ohio Tax Commissioner
January 11, 2019

Just after the new year, Governor-elect Mike DeWine appointed former State Representative Jeff McClain as the next Ohio Department of Taxation Commissioner.

Most recently, McClain had been serving as director of tax and economic policy for the Ohio Chamber of Commerce. He served in the state legislature for nearly eight years and was the long-serving Wyandot County auditor for 26 years.

While in the legislature McClain chaired the powerful House Ways and Means Committee which oversaw tax policy and legislation in that chamber.

The OMA has worked closely with McClain both as a state representative and in his most current role. We are excited to continue our working relationship as he takes over the Department of Taxation. Congratulations to Jeff and best of luck. 1/10/2019

Tax Cuts and Jobs Act Impacts 2018 Filing Season
January 11, 2019

Even before the federal government shut-down, there was plenty of complexity going into the 2018 tax-filing season. Here’s food-for-thought from OMA Connections Partner RSM:

“The one-year anniversary of the signing of sweeping tax law changes under the law commonly referred to as the Tax Cuts and Jobs

Act (TCJA) brings a new challenge, the need for taxpayers, practitioners, and the IRS to implement the most significant changes in over 30 years as they prepare their tax filings. While few would suggest filing taxes as one of their favorite activities, unfortunately, based on a report from the Treasury Inspector General for Tax Administration (TIGTA), the 2019 filing season will likely present additional headaches. Based on the report by TIGTA, the IRS has fallen behind on necessary forms, procedures, and guidance for taxpayers to file their 2018 taxes. The delays in IRS readiness and the complexity of the tax law changes will create challenges for taxpayers and their advisors. At a minimum, taxpayers should be prepared to extend and file their returns later in the year, even if they have previously filed by the March or April 15 deadlines. Taxpayers should consult their tax adviser and make a plan to address the appropriate timing and additional steps necessary to file their 2018 returns.”

Here’s more from RSM. 1/7/2019
“Live Telephone Assistance is Not Available at This Time”
January 11, 2019

Here’s a **short summary** from OMA Connections Partner Clark Schaefer Hackett (CSH) about tax filing concerns given the federal government shutdown. According to CSH, regardless of how IRS operations proceed, taxpayers still need to comply with the filing deadlines. Individual taxpayers in every state but Maine and Massachusetts must file by April 15, 2019. 1/10/2019

Taxation Legislation

Prepared by: The Ohio Manufacturers' Association
Report created on March 5, 2019

- HB17** **SURVIVING SPOUSES-HOMESTEAD EXEMPTION** (GINTER T) To allow an enhanced homestead exemption for surviving spouses of public safety personnel killed in the line of duty.
- Current Status:* 2/19/2019 - House Ways and Means, (First Hearing)
All Bill Status: 2/12/2019 - Referred to Committee House Ways and Means
2/12/2019 - Introduced
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-17>
- HB19** **PINK TAX EXEMPTION** (ANTANI N, KELLY B) To exempt from sales tax the sale of tampons and other feminine hygiene products associated with menstruation.
- Current Status:* 2/19/2019 - House Ways and Means, (First Hearing)
All Bill Status: 2/12/2019 - Referred to Committee House Ways and Means
2/12/2019 - Introduced
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-19>
- HB46** **STATE GOVT EXPENDITURE DATABASE** (GREENSPAN D) To require the Treasurer of State to establish the Ohio State Government Expenditure Database.
- Current Status:* 2/27/2019 - House State and Local Government, (First Hearing)
All Bill Status: 2/12/2019 - Referred to Committee House State and Local Government
2/12/2019 - Introduced
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-46>
- HB47** **TAX COMPLAINTS-LEGAL ASSISTANCE FOUNDATION** (GREENSPAN D) To increase the time within which property tax complaints must be decided and to change the name of the Ohio Legal Assistance Foundation.
- Current Status:* 2/12/2019 - Referred to Committee House Ways and Means
All Bill Status: 2/12/2019 - Introduced
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-47>
- HB54** **LGF TAX REVENUE INCREASE** (CERA J, ROGERS J) To increase the proportion of state tax revenue allocated to the Local Government Fund from 1.66% to 3.53% beginning July 1, 2019.
- Current Status:* 2/12/2019 - Referred to Committee House Ways and Means
All Bill Status: 2/12/2019 - Introduced
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-54>
- HB56** **MINE SAFETY EXCISE TAX** (CERA J) To allocate 3.75% of kilowatt-hour excise tax revenue for mine reclamation, mine drainage abatement, and mine safety.
- Current Status:* 2/26/2019 - House Energy and Natural Resources, (First Hearing)
All Bill Status: 2/12/2019 - Referred to Committee House Energy and Natural Resources
2/12/2019 - Introduced

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-56>

HB57 HEATING SOURCES TAX EXEMPTION (PATTERSON J, CERA J) To exempt certain heating sources from sales taxation and to hold local governments and libraries harmless from the revenue effect.

Current Status: 2/12/2019 - Referred to Committee House Ways and Means

All Bill Status: 2/12/2019 - Introduced

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-57>

HB60 DIAPER SALES TAX EXEMPTION (ANTANI N, KELLY B) To exempt from sales and use tax the sale of child and adult diapers.

Current Status: 2/26/2019 - House Ways and Means, (Second Hearing)

All Bill Status: 2/19/2019 - **SUBSTITUTE BILL ACCEPTED**, House Ways and Means, (First Hearing)

2/12/2019 - Referred to Committee House Ways and Means

2/12/2019 - Introduced

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-60>

HB62 TRANSPORTATION BUDGET (OELSLAGER S) To make appropriations for programs related to transportation and public safety for the biennium beginning July 1, 2019, and ending June 30, 2021, and to provide authorization and conditions for the operation of those programs.

Current Status: 3/6/2019 - House Finance, (Ninth Hearing)

All Bill Status: 3/5/2019 - House Finance, (Eighth Hearing)

2/28/2019 - House Finance, (Seventh Hearing)

2/27/2019 - House Finance, (Sixth Hearing)

2/26/2019 - House Finance, (Fifth Hearing)

2/21/2019 - House Finance, (Fourth Hearing)

2/20/2019 - House Finance, (Third Hearing)

2/19/2019 - House Finance, (Second Hearing)

2/13/2019 - House Finance, (First Hearing)

2/12/2019 - Referred to Committee House Finance

2/12/2019 - Introduced

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-62>

HB75 PROPERTY VALUE CONTESTS (MERRIN D) To require local governments that contest property values to formally pass an authorizing resolution for each contest and to notify property owners.

Current Status: 2/26/2019 - House Ways and Means, (First Hearing)

All Bill Status: 2/20/2019 - Referred to Committee House Ways and Means

2/14/2019 - Introduced

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-75>

HB92 VOTE ON COUNTY SALES TAX (ANTANI N, SMITH J) To require voter approval of any increase in the rate of a county sales tax.

Current Status: 2/21/2019 - Introduced

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

[summary?id=GA133-HB-92](https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-92)

- HB109** **SAP EXTRACTION TAX BREAK** (PATTERSON J, LATOURETTE S) To authorize a property tax exemption for land used for commercial maple sap extraction.
Current Status: 2/27/2019 - Introduced
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-109>
- HB112** **TAX REMITTANCE-BAD DEBTS** (SCHAFFER T) To allow vendors to receive a refund of sales tax remitted for certain bad debts charged off as uncollectible by credit account lenders.
Current Status: 2/28/2019 - Introduced
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-112>
- SB8** **TAX CREDITS-OHIO OPPORTUNITY ZONE** (SCHURING K) To authorize tax credits for investments in an Ohio Opportunity Zone.
Current Status: 3/5/2019 - Senate Ways and Means, (Third Hearing)
All Bill Status: 2/27/2019 - Senate Ways and Means, (Second Hearing)
2/20/2019 - Referred to Committee Senate Ways and Means
2/20/2019 - Senate Ways and Means, (First Hearing)
2/12/2019 - Introduced
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-8>
- SB37** **MOTION PICTURE TAX CREDIT** (SCHURING K) To extend eligibility for and make other changes to the motion picture tax credit.
Current Status: 3/5/2019 - Senate Ways and Means, (Third Hearing)
All Bill Status: 2/27/2019 - Senate Ways and Means, (Second Hearing)
2/20/2019 - Referred to Committee Senate Ways and Means
2/20/2019 - Senate Ways and Means, (First Hearing)
2/12/2019 - Introduced
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-37>
- SB39** **MIXED USE DEVELOPMENT PROJECTS-TAX CREDIT** (SCHURING K) To authorize an insurance premiums tax credit for capital contributions to transformational mixed use development projects.
Current Status: 2/20/2019 - Referred to Committee Senate Finance
All Bill Status: 2/12/2019 - Introduced
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-39>